

2003--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 12, 2011

Introduced by M. of A. WEPRIN, DINOWITZ, GOTTFRIED, P. RIVERA, GALEF, PEOPLES-STOKES, ARROYO, WRIGHT, COLTON, P. LOPEZ, GABRYSZAK, JAFFEE, NOLAN, MAISEL, ROSENTHAL, TITONE, RAMOS, SCHROEDER, PRETLOW, BUTLER, ENGLEBRIGHT, BARRON, HEVESI, STEVENSON, ROBERTS, M. MILLER, LINARES, ZEBROWSKI -- Multi-Sponsored by -- M. of A. BING, BOYLAND, BURLING, CALHOUN, CAMARA, CASTELLI, CLARK, COOK, DUPREY, FARRELL, GIGLIO, GUNTHER, HOOPER, JORDAN, KATZ, KELLNER, KOLB, LATIMER, LAVINE, LIFTON, V. LOPEZ, LUPARDO, MAGEE, MAGNARELLI, McKEVITT, J. MILLER, MILLMAN, MOLINARO, MONTESANO, MURRAY, OAKS, PALMESANO, PAULIN, PERRY, RAIA, J. RIVERA, ROBINSON, SAYWARD, SCARBOROUGH, SCHIMEL, SMARDZ, SPANO, THIELE, TOBACCO, WEISENBERG -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to creating the bill of adoptee rights

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

1 Section 1. The public health law is amended by adding a new section
2 4138-e to read as follows:
3 S 4138-E. BILL OF ADOPTEE RIGHTS. 1. (A) COMMENCING ON JANUARY 1,
4 2013, EXCEPT AS PROVIDED IN SUBDIVISION TWO OR THREE OF THIS SECTION,
5 AND NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A PERSON EIGHTEEN
6 YEARS OF AGE OR MORE WHO WAS BORN IN THIS STATE AND THEN ADOPTED AND
7 WHOSE LONG-FORM BIRTH CERTIFICATE WAS THEN SEALED IN THIS STATE, MAY
8 OBTAIN A CERTIFIED COPY OF SUCH LONG-FORM BIRTH CERTIFICATE FROM THE
9 DEPARTMENT IN ACCORDANCE WITH THIS SECTION. (B) SUCH A CERTIFIED COPY OF
10 A LONG-FORM BIRTH CERTIFICATE SUPPLIED BY THE DEPARTMENT SHALL INCLUDE A
11 LEGEND, APPEARING PROMINENTLY ON EACH PAGE OF THE DOCUMENT PROVIDED,
12 STATING AS FOLLOWS:

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

LBD01540-05-1

1 THIS IS A CERTIFIED COPY OF AN ORIGINAL BIRTH CERTIFICATE. THIS
2 ORIGINAL BIRTH CERTIFICATE HAS BEEN SUPERSEDED BY ANOTHER CERTIFICATE ON
3 FILE WITH THE APPROPRIATE GOVERNMENT AGENCY.

4 2. AT ANY TIME PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, A PERSON
5 LISTED AS A BIRTH PARENT ON A CONFIDENTIAL LONG-FORM BIRTH CERTIFICATE
6 MAY, IN WRITING, CONFIRM THAT HE OR SHE WISHES TO MAINTAIN THE CONFIDEN-
7 TIALITY OF SUCH DOCUMENT. IF A WRITTEN CONFIRMATION AS DESCRIBED IN THIS
8 SUBDIVISION IS RECEIVED FROM SUCH A BIRTH PARENT BY THE DEPARTMENT ON OR
9 BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, THEN PARAGRAPH (A) OF
10 SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY TO SUCH LONG-FORM BIRTH
11 CERTIFICATE PROVIDED, HOWEVER, THAT PARAGRAPH (A) OF SUBDIVISION ONE OF
12 THIS SECTION SHALL APPLY ON OR AFTER THAT DATE IF, AFTER SUCH CONFIRMA-
13 TION IS RECEIVED BY THE DEPARTMENT, SUCH BIRTH PARENT DIES OR THE
14 CONFIRMATION IS WITHDRAWN BY SUCH BIRTH PARENT IN WRITING, AND NO OTHER
15 TIMELY CONFIRMATION REMAINS ON FILE WITH THE DEPARTMENT FROM A LIVING
16 BIRTH PARENT.

17 3. A PERSON EIGHTEEN YEARS OF AGE OR MORE WHO WAS BORN IN THIS STATE
18 AND THEN ADOPTED AND WHOSE LONG-FORM BIRTH CERTIFICATE WAS THEN SEALED
19 IN THIS STATE, MAY OBTAIN A CERTIFIED COPY OF HIS OR HER LONG-FORM BIRTH
20 CERTIFICATE, AS DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS
21 SECTION, UPON SUPPLYING PROOF THAT ALL BIRTH PARENTS LISTED ON SUCH
22 DOCUMENT HAVE DIED.

23 4. THE DEPARTMENT SHALL PROMULGATE AND MAKE PUBLICLY AVAILABLE FORMS
24 THAT A BIRTH PARENT MAY USE TO PROVIDE THE DEPARTMENT WITH A WRITTEN
25 CONFIRMATION OR WITHDRAWAL OF CONFIRMATION UNDER THIS SECTION, AND FOR
26 CONFIRMING THAT A PERSON WHO HAS MADE SUCH A WRITTEN CONFIRMATION OR
27 WITHDRAWAL IS, IN FACT, A PERSON IDENTIFIED ON THE BIRTH CERTIFICATE AS
28 A BIRTH PARENT, AND FOR CONFIRMING THE SUFFICIENCY OF PROOF OF THE DEATH
29 OF A PERSON LISTED ON A BIRTH CERTIFICATE AS A BIRTH PARENT.

30 5. (A) A BIRTH PARENT MAY AT ANY TIME REQUEST FROM THE DEPARTMENT A
31 CONTACT PREFERENCE FORM THAT SHALL ACCOMPANY A BIRTH CERTIFICATE ISSUED
32 UNDER THIS TITLE. THE CONTACT PREFERENCE FORM SHALL PROVIDE THE FOLLOW-
33 ING INFORMATION TO BE COMPLETED AT THE OPTION OF THE BIRTH PARENT:

34 (I) I WOULD LIKE TO BE CONTACTED.

35 (II) I WOULD PREFER TO BE CONTACTED ONLY THROUGH AN INTERMEDIARY.

36 (III) I HAVE COMPLETED A MEDICAL HISTORY FORM AND HAVE FILED IT WITH
37 THE DEPARTMENT.

38 (IV) PLEASE DO NOT CONTACT ME. IF I DECIDE LATER THAT I WOULD LIKE TO
39 BE CONTACTED, I WILL SUBMIT AN UPDATED CONTACT PREFERENCE FORM TO THE
40 DEPARTMENT.

41 (B) THE MEDICAL HISTORY FORM SHALL BE IN A FORM PRESCRIBED BY THE
42 DEPARTMENT AND SHALL BE SUPPLIED TO THE BIRTH PARENT UPON REQUEST OF A
43 CONTACT PREFERENCE FORM FROM THE DEPARTMENT. ONLY THOSE PERSONS WHO ARE
44 AUTHORIZED TO PROCESS APPLICATIONS MADE UNDER THIS TITLE MAY PROCESS
45 CONTACT PREFERENCE FORMS, MEDICAL HISTORY FORMS, AND CORRESPONDENCE AND
46 REQUESTS MADE PURSUANT TO THIS SECTION.

47 (C) THE MEDICAL HISTORY AND CONTACT PREFERENCE FORMS DESCRIBED IN THIS
48 SUBDIVISION ARE CONFIDENTIAL COMMUNICATIONS FROM THE BIRTH PARENT TO THE
49 PERSON NAMED ON THE CONFIDENTIAL LONG-FORM BIRTH CERTIFICATE AND SHALL
50 BE PLACED IN SEPARATE SEALED ENVELOPES UPON RECEIPT FROM THE BIRTH
51 PARENT. THE SEALED ENVELOPES SHALL BE MATCHED WITH AND PLACED IN THE
52 FILE CONTAINING THE CONFIDENTIAL ORIGINAL LONG-FORM BIRTH CERTIFICATE.
53 SUCH SEALED ENVELOPES CONTAINING THE CONTACT PREFERENCE FORM AND MEDICAL
54 HISTORY FORM SHALL BE RELEASED TO A PERSON AUTHORIZED TO RECEIVE A
55 CERTIFIED COPY OF HIS OR HER ORIGINAL LONG-FORM BIRTH CERTIFICATE PURSU-
56 ANT TO THIS SECTION.

1 (D) THE CONTACT PREFERENCE AND MEDICAL HISTORY FORMS DESCRIBED IN THIS
2 SUBDIVISION ARE PRIVATE COMMUNICATIONS FROM THE BIRTH PARENT TO THE
3 PERSON NAMED ON THE SEALED BIRTH CERTIFICATE AND NO COPIES OF SUCH FORMS
4 SHALL BE RETAINED BY THE DEPARTMENT. WHERE ONLY A MEDICAL HISTORY FORM
5 IS REQUESTED, THE CERTIFIED COPY OF THE LONG-FORM BIRTH CERTIFICATE AND
6 CONTACT PREFERENCE FORMS SHALL NOT BE PROVIDED, BUT MAY BE REQUESTED AND
7 PROVIDED AT A LATER DATE.

8 6. THE DEPARTMENT SHALL DEVELOP AN AFFIRMATIVE INFORMATION CAMPAIGN
9 AND WIDELY DISSEMINATE TO THE PUBLIC, THROUGH ITS WEBSITE, PUBLIC SERVICE
10 ANNOUNCEMENTS AND OTHER MEANS, IN MULTIPLE LANGUAGES AND THROUGH MULTI-
11 PLE OUTLETS, INFORMATION CONCERNING THE PROVISIONS OF THIS SECTION,
12 INCLUDING BUT NOT LIMITED TO THE MEANS BY WHICH A BIRTH PARENT MAY
13 CONFIRM THAT HE OR SHE WISHES TO MAINTAIN THE CONFIDENTIALITY OF A
14 LONG-FORM BIRTH CERTIFICATE HELD BY THE DEPARTMENT IN WHICH SUCH BIRTH
15 PARENT IS NAMED, AND BY WHICH SUCH BIRTH PARENT MAY WITHDRAW SUCH A
16 CONFIRMATION.

17 S 2. This act shall take effect on the first of January next succeed-
18 ing the date on which it shall have become a law, provided, however,
19 that, effective immediately, the commissioner of health is directed to
20 promulgate such rules and regulations as may be necessary to carry out
21 the provisions of this act.