

HB 1369

2022

1 A bill to be entitled
2 An act relating to release of adoption information;
3 amending s. 63.162, F.S.; authorizing only one avenue
4 for the disclosure of certain adoption related records
5 without a court order; removing authorization for
6 certain adoption related records to be disclosed
7 without a court order; removing a required fee for
8 certain services and expenses; amending s. 382.015,
9 F.S.; authorizing a court to break the seal of
10 specified birth records upon the request of certain
11 persons under certain conditions; amending s. 63.085,
12 F.S.; conforming a cross-reference; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsections (4) through (7) of section 63.162,
18 Florida Statutes, are amended to read:

19 63.162 Hearings and records in adoption proceedings;
20 confidential nature.—

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

23 ~~1. The name and identity of the birth parent, if the birth~~
24 ~~parent authorizes in writing the release of his or her name and~~
25 ~~the adoptee is 18 years of age or older. If the adoptee is~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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26 | ~~younger than 18 years of age, the adoptive parent must also~~
 27 | ~~provide written consent to disclose the birth parent's name;~~
 28 | ~~2. The name and identity of the adoptee, if the adoptee is~~
 29 | ~~18 years of age or older and authorizes in writing the release~~
 30 | ~~of his or her name; or, if the adoptee is younger than 18 years~~
 31 | ~~of age, written consent to disclose the adoptee's name is~~
 32 | ~~obtained from an adoptive parent; or~~
 33 | ~~3. The name and identity of the adoptive parent, if the~~
 34 | ~~adoptive parent authorizes in writing the release of his or her~~
 35 | ~~name.~~
 36 | ~~(b)~~ A person may disclose from the records without a court
 37 | order the name and identity of a birth parent, an adoptive
 38 | parent, or an adoptee under s. 382.015(4) ~~upon order of the~~
 39 | ~~court for good cause shown. In determining whether good cause~~
 40 | ~~exists, the court shall give primary consideration to the best~~
 41 | ~~interests of the adoptee, but must also give due consideration~~
 42 | ~~to the interests of the adoptive and birth parents. Factors to~~
 43 | ~~be considered in determining whether good cause exists include,~~
 44 | ~~but are not limited to:~~
 45 | ~~1. The reason the information is sought;~~
 46 | ~~2. The existence of means available to obtain the desired~~
 47 | ~~information without disclosing the identity of the birth~~
 48 | ~~parents, such as by having the court, a person appointed by the~~
 49 | ~~court, the department, or the licensed child-placing agency~~
 50 | ~~contact the birth parents and request specific information;~~

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

53 ~~4. The age, maturity, judgment, and expressed needs of the~~
54 ~~adoptee; and~~

55 ~~5. The recommendation of the department, licensed child-~~
56 ~~placing agency, or professional that prepared the preliminary~~
57 ~~study and home investigation, or the department if no such study~~
58 ~~was prepared, concerning the advisability of disclosure.~~

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

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

76 | has become final must be furnished to the adoptive parents.

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

85 | Section 2. Subsection (4) of section 382.015, Florida
 86 | Statutes, is amended to read:

87 | 382.015 New certificates of live birth; duty of clerks of
 88 | court and department.—The clerk of the court in which any
 89 | proceeding for adoption, annulment of an adoption, affirmation
 90 | of parental status, or determination of paternity is to be
 91 | registered, shall within 30 days after the final disposition,
 92 | forward to the department a certified copy of the court order,
 93 | or a report of the proceedings upon a form to be furnished by
 94 | the department, together with sufficient information to identify
 95 | the original birth certificate and to enable the preparation of
 96 | a new birth certificate. The clerk of the court shall implement
 97 | a monitoring and quality control plan to ensure that all
 98 | judicial determinations of paternity are reported to the
 99 | department in compliance with this section. The department shall
 100 | track paternity determinations reported monthly by county,

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101 monitor compliance with the 30-day timeframe, and report the
102 data to the clerks of the court quarterly.

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

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

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

126 Section 3. Paragraph (a) of subsection (2) of section
 127 63.085, Florida Statutes, is amended to read:
 128 63.085 Disclosure by adoption entity.—
 129 (2) DISCLOSURE TO ADOPTIVE PARENTS.—
 130 (a) At the time that an adoption entity is responsible for
 131 selecting prospective adoptive parents for a born or unborn
 132 child whose parents are seeking to place the child for adoption
 133 or whose rights were terminated pursuant to chapter 39, the
 134 adoption entity must provide the prospective adoptive parents
 135 with information concerning the background of the child to the
 136 extent such information is disclosed to the adoption entity by
 137 the parents, legal custodian, or the department. This subsection
 138 applies only if the adoption entity identifies the prospective
 139 adoptive parents and supervises the placement of the child in
 140 the prospective adoptive parents' home. If any information
 141 cannot be disclosed because the records custodian failed or
 142 refused to produce the background information, the adoption
 143 entity has a duty to provide the information if it becomes
 144 available. An individual or entity contacted by an adoption
 145 entity to obtain the background information must release the
 146 requested information to the adoption entity without the
 147 necessity of a subpoena or a court order. In all cases, the
 148 prospective adoptive parents must receive all available
 149 information by the date of the final hearing on the petition for
 150 adoption. The information to be disclosed includes:

- 151 1. A family social and medical history form completed
 152 under s. 63.162(4) ~~pursuant to s. 63.162(6)~~.
- 153 2. The biological mother's medical records documenting her
 154 prenatal care and the birth and delivery of the child.
- 155 3. A complete set of the child's medical records
 156 documenting all medical treatment and care since the child's
 157 birth and before placement.
- 158 4. All mental health, psychological, and psychiatric
 159 records, reports, and evaluations concerning the child before
 160 placement.
- 161 5. The child's educational records, including all records
 162 concerning any special education needs of the child before
 163 placement.
- 164 6. Records documenting all incidents that required the
 165 department to provide services to the child, including all
 166 orders of adjudication of dependency or termination of parental
 167 rights issued pursuant to chapter 39, any case plans drafted to
 168 address the child's needs, all protective services
 169 investigations identifying the child as a victim, and all
 170 guardian ad litem reports filed with the court concerning the
 171 child.
- 172 7. Written information concerning the availability of
 173 adoption subsidies for the child, if applicable.
- 174 Section 4. This act shall take effect July 1, 2022.