

5145

2011-2012 Regular Sessions

I N   S E N A T E

May 3, 2011

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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.