

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 Judiciary

BILL: CS/SB 302

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

SUBJECT: Adoption Records

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 amends the Florida Adoption Act to bring clarity to a provision that is confusing and subject to differing interpretations. Currently, the Department of Health, Bureau of Vital Statistics, interprets s. 63.162(4), F.S., to require an adoptee 18 years of age and older to obtain his or her adoptive parents' written consent, as well as the written consent of the birth parent, before the bureau may release the names contained in the original birth certificate. In other words, each parent to the adoption must sign in writing before his or her name may be released to the adoptee, even though the adoptee is an adult.

The bill amends s. 63.162(4), F.S., to provide that the Bureau of Vital Statistics may disclose the name and identity of the birth parent, if the birth parent provides written consent for the release of his or her name and the adoptee is 18 years of age or older. Accordingly, the adoptive parent's signature is no longer required when the adoptee is an adult. If the adoptee is younger than 18 years of age, the adoptive parent's consent is still required.

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

II. Present Situation:

Birth Certificates

Florida law requires a birth record to be filed within 5 days after each live birth.¹ For example, when a birth occurs in a hospital, the hospital is responsible for entering the required information electronically and submitting that record to the Bureau of Vital Statistics in Jacksonville, where it is stored. The record contains the child's name, the parents' names and address, the attending physician's name, the name and address of the facility where the birth occurred, and additional demographic information.²

Adoptions and Birth Certificates

When an adoption is finalized in court, the clerk of court's office has 30 days to forward a certified copy of the court order to the Bureau of Vital Statistics. The order must supply sufficient information to the Bureau for it to identify the original birth certificate, and the Bureau then creates a new birth certificate.³

The new certificate must contain the same file number as the original birth certificate. On the new birth certificate, the names and identifying information of the adoptee and adoptive parents replace the names and identifying information of the birth parents and no reference is made to the adoption. All medical information on the certificate remains the same, including the date of registration and filing.⁴ When the new birth certificate is prepared, the Bureau substitutes the new birth certificate for the original certificate on file. After that point, the Bureau may only issue a certified copy of the new certificate, unless required otherwise by a court order. The original birth certificate and related documents are sealed, and cannot be reopened unless a court order or some other law directs them to be unsealed.⁵

Confidentiality of Birth and Adoption Records

All papers and records pertaining to an adoption, including the original birth certificate, are confidential and exempt from public inspection.⁶ Before an adoption becomes 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 18, an adoptee may also request the non-identifying information.⁷

Obtaining the Original Birth Certificate

Section 63.162(4), F.S., which provides the process for obtaining information on an original birth certificate, is not a model of clarity. The statute is confusing and subject to different

¹ Section 382.013, F.S.

² Telephone interview with Ken Jones, Bureau of Vital Statistics, Jacksonville, Fla. (Feb. 13, 2020).

³ Section 382.015(1)(a), F.S.

⁴ *Id.*

⁵ Section 382.015(4), F.S.

⁶ Section 63.162(2), F.S.

⁷ Section 63.162(6), F.S.

interpretations. The statute provides that a person may not disclose from the records the name and identity of a birth parent, an adoptive parent, or an adoptee unless:

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, if age 18 or older, authorizes in writing the release of his or her name;
- 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
- A court issues an order, for good cause shown.

The Bureau of Vital Statistics interprets this language as prohibiting the release of information on the original birth certificate unless a birth parent, an adoptee, and an adoptive parent *all* authorize the release. Essentially, a person in each category must agree to release his or her name before the information may be released to a person in one of the three categories.

Several people have suggested that it is unnecessarily restrictive for an adult adoptee to be required to obtain the permission of the adoptive parent in order to gain access to the adoptee's original name, place of birth, and information of a birth parent. The sentiment is that as an adult, a person should not be required to obtain a parent's permission for any endeavor.

Florida's Adoption Reunion Registry

In 1982, the Legislature established the Florida Adoption Reunion Registry for people who are affected by adoption and provides them the opportunity to reunite. If two or more people affected by a single adoption in the state list themselves on the registry, then the Registry puts them in touch with each other. The registry is passive in nature and does not actively search registrations to unite people. Currently, 10,000 people have signed up on the registry and 6 to 8 reunions occur each month. The Department of Children and Families operates the registry, and there is no registration fee.⁸

III. Effect of Proposed Changes:

The bill amends s. 63.162(4), F.S., to provide that the Bureau of Vital Statistics may disclose the name and identity of the birth parent, if the birth parent provides written consent for the release of his or her name, and the adoptee is 18 years of age or older. Accordingly, the adoptive parent's signature is no longer required unless the adoptee is a minor. Under this provision, an adoptee who is 18 or older may obtain his or her original name and the place of birth with the other portions of the birth certificate redacted, such as the names of a birth parent. The bill retains the current law with respect to adoptees who are younger than 18 years of age; the adoptive parent's consent is still required for the adoptee to obtain the name and identity of the birth parent.

The Bureau of Vital Statistics may disclose from its records the name and identity of an adoptee, if the adoptee is 18 years of age or older and provides a written authorization for the release of his or her name. If the adoptee is younger than 18 years, the written consent to disclose must be

⁸ Section 63.165, F.S. and <http://adoptflorida.com/Reunion-Registry.htm>.

obtained from an adoptive parent. The Bureau may disclose the name and identity of the adoptive parent if the adoptive parent provides written consent for the release of his or her name.

Finally, the Bureau may disclose from the records the name and identity of a birth parent, an adoptive parent, or an adoptee upon an order of the court for good cause shown.

The bill takes effect July 1, 2020.

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.