

5145

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to the adoption registry

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 4138-c of the public health law is amended by
2 adding a new subdivision 1-a to read as follows:
3 1-A. FOR THE PURPOSES OF THIS SECTION, "ADOPTTEE" SHALL INCLUDE: THOSE
4 PERSONS BORN IN THIS STATE, AND THOSE PERSONS BORN IN ANY OTHER STATE
5 WITHIN THE UNITED STATES OR IN THE DISTRICT OF COLUMBIA WHOSE ADOPTION
6 OCCURRED WITHIN THIS STATE.
7 S 2. Subdivisions 2 and 4 of section 4138-c of the public health law,
8 as amended by chapter 181 of the laws of 2010, are amended to read as
9 follows:
10 2. UPON APPLICATION FOR REGISTRATION BY AN ADOPTTEE NOT BORN IN THIS
11 STATE, OR BY A BIRTH PARENT OR SIBLING OF SUCH AN ADOPTTEE, THE DEPART-
12 MENT SHALL SEARCH THE RECORDS OF THE DEPARTMENT TO DETERMINE WHETHER THE
13 ADOPTTEE'S ADOPTION OCCURRED WITHIN THIS STATE. IF THE DEPARTMENT DETER-
14 MINES THAT THE ADOPTION OCCURRED WITHIN THIS STATE, IT SHALL REGISTER
15 THE APPLICANT IF HE OR SHE IS OTHERWISE QUALIFIED AND MAKE APPROPRIATE
16 NOTIFICATIONS PURSUANT TO SUBDIVISION FOUR OF THIS SECTION. The registry
17 shall accept, at any time, and maintain the verified registration trans-
18 mitted by an agency pursuant to section forty-one hundred thirty-eight-d
19 of this title, or of the birth parents of an adoptee [if such adoptee]
20 WHO was born in this state. The registry shall [not] NEITHER accept nor
21 maintain the registration of an adoptee sooner than eighteen years after
22 the adoptee's birth, or in the case of registration by a biological
23 sibling of an adoptee, no sooner than the longer of eighteen years after
24 the biological sibling's birth or eighteen years after the adoptee's
25 birth[; provided, however, that any]. ANY person whose registration was

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 accepted may withdraw such registration prior to the release of any
2 identifying information. The adoptee registrant, and the biological
3 sibling registrant, shall include as part of the registration the iden-
4 tification, including the name and address, of known biological siblings
5 of the adoptee. The adoptee may upon registration, or any time thereaft-
6 er, elect not to have release of information by the authorized agency
7 involved in such adoption. The department shall establish an authorized
8 agency fee schedule for search costs and registry costs and services
9 provided by such agency in gathering and forwarding information pursuant
10 to this section. The fee schedule may also include costs for disseminat-
11 ing information about the registry and the adoption medical information
12 sub-registry to the public. Such publications or brochures may include
13 information as to identifying and non-identifying information, how to
14 register and fees charged to the registrants, and any other information
15 deemed appropriate.

16 4. Upon acceptance of a registration OF AN ADOPTEE BORN IN THIS STATE,
17 OR BY A BIRTH PARENT OR SIBLING OF SUCH ADOPTEE, pursuant to this
18 section, the department shall search the records of the department to
19 determine whether the adoptee's adoption occurred within [the] THIS
20 state. UPON COMPLETION OF A SEARCH OF THE RECORDS PURSUANT TO THIS
21 SUBDIVISION OR SUBDIVISION TWO OF THIS SECTION:

22 (a) If the department determines that the adoption occurred within
23 [the] THIS state, it shall notify the court wherein the adoption
24 occurred to submit to the department non-identifying information as may
25 be contained in the records of the court and the names of the birth
26 parents of the adoptee. Notwithstanding any other provision of law to
27 the contrary, the court shall thereupon transmit to the department non-
28 identifying information as may be contained in the records of the court,
29 and the names of the birth parents of the adoptee, provided that, if the
30 court determines from its records that the adoption was from an author-
31 ized agency, the court shall submit to the department only the name and
32 address of such authorized agency and the names of the birth parents of
33 the adoptee. In such cases, unless the adoptee registrant shall have
34 elected otherwise, the department shall notify the authorized agency
35 whose name was provided by the court to release promptly to the adoptee
36 all non-identifying information as may be contained in the agency
37 records. Such agency shall thereafter promptly release the non-identi-
38 fying information to the adoptee registrant. If the adoptee registrant
39 shall have elected not to have the information released to him or her by
40 the authorized agency, the agency shall submit promptly to the depart-
41 ment all non-identifying information as may be contained in the agency
42 records. In any case where the agency records are incomplete, no longer
43 exist or are otherwise unavailable, the department shall so notify the
44 court. The court shall thereupon promptly submit such non-identifying
45 information as may be contained in their records. If no authorized agen-
46 cy was involved or if the adoptee registrant shall have elected not to
47 have release of information by the authorized agency involved in such
48 adoption, the department shall release the non-identifying information
49 to the adoptee registrant. The department and/or an authorized agency
50 may restrict the nature of the non-identifying information released
51 pursuant to this section upon a reasonable determination that disclosure
52 of such non-identifying information would not be in the adoptee's,
53 biological sibling's, or parent's best interest.

54 (b) If the department determines that the adoption did not occur with-
55 in the state, it shall notify the adoptee registrant that no record
56 exists of the adoption occurring within the state.

1 S 3. Subdivision 6-a of section 4138-c of the public health law, as
2 added by chapter 612 of the laws of 1996, is amended to read as follows:

3 6-a. (a) There shall be established in the registry an adoption
4 medical information sub-registry. Access to all identifying records and
5 information in the sub-registry shall be subject to the same
6 restrictions as the adoption information registry.

7 (b) The department shall establish procedures by which a birth parent
8 may provide medical information to the sub-registry, and by which an
9 adoptee aged eighteen years or older or the adoptive parents of an adop-
10 tee who has not attained the age of eighteen years may access such
11 medical information.

12 (c) A birth parent may provide the adoption medical information sub-
13 registry with certified medical information. Such certified medical
14 information must include other information sufficient to locate the
15 adoptee's birth record.

16 (d) Upon receipt from the birth parent of certified medical informa-
17 tion and other information needed to identify the adopted person, the
18 department shall determine if the adoptee was [born and] adopted in New
19 York state. If the adoptee was [born and] adopted in New York state, the
20 department shall register such information and determine if the adoptee
21 or adoptive parent of the adoptee is registered. Upon such determi-
22 nation, the department shall release the non-identifying medical infor-
23 mation only to an adoptee, aged eighteen years or older, or adoptive
24 parent of an adoptee who has not attained the age of eighteen years.

25 (e) Upon receipt from an adoptee aged eighteen years or older or the
26 parent of an adoptee of a registration, the department shall determine
27 if the adoptee was [born and] adopted in New York state. If the adoptee
28 was [born and] adopted in New York state, the department shall search
29 its records for medical information provided by the adoptee's birth
30 parent. If such medical information is found, the department shall
31 release the non-identifying medical information only, to an adoptee,
32 aged eighteen years or older, or adoptive parent of an adoptee who has
33 not attained the age of eighteen years.

34 (f) The department shall not solicit or request the provision of
35 medical information from a birth parent or the registration by an adop-
36 tee or parent of an adoptee.

37 (g) A fee shall not be required from a birth parent for providing
38 health information.

39 S 4. Subdivision 2 of section 4138-d of the public health law, as
40 amended by chapter 435 of the laws of 2008, is amended to read as
41 follows:

42 2. The agency shall accept, at any time, and maintain the verified
43 registration of the birth parents of an adoptee. The agency shall accept
44 and maintain the verified registration of an adoptee or of the biolog-
45 ical sibling of an adoptee if such adoptee was born in this state, OR
46 WAS BORN IN ANY OTHER STATE WITHIN THE UNITED STATES, OR IN THE DISTRICT
47 OF COLUMBIA, AND HIS OR HER ADOPTION OCCURRED WITHIN THIS STATE, no
48 sooner than eighteen years after the adoptee's birth or in the case of a
49 biological sibling registrant, no sooner than the longer of eighteen
50 years after the birth of the adoptee or eighteen years after the birth
51 of the biological sibling; provided however, that any person whose
52 registration was accepted may withdraw such registration prior to the
53 release of any identifying information.

54 S 5. This act shall take effect immediately.