

By Senator Torres

15-01580A-21

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1 A bill to be entitled
2 An act relating to release of adoption information;
3 amending s. 63.162, F.S.; revising circumstances under
4 which certain adoption records may be released without
5 a court order; conforming provisions to changes made
6 by the act; deleting a provision relating to court-
7 appointed intermediaries or licensed child-placing
8 agencies that contact certain birth parents or adult
9 adoptees; amending s. 382.015, F.S.; authorizing the
10 Department of Health to break the seal of specified
11 birth records upon the request of the person whose
12 birth is the subject of such records, subject to
13 certain conditions; amending s. 63.085, F.S.;
14 conforming a cross-reference; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsections (4) through (7) of section 63.162,
20 Florida Statutes, are amended to read:

21 63.162 Hearings and records in adoption proceedings;
22 confidential nature.—

23 ~~(4) (a) A person may disclose the following from the records~~
24 ~~without a court order:~~

25 ~~1. The name and identity of the birth parent, if the birth~~
26 ~~parent authorizes in writing the release of his or her name and~~
27 ~~the adoptee is 18 years of age or older. If the adoptee is~~
28 ~~younger than 18 years of age, the adoptive parent must also~~
29 ~~provide written consent to disclose the birth parent's name;~~

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30 ~~2. The name and identity of the adoptee, if the adoptee is~~
31 ~~18 years of age or older and authorizes in writing the release~~
32 ~~of his or her name; or, if the adoptee is younger than 18 years~~
33 ~~of age, written consent to disclose the adoptee's name is~~
34 ~~obtained from an adoptive parent; or~~

35 ~~3. The name and identity of the adoptive parent, if the~~
36 ~~adoptive parent authorizes in writing the release of his or her~~
37 ~~name.~~

38 ~~(b) A person may disclose from the records without a court~~
39 ~~order the name and identity of a birth parent, an adoptive~~
40 ~~parent, or an adoptee under s. 382.015(4) ~~upon order of the~~~~
41 ~~court for good cause shown. In determining whether good cause~~
42 ~~exists, the court shall give primary consideration to the best~~
43 ~~interests of the adoptee, but must also give due consideration~~
44 ~~to the interests of the adoptive and birth parents. Factors to~~
45 ~~be considered in determining whether good cause exists include,~~
46 ~~but are not limited to:~~

47 ~~1. The reason the information is sought;~~

48 ~~2. The existence of means available to obtain the desired~~
49 ~~information without disclosing the identity of the birth~~
50 ~~parents, such as by having the court, a person appointed by the~~
51 ~~court, the department, or the licensed child-placing agency~~
52 ~~contact the birth parents and request specific information;~~

53 ~~3. The desires, to the extent known, of the adoptee, the~~
54 ~~adoptive parents, and the birth parents;~~

55 ~~4. The age, maturity, judgment, and expressed needs of the~~
56 ~~adoptee; and~~

57 ~~5. The recommendation of the department, licensed child-~~
58 ~~placing agency, or professional that prepared the preliminary~~

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59 ~~study and home investigation, or the department if no such study~~
60 ~~was prepared, concerning the advisability of disclosure.~~

61 ~~(5) The adoptee or other person seeking information under~~
62 ~~this subsection shall pay the department or agency making~~
63 ~~reports or recommendations as required hereunder a reasonable~~
64 ~~fee for its services and expenses.~~

65 ~~(6) Subject to the provisions of subsection (4),~~
66 ~~identifying information regarding the birth parents, adoptive~~
67 ~~parents, and adoptee may not be disclosed unless a birth parent,~~
68 ~~adoptive parent, or adoptee has authorized in writing the~~
69 ~~release of such information concerning himself or herself.~~
70 ~~Specific names or identifying information must not be given in a~~
71 ~~family medical history. All nonidentifying information,~~
72 ~~including the family medical history and social history of the~~
73 ~~adoptee and the birth parents, when available, must be furnished~~
74 ~~to the adoptive parents before the adoption becomes final and to~~
75 ~~the adoptee, upon the adoptee's request, after he or she reaches~~
76 ~~majority. Upon the request of the adoptive parents, all~~
77 ~~nonidentifying information obtained before or after the adoption~~
78 ~~has become final must be furnished to the adoptive parents.~~

79 ~~(7) The court may, upon petition of an adult adoptee or~~
80 ~~birth parent, for good cause shown, appoint an intermediary or a~~
81 ~~licensed child placing agency to contact a birth parent or adult~~
82 ~~adoptee, as applicable, who has not registered with the adoption~~
83 ~~registry pursuant to s. 63.165 and advise both of the~~
84 ~~availability of the intermediary or agency and that the birth~~
85 ~~parent or adult adoptee, as applicable, wishes to establish~~
86 ~~contact.~~

87 Section 2. Subsection (4) of section 382.015, Florida

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88 Statutes, is amended to read:

89 382.015 New certificates of live birth; duty of clerks of
90 court and department.—The clerk of the court in which any
91 proceeding for adoption, annulment of an adoption, affirmation
92 of parental status, or determination of paternity is to be
93 registered, shall within 30 days after the final disposition,
94 forward to the department a certified copy of the court order,
95 or a report of the proceedings upon a form to be furnished by
96 the department, together with sufficient information to identify
97 the original birth certificate and to enable the preparation of
98 a new birth certificate. The clerk of the court shall implement
99 a monitoring and quality control plan to ensure that all
100 judicial determinations of paternity are reported to the
101 department in compliance with this section. The department shall
102 track paternity determinations reported monthly by county,
103 monitor compliance with the 30-day timeframe, and report the
104 data to the clerks of the court quarterly.

105 (4) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—

106 (a) When a new certificate of birth is prepared, the
107 department shall substitute the new certificate of birth for the
108 original certificate on file. All copies of the original
109 certificate of live birth in the custody of a local registrar or
110 other state custodian of vital records shall be forwarded to the
111 State Registrar. Thereafter, when a certified copy of the
112 certificate of birth or portion thereof is issued, it shall be a
113 copy of the new certificate of birth or portion thereof, except
114 when a court order requires issuance of a certified copy of the
115 original certificate of birth.

116 (b) In an adoption, change in paternity, affirmation of

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117 parental status, undetermined parentage, or court-ordered
118 substitution, the department shall place the original
119 certificate of birth and all papers pertaining thereto under
120 seal, not to be broken except by order of a court of competent
121 jurisdiction, at the request of the person whose birth is the
122 subject of the certificate of birth, provided that such person
123 is 18 years of age or older, or as otherwise provided by law.
124 However, before the seal may be broken and the record opened
125 without a court order, the requesting person must first identify
126 himself or herself to the satisfaction of the State Registrar.

127 Section 3. Paragraph (a) of subsection (2) of section
128 63.085, Florida Statutes, is amended to read:

129 63.085 Disclosure by adoption entity.—

130 (2) DISCLOSURE TO ADOPTIVE PARENTS.—

131 (a) At the time that an adoption entity is responsible for
132 selecting prospective adoptive parents for a born or unborn
133 child whose parents are seeking to place the child for adoption
134 or whose rights were terminated pursuant to chapter 39, the
135 adoption entity must provide the prospective adoptive parents
136 with information concerning the background of the child to the
137 extent such information is disclosed to the adoption entity by
138 the parents, legal custodian, or the department. This subsection
139 applies only if the adoption entity identifies the prospective
140 adoptive parents and supervises the placement of the child in
141 the prospective adoptive parents' home. If any information
142 cannot be disclosed because the records custodian failed or
143 refused to produce the background information, the adoption
144 entity has a duty to provide the information if it becomes
145 available. An individual or entity contacted by an adoption

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146 entity to obtain the background information must release the
147 requested information to the adoption entity without the
148 necessity of a subpoena or a court order. In all cases, the
149 prospective adoptive parents must receive all available
150 information by the date of the final hearing on the petition for
151 adoption. The information to be disclosed includes:

152 1. A family social and medical history form completed under
153 s. 63.162(4) ~~pursuant to s. 63.162(6)~~.

154 2. The biological mother's medical records documenting her
155 prenatal care and the birth and delivery of the child.

156 3. A complete set of the child's medical records
157 documenting all medical treatment and care since the child's
158 birth and before placement.

159 4. All mental health, psychological, and psychiatric
160 records, reports, and evaluations concerning the child before
161 placement.

162 5. The child's educational records, including all records
163 concerning any special education needs of the child before
164 placement.

165 6. Records documenting all incidents that required the
166 department to provide services to the child, including all
167 orders of adjudication of dependency or termination of parental
168 rights issued pursuant to chapter 39, any case plans drafted to
169 address the child's needs, all protective services
170 investigations identifying the child as a victim, and all
171 guardian ad litem reports filed with the court concerning the
172 child.

173 7. Written information concerning the availability of
174 adoption subsidies for the child, if applicable.

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Section 4. This act shall take effect July 1, 2021.