

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 302

INTRODUCER: Children, Families, and Elder Affairs and Senator Rader

SUBJECT: Adoption Records

DATE: February 5, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 makes changes to the Florida Adoption Act (Act)¹ which governs all Florida adoptions, whether private or from the child welfare system. The Act reaffirms a number of basic safeguards including providing that all records relating to custody and adoption of a child, including copies of an original birth certificate, are confidential and exempt and may not be released except by court order or authorization of all parties involved.

CS/SB 302 authorizes each party to an adoption to authorize the release of his or her own records except those of the adoptee if he or she is under the age of 18. In addition, if the adoptee is under the age of 18, the adoptive parent must also provide written consent to disclose the birth parent's name. Adoption records may still be released upon order of the court.

The bill has no fiscal impact on government and provides an effective date of July 1, 2020.

¹ Chapter 63 of the Florida Statutes is known as the "Florida Adoption Act".

II. Present Situation:

Birth Registration of a Live Birth

Within five days of each live birth in this state, a certificate of live birth must be filed with the local registrar² in the district where the birth took place.³ The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer. A birth certificate may be amended under the following circumstances:

- Until a child's first birthday, a child's given name or surname may be amended if authorized by both parents named on the original birth certificate or by the registrant's guardian.⁴
- Upon receipt of a notarized voluntary acknowledgment of paternity by the mother and father acknowledging paternity of a registrant born out of wedlock.⁵
- Upon receipt of the report or certified copy of an adoption decree or an annulment-of-adoption decree.⁶
- Upon receipt of a name change order by a court of competent jurisdiction.⁷
- Upon receipt of a final judgment establishing paternity or disestablishing paternity.⁸

Certified copies of the original birth certificate or a new or amended birth certificate are confidential and exempt and may only be issued to the following specified persons:⁹

- The person named on the birth certificate (registrant), if the registrant has reached the age of majority, is a certified homeless youth, or is a minor who has had the disability of nonage legally removed;
- The parent, guardian, or other legal representative of the registrant;
- The spouse, child, grandchild, or sibling of the registrant, but only with a copy of the registrant's death certificate;
- Any person if the birth record is over 100 years old and not under seal pursuant to court order;
- Law enforcement agencies for official purposes;
- Any state or federal agency for official purposes approved by DOH; or
- Any individual authorized to receive the birth certificate by court order.

Adoption in Florida

The Florida Adoption Act (Act), ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:¹⁰

- The Department of Children and Families (DCF);
- Child-placing agencies licensed by DCF under s. 63.202, F.S.;

² The Florida Department of Health (DOH) must establish registration districts throughout the state and appoint a local registrar of vital statistics for each registration district.

³ Section 382.013, F.S.

⁴ Section 382.016, F.S.

⁵ *Id.*

⁶ Section 382.015, F.S.

⁷ Section 68.07, F.S.

⁸ Section 742.18, F.S.

⁹ Section 382.025(1), F.S.

¹⁰ Section 63.032(3), F.S.

- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is qualified by DCF to place children in Florida.

In every adoption, the child's best interest should govern the court's determination in placement, and the court must make specific findings as to those best interests. The court must protect and promote the well-being of any person being adopted. Certain statutory safeguards ensure that a minor is legally eligible for adoption, the required persons consent to the adoption, or a parent-child relationship is terminated by judgment of the court.¹¹ The Act also provides the process and regulation of adoption in this state, such as, who may adopt, the rights and responsibilities of involved parties, proceedings for terminating parental rights, required notifications, licensure of adoption agencies, and confidentiality of adoption records.

Issuance of Birth Certificates in Adoption Cases

Within 30 days of final disposition of an adoption case, the court clerk must forward a certified copy of the court order to the Bureau of Vital Statistics with sufficient information to identify the original birth certificate and to create a new birth certificate. Unless the court, adoptive parents, or adult adoptee object, the Bureau must prepare and file a new birth certificate. The new certificate must have the same file number as the original birth certificate. The names and identifying information of the adoptive parents are entered on the new certificate without any reference to the parents being adoptive parents. All other information remains the same, including the date of registration and filing.¹²

Once a new birth certificate is prepared, DOH must substitute the new birth certificate for the original certificate on file. Thereafter, DOH may only issue a certified copy of the new birth certificate, unless a court order requires a certified copy of the original birth certificate. The original birth certificate and all related documents must be sealed and remain sealed, unless a court order or other law directs the unsealing.¹³

Confidentiality of Adoption Records

All documents and records related to an adoption, including the original birth certificate, are confidential.¹⁴ Prior to an adoption becoming final, the adoptive parents must be provided with non-identifying information, including the family medical history and social history of the adoptee and the adoptee's parents, when available. Upon reaching the age of majority, an adoptee may also request such non-identifying information. However, the name and identity of a birth parent, an adoptive parent, or an adoptee may not be disclosed unless:¹⁵

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, age 18 or older, authorizes in writing the release of his or her name;

¹¹ Section 63.022(4), F.S.

¹² Section 382.015, F.S.

¹³ *Id.*

¹⁴ Section 63.162, F.S.

¹⁵ *Id.*

- An adoptive parent of an adoptee under age 18 provides written consent to disclose the adoptee’s name;
- An adoptive parent authorizes in writing the release of his or her name; or
- Upon order of the court for good cause shown.

The court may, upon petition of an adult adoptee or birth parent, for good cause shown, appoint an intermediary or a licensed child-placing agency to contact a birth parent or adult adoptee, as applicable, who has not registered with the adoption registry pursuant to s. 63.165 and advise both of the availability of the intermediary or agency and that the birth parent or adult adoptee, as applicable, wishes to establish contact.¹⁶

III. Effect of Proposed Changes:

Section 1 amends s. 63.162, F.S., relating to hearings and records in adoption proceedings, confidential nature, to restate current law. The table below shows the effect of the bill.

Identifying Information in Adoption Records		
	Under Current Law	Under Changes in the Bill
Birth Parent	May not be disclosed unless a birth parent has authorized in writing the release of such information concerning himself or herself.	If the adoptee is under the age of 18, the adoptive parent must also provide written consent to disclose the birth parent’s name.
Adoptee	May not be disclosed unless an adoptee over the age of 18 has authorized in writing the release of such information concerning himself or herself.	No change.
Adoptive Parent	May not be disclosed unless an adoptive parent has authorized in writing the release of such information concerning himself or herself.	No change.

Section 2 provides an effective date of July 1, 2020.

¹⁶ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends s. 63.162 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on February 4, 2020:

- Adds the requirement that if the adoptee is under the age of 18, the adoptive parent must also provide written consent to disclose the birth parent's name.

- B. **Amendments:**

None.