

AMENDED IN ASSEMBLY MAY 7, 2009
AMENDED IN ASSEMBLY APRIL 21, 2009
AMENDED IN ASSEMBLY MARCH 26, 2009
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 372

Introduced by Assembly Member Ma

February 23, 2009

An act to add Section 102705.2 to the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 372, as amended, Ma. Vital records: adoptees and birth certificates.

Existing law requires that a court report of adoption be filed with the original record of birth and that these records remain a part of the records of the State Registrar. Existing law provides that vital records related to adoptions, other than a newly issued birth certificate, shall be available only upon the order of the superior court of the county of residence of the adopted child or of the county granting the order of adoption. The order shall not be granted unless a verified petition setting forth facts showing the necessity of the order has been presented to the court and good and compelling cause is shown for granting the order.

This bill would require, in a case of medical necessity regarding a serious health condition, as defined, of an adopted person, *that the superior court, upon petition, order* the State Registrar to provide, ~~upon request of an adoptee,~~ a copy of the original and unredacted birth certificate of the adoptee to that adoptee, his or her parent or guardian if the adoptee is a minor, or another person who is legally authorized

to make decisions regarding health care for the adoptee. The bill would also require, on and after January 1, 2010, the State Registrar to provide, upon receiving a request from an adoptee if the adoption proceedings were completed prior to that date or, with respect to a child who is the subject of adoption proceedings completed on or after January 1, 2010, upon receiving notice that those proceedings are completed, a copy of the original and unredacted birth certificate of an adoptee to that adoptee when the adoptee attains at least 25 years of age, unless a birth parent who is listed on the certificate requests, on a form provided by the State Registrar, that the State Registrar not provide that copy to the adoptee, as specified. The bill would enact different procedures in regard to the notification provided to the birth parent, depending upon whether adoption proceedings for the child were completed prior to, or on or after, January 1, 2010, as specified. The bill would also require that the birth parent of a child for whom adoption proceedings were completed on or after January 1, 2010, who initially signs the form requesting that the State Registrar not provide a copy of the birth certificate to the adoptee, be provided with a second form affording the opportunity to revoke that request, as specified. *Notwithstanding these provisions, if the adoptee is 25 years of age or older and both birth parents listed on the adoptee's birth certificate are deceased, as specified, the bill would require the State Registrar to immediately provide a copy of the original and unredacted birth certificate to the adoptee upon request of the adoptee.*

The bill would require the State Registrar to develop and adopt the forms necessary to implement these provisions.

The bill would authorize, only until January 1, 2035, the Office of Vital Records to assess a fee for providing services pursuant to the provisions described above, not to exceed the administrative costs of providing those services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 102705.2 is added to the Health and
- 2 Safety Code, to read:
- 3 102705.2. (a) Notwithstanding any other provision of law,
- 4 this section shall govern the provision of a copy of an original and

1 unredacted birth certificate by the State Registrar to an adopted
2 person who is the subject of that birth certificate.

3 (b) In a case of medical necessity regarding a serious health
4 condition of an adopted person, ~~the State Registrar shall upon~~
5 *presentation of a verified petition that sets forth facts describing*
6 *the medical necessity regarding the serious health condition, the*
7 *superior court shall order the State Registrar to* provide a copy
8 of the original and unredacted birth certificate of the adoptee to
9 that adoptee, his or her parent or guardian if the adoptee is a minor,
10 or another person who is legally authorized to make decisions
11 regarding health care for the adoptee. For purposes of this
12 subdivision, a case of medical necessity regarding a serious health
13 condition includes, but is not limited to, a health condition for
14 which a successful treatment option would involve the use of
15 parental or familial information regarding the adoptee, such as a
16 medical condition requiring a direct-match tissue transplant. *The*
17 *petition describing the medical necessity regarding the serious*
18 *health condition shall be filed with the superior court of the county*
19 *of residence of the adopted child or the superior court of the county*
20 *granting the order of adoption.*

21 (c) On and after January 1, 2010, the State Registrar, upon
22 request by an adoptee, shall provide a copy of the original and
23 unredacted birth certificate of an adoptee to that adoptee when the
24 adoptee attains 25 years of age, except as otherwise provided in
25 subdivision (d) or (e).

26 (d) (1) On and after January 1, 2010, upon receiving a request
27 from an adoptee pursuant to subdivision (c), the State Registrar
28 shall provide notice to each birth parent named on the original
29 birth certificate of an adopted person who was the subject of
30 adoption proceedings that were completed prior to January 1, 2010,
31 informing the birth parent that the original and unredacted birth
32 certificate of the adopted child shall be provided to the adopted
33 child when the child attains at least 25 years of age, unless
34 paragraph (3) applies.

35 (2) The notice provided pursuant to paragraph (1) shall be sent
36 to the best available address for each birth parent who is listed on
37 the original birth certificate. The notice shall be sent *by certified*
38 *or registered mail, restricted delivery, and* return receipt requested
39 and shall do both of the following:

1 (A) The notice shall advise the birth parent regarding the change
2 in the law pursuant to this section.

3 (B) The notice shall include a form on which the birth parent
4 may indicate that he or she does not wish a copy of the original
5 and unredacted birth certificate to be provided to the adoptee.

6 (3) The State Registrar shall not provide a birth certificate
7 pursuant to subdivision (c) if any of the following apply:

8 (A) The notice provided pursuant to paragraph (1) was not
9 received by each birth parent listed on the birth certificate, as
10 indicated by the fact that the State Registrar has not received the
11 return receipt acknowledgment.

12 (B) Less than six months have elapsed since the birth parent
13 received the notice, as indicated by the date on the return receipt
14 requested.

15 (C) Each birth parent listed on the certificate has signed the
16 form included in the notice requesting that the State Registrar not
17 provide the birth certificate to the adoptee. If two birth parents are
18 listed on the birth certificate and only one birth parent has signed
19 the notice, however, the state Registrar shall release a copy of the
20 birth certificate on which information identifying and pertaining
21 to that birth parent has been redacted.

22 (e) (1) On and after January 1, 2010, upon receiving notice that
23 adoption proceedings regarding a child have been completed, the
24 State Registrar shall provide notice to each birth parent named on
25 the original birth certificate of an adopted person who is the subject
26 of adoption proceedings that are completed on or after January 1,
27 2010, informing the birth parent that a copy of the original and
28 unredacted birth certificate of the adopted child shall be provided
29 to the adopted child when the child attains 25 years of age, unless
30 paragraph (3) applies.

31 (2) The notice provided pursuant to paragraph (1) shall be sent
32 to the best available address for each birth parent who is listed on
33 the original birth certificate. The notice shall be sent *by certified*
34 *or registered mail, restricted delivery, and* return receipt requested
35 and shall do both of the following:

36 (A) The notice shall include a form on which the birth parent
37 may indicate that he or she does not wish a copy of the original
38 birth certificate to be provided to the adoptee. The form shall
39 include the following statement:

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1 For reasons that may include, but are not limited to, rape, incest,
2 religious beliefs, or personal preference, I do not authorize the
3 State Registrar to provide a copy of the original and unredacted
4 birth certificate to the adoptee.

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6 (B) The notice shall include a second form, which a birth parent
7 may sign, revoking the first form and instead authorizing the State
8 Registrar to provide a copy of the original and unredacted birth
9 certificate to the adoptee.

10 (3) The State Registrar shall not provide a birth certificate
11 pursuant to subdivision (c) if both of the following apply:

12 (A) The notice provided pursuant to paragraph (1) was received
13 by each birth parent listed on the birth certificate, as indicated by
14 the return receipt acknowledgment received by the State Registrar
15 from the birth parent.

16 (B) Each birth parent listed on the certificate has signed the first
17 form included in the notice indicating that he or she requests that
18 the original and unredacted birth certificate remain confidential
19 and has not subsequently signed the second form revoking the first
20 form and instead authorizing the State Registrar to provide a copy
21 of that birth certificate to the adoptee. If two birth parents are listed
22 on the birth certificate and only one birth parent has signed the
23 notice and has not signed the second form, however, the State
24 Registrar shall release a copy of the birth certificate on which the
25 information identifying and pertaining to that birth parent has been
26 redacted.

27 *(f) Notwithstanding subdivision (c) or any other provision of*
28 *law to the contrary, if both birth parents listed on a birth certificate*
29 *of an adoptee are deceased, as verified by the Office of Vital*
30 *Records, the State Registrar shall provide a copy of the original*
31 *and unredacted birth certificate to the adoptee immediately upon*
32 *request of an adoptee who is 25 years of age or older.*

33 (f)

34 (g) The State Registrar shall develop and adopt the forms
35 necessary to implement this section.

36 (h) (1) *The Office of Vital Records, or its successor, may assess*
37 *a fee for providing services pursuant to this section, not to exceed*
38 *the administrative costs of complying with the requirements of this*
39 *section.*

1 (2) *This subdivision shall remain operative only until January*
2 *1, 2035.*

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