

# STATE OF NEW YORK

9959--B

## IN ASSEMBLY

March 1, 2018

Introduced by M. of A. WEPRIN, CARROLL, D'URSO, COLTON, WOERNER, GOTTFRIED, SEAWRIGHT, RIVERA, THIELE, BLAKE, L. ROSENTHAL, JOHNS, SKOUFIS, BARRON, MURRAY, BRABENEC, PELLEGRINO, SCHIMMINGER, McDONOUGH -- Multi-Sponsored by -- M. of A. BUTLER, COOK -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the domestic relations law, in relation to authorizing adoptees to obtain a certified copy of their birth certificate

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 § 4138-e. Adoptee's right to a certified copy of his or her birth  
4 certificate. 1. The legislature hereby states its intention to acknowl-  
5 edge, support and encourage the life-long health and well-being needs of  
6 persons who have been and will be adopted in this state. The legislature  
7 further recognizes that the denial of access to accurate and complete  
8 medical and self-identifying data of any adopted person, known and  
9 wilfully withheld by others, may result in such person succumbing to  
10 preventable disease, premature death or otherwise unhealthy life, is a  
11 violation of that person's human rights and is contrary to the tenets of  
12 governance. As such, the provisions of this section seek to establish  
13 considerations under the law for adopted persons equal to such consider-  
14 ations permitted by law to all non-adopted persons; this section does so  
15 while providing for the privacy of an adopted person and his or her  
16 birth.

17 2. (a) Notwithstanding any other provision of law, the commissioner or  
18 a local registrar or any person authorized by the commissioner or a  
19 local registrar, upon application, proof of identity and payment of a  
20 nominal fee, shall issue certified copies of original long form line by

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

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1 line, vault copy birth certificates and any change attached to that  
2 certificate by a birth parent or parents, and, if available, medical  
3 history forms upon specific request therefor (i) by an adopted person,  
4 if eighteen years of age or more, or (ii) if the adopted person is  
5 deceased, the adopted person's direct line descendants, or (iii) the  
6 lawful representatives of such adopted person, or lawful representatives  
7 of such deceased adopted person's direct line descendants, as the case  
8 may be.

9 (b) When it shall be impossible through good-faith efforts to provide  
10 a copy of an adult adopted person's original birth certificate (as in  
11 the case of an adopted person born outside of, but adopted within, the  
12 state), the true and correct identifying information that would have  
13 appeared on such original birth certificate shall be provided by a court  
14 of competent jurisdiction or the adoption agency, upon specific request  
15 therefor, to: (i) the adult adopted person, if eighteen years of age or  
16 more, or (ii) if the adopted person is deceased, the adopted person's  
17 direct line descendants, or (iii) lawful representatives of such adopted  
18 person, or lawful representatives of such deceased adopted person's  
19 direct line descendants, as the case may be. In such case the agency  
20 shall be held harmless from any liability arising out of the disclosure.

21 (c) For purposes of this subdivision:

22 (i) The term "commissioner" shall include the commissioner of health  
23 and mental hygiene of the city of New York and for records of birth  
24 prior to January first, nineteen hundred fourteen, the local registrars  
25 of the cities of Albany, Buffalo and Yonkers; and

26 (ii) The term "department" shall include the department of health and  
27 mental hygiene of the city of New York and, for records of birth prior  
28 to January first, nineteen hundred fourteen, the office of vital statis-  
29 tics of the city of Albany, the office of vital records of the city of  
30 Buffalo and the office of clerk of the city of Yonkers.

31 § 2. Subdivision 4 of section 4138 of the public health law, as  
32 amended by chapter 559 of the laws of 1992, is amended to read as  
33 follows:

34 4. The commissioner may make a microfilm or other suitable copy of the  
35 original certificate of birth and all papers pertaining to the new  
36 certificate of birth. In such event, the original certificate and papers  
37 may be destroyed. All undestroyed certificates and papers and copies  
38 thereof shall be confidential and the contents thereof shall not be  
39 released or otherwise divulged except by order of a court of competent  
40 jurisdiction or pursuant to section forty-one hundred thirty-eight-c  
41 [~~e~~], forty-one hundred thirty-eight-d or forty-one hundred thirty-  
42 eight-e of this [~~article~~] title.

43 § 3. Subdivision 5 of section 4138 of the public health law, as  
44 amended by chapter 201 of the laws of 1972, is amended to read as  
45 follows:

46 5. Thereafter, when a certified copy or certified transcript of the  
47 certificate of birth of such a person, or a certification of birth for  
48 such person is issued, it shall be based upon the new certificate of  
49 birth, except when an order of a court of competent jurisdiction shall  
50 require the issuance of a copy of the original certificate of birth or  
51 upon application by an adopted person eighteen years of age or more once  
52 proper proof of identity is provided to the registrar.

53 § 4. Paragraph (b) of subdivision 3 of section 4138 of the public  
54 health law, as added by chapter 201 of the laws of 1972, is amended to  
55 read as follows:

1 (b) Thereafter, when a verified transcript or certification of birth  
2 of such person is issued by the registrar, it shall be based upon the  
3 new certificate, except when an order of a court of competent jurisdic-  
4 tion shall require the issuance of a verified transcript or certifi-  
5 cation based upon the original local record of birth or upon applica-  
6 tion by an adopted person eighteen years of age or more once proper  
7 proof of identity is provided to the registrar.

8 § 5. Subdivision 7 of section 4138 of the public health law, as  
9 amended by chapter 644 of the laws of 1988, is amended to read as  
10 follows:

11 7. Whenever the commissioner makes a new birth certificate for any  
12 person pursuant to the provisions of subdivision one of this section, he  
13 or she shall forward to (i) such person, if eighteen years of age or  
14 more, [~~or to the parents of such person,~~] or (ii) if the adoptee is  
15 deceased, the adoptee's direct line descendants, or (iii) lawful repre-  
16 sentatives of such adoptee, or lawful representatives of such deceased  
17 adoptee's direct line descendants, as the case may be, a certified copy,  
18 a certified transcript [~~or~~] and a certification of birth, [~~whichever he~~  
19 ~~deems appropriate under the circumstances,~~] without making any charge  
20 therefor.

21 § 6. Section 4138 of the public health law is amended by adding a new  
22 subdivision 8 to read as follows:

23 8. An adopted person eighteen years of age or older, or the birth  
24 parent or parents, may submit to the registrar a notice of change of  
25 name and/or address and such information shall be attached to the  
26 original birth certificate of the adopted person.

27 § 7. Paragraph (b) of subdivision 3 of section 4138-d of the public  
28 health law, as amended by chapter 181 of the laws of 2010, is amended to  
29 read as follows:

30 (b) If the agency determines that the agency was involved in such  
31 adoption, it shall transmit the registration to the adoption information  
32 registry operated by the department and the agency shall release the  
33 non-identifying information, as defined in section forty-one hundred  
34 thirty-eight-c of this title, to the [~~adoptee registrant. The agency may~~  
35 ~~restrict the nature of the non-identifying information released pursuant~~  
36 ~~to this section upon a reasonable determination that disclosure of such~~  
37 ~~non-identifying information would not be in the adoptee's, the biolog-~~  
38 ~~ical sibling's or parent's best interest] adopted person.~~

39 § 8. Section 4104 of the public health law, as amended by chapter 153  
40 of the laws of 2011, is amended to read as follows:

41 § 4104. Vital statistics; application of article. The provisions of  
42 this article except for the provisions contained in paragraph (i) of  
43 subdivision two and subdivision four of section four thousand one  
44 hundred, section four thousand one hundred three, subdivision two of  
45 section four thousand one hundred thirty-five, section four thousand one  
46 hundred thirty-five-b, subdivision eight of section four thousand one  
47 hundred seventy-four, paragraphs (b) and (e) of subdivision one, para-  
48 graph (b) of subdivision three, and subdivisions five, seven and eight  
49 of section four thousand one hundred thirty-eight, subdivision eleven of  
50 section four thousand one hundred thirty-eight-c, paragraph (b) of  
51 subdivision three of section four thousand one hundred thirty-eight-d,  
52 section four thousand one hundred thirty-eight-e and section four thou-  
53 sand one hundred seventy-nine of this article, shall not apply to the  
54 city of New York.

1 § 9. Subdivision 1 of section 114 of the domestic relations law, as  
2 amended by chapter 751 of the laws of 1989 and designated by chapter 601  
3 of the laws of 1994, is amended to read as follows:

4 1. If satisfied that the best interests of the adoptive child will be  
5 promoted thereby, the judge or surrogate shall make an order approving  
6 the adoption and directing that the adoptive child shall thenceforth be  
7 regarded and treated in all respects as the child of the adoptive  
8 parents or parent. In determining whether the best interests of the  
9 adoptive child will be promoted by the adoption, the judge or surrogate  
10 shall give due consideration to any assurance by a local commissioner of  
11 social services that he or she will provide necessary support and main-  
12 tenance for the adoptive child pursuant to the social services law. Such  
13 order shall contain the full name, date and place of birth and reference  
14 to the schedule annexed to the petition containing the medical history  
15 of the child in the body thereof and shall direct that the child's  
16 medical history, heritage of the birth parents, which shall include  
17 nationality, ethnic background and race; education, which shall be the  
18 number of years of school completed by the birth parents at the time of  
19 the birth and also at the time of surrender of the adoptive child;  
20 general physical appearance of the birth parents at the time of the  
21 birth and also at the time of surrender of the adoptive child, which  
22 shall include height, weight, color of hair, eyes, skin; occupation of  
23 the birth parents at the time of the birth and also at the time of  
24 surrender of the adoptive child; health and medical history of the birth  
25 parents at the time of the birth and also at the time of surrender of  
26 the adoptive child, including all available information setting forth  
27 conditions or diseases believed to be hereditary, any drugs or medica-  
28 tion taken during the pregnancy by the child's mother; and any other  
29 information which may be a factor influencing the child's present or  
30 future health, including the talents, hobbies and special interests of  
31 the birth parents as contained in the petition, be furnished to the  
32 adoptive parents. If the judge or surrogate is also satisfied that  
33 there is no reasonable objection to the change of name proposed, the  
34 order shall direct that the name of the adoptive child be changed to the  
35 name stated in the agreement of adoption and that henceforth he or she  
36 shall be known by that name. All such orders made by a family court  
37 judge of Westchester county since September first, nineteen hundred  
38 sixty-two, and on file in the office of the county clerk of such county  
39 shall be transferred to the clerk of the family court of such county.  
40 Such order and all the papers in the proceeding shall be filed in the  
41 office of the court granting the adoption and the order shall be entered  
42 in books which shall be kept under seal and which shall be indexed by  
43 the name of the adoptive parents and by the full original name of the  
44 child. Such order, including orders heretofore entered, shall be subject  
45 to inspection and examination only as hereinafter provided. Notwith-  
46 standing the fact that adoption records shall be sealed and secret, they  
47 may be microfilmed and processed pursuant to an order of the court,  
48 provided that such order provides that the confidentiality of such  
49 records be maintained. If the confidentiality is violated, the person or  
50 company violating it can be found guilty of contempt of court. The fact  
51 that the adoptive child was born out of wedlock shall in no case appear  
52 in such order. The written report of the investigation together with all  
53 other papers pertaining to the adoption shall be kept by the judge or  
54 surrogate as a permanent record of his or her court and such papers must  
55 be sealed by him or her and withheld from inspection. No certified copy  
56 of the order of adoption shall issue unless authorized by court order,

1 except that certified copies may issue to the agency or agencies in the  
2 proceeding prior to the sealing of the papers. Before the record is  
3 sealed, such order may be granted upon written ex parte application on  
4 good cause shown and upon such conditions as the court may impose. After  
5 the record is sealed, such order may be granted only upon notice as  
6 hereinafter provided for disclosure or access and inspection of records.  
7 The clerk upon request of a person or agency entitled thereto shall  
8 issue certificates of adoption which shall contain only the new name of  
9 the child and the date and place of birth of the child, the name of the  
10 adoptive parents and the date when and court where the adoption was  
11 granted, which certificate as to the facts recited therein shall have  
12 the same force and effect as a certified copy of an order of adoption.

13 § 10. This act shall take effect January 15, 2019, provided, however,  
14 that, effective immediately, the commissioner of health is directed to  
15 promulgate such rules and regulations as may be necessary to carry out  
16 the provisions of this act.