S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. V. LOPEZ, GREENE -- Multi-Sponsored by -- M. of A. CLARK, P. RIVERA -- read once and referred to the Committee on Children and Families

AN ACT to amend the domestic relations law, the social services law and the public health law, in relation to the disclosure of adoption and foster care records

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

Section 1. Section 114 of the domestic relations law, as amended by chapter 751 of the laws of 1989, subdivision 2 as amended by chapter 559 of the laws of 1992, subdivision 4 as added and subdivisions 1, 2 and 3 as designated by chapter 601 of the laws of 1994, is amended to read as follows:

S 114. Order of adoption. 1. If satisfied that the best interests of the adoptive child will be promoted thereby the judge or surrogate shall make an order approving the adoption and directing that the adoptive child shall thenceforth be regarded and treated in all respects as the child of the adoptive parents or parent. In determining whether the best interests of the adoptive child will be promoted by the adoption, the judge or surrogate shall give due consideration to any assurance by a LOCAL commissioner of social services that he OR SHE will provide necessary support and maintenance for the adoptive child pursuant to the social services law. Such order shall contain the full name, date and place of birth and reference to the schedule annexed to the petition containing the medical history of the child in the body thereof and shall direct that the child's medical history, heritage of the parents, which shall include nationality, ethnic background and race; education, which shall be the number of years of school completed by the parents at the time of the birth of the adoptive child; general physical appearance of the parents at the time of the birth of the adoptive child, which shall include height, weight, color of hair, eyes, skin; occupation of

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

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the parents at the time of the birth of the adoptive child; health and medical history of the parents at the time of the birth of the adoptive child, including all available information setting forth conditions or diseases believed to be hereditary, any drugs or medication taken during the pregnancy by the child's mother; and any other information which may be a factor influencing the child's present or future health, talents, hobbies and special interests of parents as contained in the petition be furnished to the adoptive parents. If the judge or surrogate is also satisfied that there is no reasonable objection to the change of name proposed, the order shall direct that the name of the adoptive child be changed to the name stated in the agreement of adoption and that henceforth [he] THE CHILD shall be known by that name. All such orders made by a family court judge of Westchester county since September first, nineteen hundred sixty-two, and on file in the office of the county clerk of such county shall be transferred to the clerk of the family court of such county. Such order and all the papers in the proceeding shall be filed in the office of the court granting the adoption and the order shall be entered in books which shall be kept under seal and which shall be indexed by the name of the adoptive parents and by the full original name of the child. [Such] EXCEPT AS PROVIDED IN SECTION ONE HUNDRED FOURTEEN-A OF THIS ARTICLE, SUCH order, including orders heretofore entered, shall be subject to inspection and examination only as hereinafter provided. Notwithstanding the fact that adoption records shall be sealed and secret, they may be microfilmed and processed pursuant to an order of the court, provided that such order provides that the confidentiality of such records be maintained. If the confidentiality is violated, the person or company violating it can be found guilty of contempt of court. The fact that the adoptive child was born out of wedlock shall in no case appear in such order. [The] EXCEPT AS PROVIDED IN SECTION ONE HUNDRED FOURTEEN-A OF THIS ARTICLE, THE written report of the investigation together with all other papers pertaining to the adoption shall be kept by the judge or surrogate as a permanent record of his OR HER court and such papers must be sealed by him OR HER and withheld from inspection. No certified copy of the order of adoption shall issue unless authorized by court order, except that certified copies may issue to the agency or agencies in the proceeding prior to the sealing of the papers. Before the record is sealed, such order may be granted upon written ex parte application on good cause shown and upon such conditions as the court may impose. After the record is sealed, such order may be granted only upon notice as hereinafter provided for disclosure or access and inspection of records. The clerk upon request of a person or agency entitled thereto shall issue certificates of adoption which shall contain only the new name of the child and the date and place of birth of the child, the name of the adoptive parents and the date when and court where the adoption was granted, which certificate as to the facts recited therein shall have the same force and effect as a certified copy of an order of adoption.

2. No person, including the attorney for the adoptive parents shall disclose the surname of the child directly or indirectly to the adoptive parents except upon order of the court OR AS PROVIDED IN SUBDIVISION TEN OF SECTION ONE HUNDRED FIFTEEN-B OF THIS ARTICLE. [No] EXCEPT AS PROVIDED IN SECTION ONE HUNDRED FOURTEEN-A OF THIS ARTICLE, NO person shall be allowed access to such sealed records and order and any index thereof except upon an order of a judge or surrogate of the court in which the order was made or of a justice of the supreme court. No order for disclosure or access and inspection shall be granted except on good

cause shown and on due notice to the adoptive parents and to such additional persons as the court may direct. Nothing contained herein shall be deemed to require the state commissioner of health or his OR HER designee to secure a court order authorizing disclosure of information contained in adoption or birth records requested pursuant to the authority of section forty-one hundred thirty-eight-c or section forty-one hundred thirty-eight-d of the public health law; upon the receipt of such request for information, the court shall transmit the information authorized to be released thereunder to the state commissioner of health or his OR HER designee.

3. In like manner as a court of general jurisdiction exercises such powers, a judge or surrogate of a court in which the order of adoption was made may open, vacate or set aside such order of adoption for fraud, newly discovered evidence or other sufficient cause.

4. Good cause for disclosure or access to and inspection of sealed adoption records and orders and any index thereof, hereinafter the "adoption records", under this section may be established on medical grounds as provided herein. Certification from a physician licensed to practice medicine in the state of New York that relief under this subdivision is required to address a serious physical or mental illness shall be prima facie evidence of good cause. Such certification shall [identify] IDENTIFY the information required to address such illness. Except where there is an immediate medical need for the information sought, in which case the court may grant access to the adoption records directly to the petitioner, the court hearing THE petition under [the] THIS subdivision shall appoint a guardian ad litem or other disinterested person, who shall have access to the adoption records for the purpose of obtaining the medical information sought from those records or, where the records are insufficient for such purpose, through contacting the biological parents. The guardian or other disinterested person shall offer a biological parent the option of disclosing the medical information sought by the petitioner pursuant to this subdivision, as well as the option of granting consent to examine the parent's medical records. If the guardian or other disinterested person appointed does not obtain the medical information sought by the petitioner, such guardian or disinterested person shall make a report of his or her efforts to obtain such information to the court. Where further efforts to obtain such information are appropriate, the court may in its discretion authorize direct disclosure or access to and inspection of the adoption records by the petitioner.

S 2. The domestic relations law is amended by adding a new section 114-a to read as follows:

S 114-A. ACCESS TO RECORDS BY ADOPTED CHILDREN. 1. (A) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CHILDREN ADOPTED ON OR AFTER JULY FIRST, TWO THOUSAND TEN. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, ADOPTION AND FOSTER CARE RECORDS, INCLUDING CLIENT IDENTIFIABLE AND NON-CLIENT IDENTIFIABLE INFORMATION, SHALL, UPON REQUEST, BE MADE AVAILABLE BY AN AUTHORIZED AGENCY OR THE COURT IN WHICH THE PETITION FOR ADOPTION WAS GRANTED TO A QUALIFIED ADOPTEE SUBJECT TO THE PROVISIONS OF THIS SECTION. FOR THE PURPOSE OF THIS SUBDIVISION, A "QUALIFIED ADOPTEE" MEANS AN ADOPTED CHILD AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION. THE QUALIFIED ADOPTEE'S ENTIRE ADOPTION AND FOSTER CARE RECORD SHALL BE MADE AVAILABLE, INCLUDING IDENTIFYING INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY. A COPY OF THE ENTIRE ADOPTION AND FOSTER

CARE RECORD OR ANY PART THEREOF, INCLUDING IDENTIFIABLE INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY, MUST BE PROVIDED AT THE REQUEST OF THE QUALIFIED ADOPTEE. DISCLOSURE OF RECORDS UNDER THIS SECTION TO A QUALIFIED ADOPTEE IS REQUIRED AND PERMITTED ONLY IF AUTHORIZED BY A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT TO ADOPTION IS OTHERWISE REQUIRED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS ARTICLE. SUCH AUTHORIZATION OF DISCLOSURE MAY BE EXECUTED PRIOR TO THE ADOPTION OF THE CHILD EITHER AS PART OF A SURRENDER EITHER EXECUTED PURSUANT TO SECTION THREE HUNDRED EIGHTY-THREE-C OR THREE HUNDRED EIGHTY-FOUR OF THE SOCIAL SERVICES LAW; AN ORDER ISSUED PURSUANT TO SECTION THREE HUNDRED EIGHTY-FOUR-B OF THE SOCIAL SERVICES LAW; A CONSENT EXECUTED PURSUANT TO SECTION ONE HUNDRED FIFTEEN-B OF THIS ARTICLE; OR AN AFFIDAVIT EXECUTED BY THE PARENT AND FILED PRIOR TO THE ADOPTION OF THE CHILD WITH THE AUTHORIZED AGENCY WHICH PLACED THE CHILD FOR ADOPTION OR WITH THE COURT IN WHICH THE PETITION TO ADOPT SUCH CHILD WAS FILED. A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT WAS REQUIRED TO ADOPT THE QUALIFIED ADOPTEE MAY WITHDRAW AN AUTHORIZATION OR PROHIBITION OF DISCLOSURE ANY TIME SUBSEQUENT TO THE ISSUANCE BY THE COURT OF AN ORDER OF ADOPTION OF THE QUALIFIED ADOPTEE BY THE FILING WITH THE COURT IN WHICH THE PETITION TO ADOPT WAS GRANTED AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL, AND EITHER AUTHORIZING OR PROHIBITING DISCLOSURE, AS THE CASE MAY BE, AND, IF APPLICABLE, THE FILING OF AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL AND AUTHORIZATION OR PROHIBITION OF DISCLOSURE WITH THE AUTHORIZED AGENCY WHICH PLACED THE QUALIFIED ADOPTEE FOR ADOPTION. WHERE THE PARENTAL RIGHTS OF THE BIOLOGICAL PARENT WERE TERMINATED PURSUANT TO SECTION THREE HUNDRED EIGHTY-FOUR-B OF THE SOCIAL SERVICES LAW AND SUCH PARENT HAS NOT MADE HIS OR HER INTENTION TO AUTHORIZE OR PROHIBIT DISCLOSURE KNOWN PRIOR TO THE ADOPTION OF THE CHILD IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS PARAGRAPH, A PROHIBITION OF DISCLOSURE AND REFUSAL TO CONSENT TO DISCLOSE BY SUCH BIOLOGICAL PARENT SHALL BE DEEMED TO HAVE BEEN GIVEN. PROSPECTIVE ADOPTIVE PARENTS MUST BE ADVISED BY THE AUTHORIZED AGENCY RESPONSIBLE FOR THE PLACEMENT OF A CHILD FOR ADOPTION WHETHER AT THE TIME OF PLACEMENT THE BIOLOGICAL PARENT OR PARENTS HAVE AUTHORIZED OR PROHIBITED THE DISCLOSURE OF RECORDS IN ACCORDANCE WITH THIS SECTION. REASONABLE FEES FOR SUCH A FILING AND PROCESSING A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY OR THE COURT.

(B) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION REGARDING THE DISCLOSURE OF CLIENT IDENTIFIABLE INFORMATION, A QUALIFIED ADOPTEE SHALL MEAN AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE.

2. (A) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CHILDREN FREED FOR ADOPTION AND ADOPTED PRIOR TO JULY FIRST, TWO THOUSAND TEN. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, ADOPTION AND FOSTER CARE RECORDS, INCLUDING CLIENT IDENTIFIABLE AND NON-CLIENT IDENTIFIABLE INFORMATION, SHALL, UPON REQUEST, BE MADE AVAILABLE BY AN AUTHORIZED AGENCY OR THE COURT IN WHICH THE PETITION FOR ADOPTION WAS GRANTED TO A QUALIFIED ADOPTEE SUBJECT TO THE PROVISIONS OF THIS SECTION. FOR THE PURPOSE OF THIS SUBDIVISION, A "QUALIFIED ADOPTEE" MEANS AN ADOPTED CHILD IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION. THE QUALIFIED ADOPTEE'S ENTIRE ADOPTION AND FOSTER CARE RECORD SHALL BE MADE AVAILABLE, INCLUDING IDENTIFIABLE INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY. A COPY OF THE ENTIRE ADOPTION AND FOSTER CARE RECORD OR ANY PART THEREOF, INCLUDING IDENTIFIABLE INFORMA-

TION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY, MUST BE PROVIDED AT THE REQUEST OF THE QUALIFIED ADOPTEE. DISCLOSURE OF RECORDS UNDER THIS SECTION TO A QUALIFIED ADOPTEE IS REQUIRED AND PERMITTED ONLY IF AUTHORIZED BY A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT TO ADOPTION IS OTHERWISE REQUIRED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS ARTICLE. SUCH AUTHORIZATION OF DISCLOSURE SHALL BE EXECUTED SUBSEQUENT TO THE ADOPTION OF THE CHILD IN AN AFFIDAVIT EXECUTED BY THE PARENT AND FILED WITH THE AUTHORIZED AGENCY WHICH PLACED THE CHILD FOR ADOPTION OR WITH THE COURT IN WHICH THE PETITION TO ADOPT SUCH CHILD WAS FILED. A BIOLOGICAL PARENT MAY WITHDRAW HIS OR HER AUTHORIZATION OF DISCLOSURE, OR ANY SUBSEQUENT PROHIBITION OR AUTHORIZATION OF DISCLOSURE, BY FILING WITH THE COURT IN WHICH THE PETITION TO ADOPT WAS GRANTED AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL, AND EITHER AUTHORIZING OR PROHIBITING DISCLOSURE, AS THE CASE MAY BE, WITH THE COURT IN WHICH THE PETITION TO ADOPT WAS GRANTED AND, IF APPLICABLE, THE FILING OF AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL AND AUTHORIZATION OR PROHIBITION OF DISCLOSURE WITH THE AUTHORIZED AGENCY WHICH PLACED THE QUALIFIED ADOPTEE FOR ADOPTION. REASONABLE FEES FOR SUCH A FILING AND FOR PROCESSING A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY OR THE COURT.

(B) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION REGARDING THE DISCLOSURE OF CLIENT IDENTIFIABLE INFORMATION, A QUALIFIED ADOPTEE SHALL INCLUDE AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO SUBMITS TO THE AUTHORIZED AGENCY WHICH PLACED THE ADOPTEE FOR ADOPTION OR TO THE COURT IN WHICH THE PETITION FOR ADOPTION WAS GRANTED, EITHER PROOF THAT THE ADOPTEE'S ADOPTIVE PARENT OR PARENTS ARE DECEASED OR THE CONSENT OF THE SURVIVING ADOPTIVE PARENT OR PARENTS TO DISCLOSE CLIENT IDENTIFIABLE INFORMATION. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE SHALL HAVE ACCESS TO NON-CLIENT IDENTIFIABLE INFORMATION PURSUANT TO THIS SECTION WITHOUT REGARD TO THE CONSENT OF THE ADOPTIVE PARENT OR PARENTS.

3. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THIS ARTICLE AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, INFORMATION REGARDING AN ADOPTED CHILD'S SIBLINGS SHALL BE MADE AVAILABLE BY AN AUTHORIZED AGENCY OR THE COURT IN WHICH THE PETITION FOR ADOPTION WAS GRANTED UPON REQUEST TO ANY QUALIFIED ADOPTEE. DISCLOSURE SHALL BE CONDITIONED UPON THE CONSENT OF THE SIBLING FILED WITH THE ADOPTION INFORMATION REGISTRY IN ACCORDANCE WITH SUBDIVISION TWELVE OF SECTION FORTY-ONE HUNDRED THIRTY-EIGHT-C OF THE PUBLIC HEALTH LAW. FOR THE PURPOSES OF THIS SUBDIVISION ONLY, A QUALIFIED ADOPTEE MEANS AN ADOPTED CHILD WHO HAS REACHED THE AGE OF EIGHTEEN. SUCH INFORMATION, IF AVAILABLE, SHALL INCLUDE THE NAME OF THE SIBLING, THE SIBLING'S DATE OF BIRTH, AND THE ADDRESS OF THE SIBLING. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE THE COURT OR THE AUTHORIZED AGENCY TO DISCLOSE CLIENT IDENTIFIABLE INFORMATION REGARDING THE ADOPTEE'S BIOLOGICAL PARENT OR PARENTS EXCEPT IN ACCORDANCE WITH SUBDIVISIONS ONE AND TWO OF THIS SECTION. REASONABLE FEES FOR THE PROCESSING OF A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY OR THE COURT.

4. NOTHING IN THIS SECTION SHALL BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION RELATING TO WRONGFUL ACTIONS BY THE PERSONS OR AGENCIES INVOLVED IN THE PLACEMENT AND THE ADOPTION OF THE QUALIFIED ADOPTEE, NOR SHALL THIS SECTION BE DEEMED TO AFFECT LIMITATIONS ON THE TIME TO COMMENCE AN ACTION OR PROCEEDING AS OTHERWISE AUTHORIZED BY LAW. NOTHING IN THIS SECTION SHALL BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION

FOR WRONGFUL DISCLOSURE OF FOSTER CARE OR ADOPTION INFORMATION, NOR SHALL THIS SECTION BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION AGAINST AN ADOPTIVE PARENT OR A BIOLOGICAL PARENT FOR ANY REFUSAL TO CONSENT OR REFUSAL TO DISCLOSE FOSTER CARE OR ADOPTION INFORMATION.

S 3. Section 115-b of the domestic relations law is amended by adding two new subdivisions 10 and 11 to read as follows:

10. A DULY EXECUTED AND ACKNOWLEDGED JUDICIAL CONSENT OR EXTRA-JUDICIAL CONSENT SHALL INCLUDE A PROVISION EITHER AUTHORIZING OR PROHIBITING THE DISCLOSURE OF ADOPTION AND FOSTER CARE RECORDS TO THE CHILD IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE HUNDRED FOURTEEN-A OF THIS ARTICLE.

11. A DULY EXECUTED AND ACKNOWLEDGED JUDICIAL CONSENT OR EXTRA-JUDICIAL CONSENT MAY INCLUDE THE CONSENT OF THE BIOLOGICAL PARENT AUTHORIZING THE DISCLOSURE OF INFORMATION REGARDING SUCH BIOLOGICAL PARENT, INCLUDING BUT NOT LIMITED TO, HIS OR HER NAME, ADDRESS AND TELEPHONE NUMBER TO THE ADOPTIVE PARENT, AT THE REQUEST OF THE BIOLOGICAL PARENT, AT ANY TIME AFTER THE ADOPTION IS FINALIZED; PROVIDED, HOWEVER, NOTHING IN THIS SUBDIVISION SHALL REQUIRE THE ADOPTIVE PARENT TO RECEIVE OR TO DISCLOSE SUCH INFORMATION.

S 4. The social services law is amended by adding two new sections 373-b and 373-c to read as follows:

S 373-B. SOCIAL HISTORIES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, ACCESS TO AND A COPY OF THE SOCIAL HISTORIES OF A CHILD IN FOSTER CARE AND OF HIS OR HER BIOLOGICAL PARENT OR PARENTS SHALL BE PROVIDED BY AN AUTHORIZED AGENCY UPON REQUEST TO ANY ADOPTED FORMER FOSTER CHILD WHO HAS REACHED THE AGE OF EIGHTEEN, PROVIDED, HOWEVER, SOCIAL HISTORIES OF BIOLOGICAL PARENT OR PARENTS SHALL BE PROVIDED TO AN ADOPTEE WITH INFORMATION IDENTIFYING SUCH BIOLOGICAL PARENTS ELIMINATED. SUCH SOCIAL HISTORIES SHALL INCLUDE INFORMATION REGARDING HERITAGE OF THE BIOLOGICAL PARENT OR PARENTS, WHICH SHALL INCLUDE NATIONALITY, ETHNIC BACKGROUND AND RACE; EDUCATION, WHICH SHALL INCLUDE THE NUMBER OF YEARS OF SCHOOL COMPLETED BY THE BIOLOGICAL PARENT OR PARENTS AT THE TIME OF THE BIRTH OF THE ADOPTEE; GENERAL PHYSICAL APPEARANCE OF THE BIOLOGICAL PARENT OR PARENTS AT THE TIME OF THE BIRTH OF THE ADOPTEE, WHICH SHALL INCLUDE HEIGHT, WEIGHT, COLOR OF HAIR, EYES, AND SKIN; OCCUPATION OF THE BIOLOGICAL PARENT OR PARENTS AT THE TIME OF THE BIRTH OF THE ADOPTEE; AND ANY OTHER INFORMATION WHICH MAY BE A FACTOR INFLUENCING THE ADOPTEE, WHICH SHALL INCLUDE THE HOBBIES, TALENTS AND SPECIAL INTERESTS OF THE BIOLOGICAL PARENT OR PARENTS. REASONABLE FEES FOR THE PROCESSING OF A REQUEST FOR INFORMATION PURSUANT TO THIS SECTION MAY BE IMPOSED BY THE AUTHORIZED AGENCY.

S 373-C. ACCESS TO ADOPTION AND FOSTER CARE RECORDS. 1. (A) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CHILDREN ADOPTED ON OR AFTER JULY FIRST, TWO THOUSAND TEN. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THE DOMESTIC RELATIONS LAW AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, ADOPTION AND FOSTER CARE RECORDS, INCLUDING CLIENT IDENTIFIABLE AND NON-CLIENT IDENTIFIABLE INFORMATION, SHALL BE MADE AVAILABLE BY AN AUTHORIZED AGENCY UPON REQUEST TO ANY QUALIFIED ADOPTEE SUBJECT TO THE PROVISIONS OF THIS SECTION. FOR THE PURPOSES OF THIS SUBDIVISION, A "QUALIFIED ADOPTEE" MEANS AN ADOPTED FORMER FOSTER CHILD AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION. THE QUALIFIED ADOPTEE'S ENTIRE ADOPTION AND FOSTER CARE RECORD SHALL BE MADE AVAILABLE, INCLUDING IDENTIFIABLE INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY. A COPY OF THE ENTIRE ADOPTION AND FOSTER CARE RECORD OR ANY PART THEREOF, INCLUDING IDENTIFYING INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S

PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY, SHALL BE PROVIDED AT THE REQUEST OF THE QUALIFIED ADOPTEE. DISCLOSURE OF RECORDS UNDER THIS SECTION TO A QUALIFIED ADOPTEE IS REQUIRED AND PERMITTED ONLY IF AUTHORIZED BY A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT TO ADOPTION IS OTHERWISE REQUIRED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THE DOMESTIC RELATIONS LAW. SUCH AUTHORIZATION OF DISCLOSURE MAY BE EXECUTED PRIOR TO THE ADOPTION OF THE QUALIFIED ADOPTEE EITHER AS PART OF A SURRENDER EXECUTED EITHER PURSUANT TO SECTION THREE HUNDRED EIGHTY-THREE-C OR THREE HUNDRED EIGHTY-FOUR OF THIS TITLE; AN ORDER ISSUED PURSUANT TO SECTION THREE HUNDRED EIGHTY-FOUR-B OF THIS TITLE; OR AN AFFIDAVIT EXECUTED BY THE PARENT AND FILED PRIOR TO THE ADOPTION OF THE CHILD WITH THE AUTHORIZED AGENCY WHICH PLACED THE CHILD FOR ADOPTION OR WITH THE COURT IN WHICH THE PETITION TO ADOPT SUCH CHILD WAS FILED. A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT WAS REQUIRED TO ADOPT THE QUALIFIED ADOPTEE MAY WITHDRAW AN AUTHORIZATION OR PROHIBITION OF DISCLOSURE ANY TIME SUBSEQUENT TO THE ISSUANCE BY THE COURT OF AN ORDER OF ADOPTION OF THE QUALIFIED ADOPTEE BY FILING WITH THE COURT IN WHICH THE PETITION TO ADOPT WAS GRANTED AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL AND EITHER AUTHORIZING OR PROHIBITING DISCLOSURE, AS THE CASE MAY BE, AND, IF APPLICABLE, THE FILING OF AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL AND AUTHORIZATION OR PROHIBITION OF DISCLOSURE WITH THE AUTHORIZED AGENCY WHICH PLACED THE QUALIFIED ADOPTEE FOR ADOPTION. WHERE THE PARENTAL RIGHTS OF THE BIOLOGICAL PARENT WERE TERMINATED PURSUANT TO SECTION THREE HUNDRED EIGHTY-FOUR-B OF THIS TITLE AND SUCH PARENT HAS NOT MADE HIS OR HER INTENTION TO AUTHORIZE OR PROHIBIT DISCLOSURE KNOWN PRIOR TO THE ADOPTION OF THE CHILD IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS PARAGRAPH, A PROHIBITION OF DISCLOSURE AND REFUSAL TO CONSENT TO DISCLOSURE BY SUCH BIOLOGICAL PARENT SHALL BE DEEMED TO HAVE BEEN GIVEN. PROSPECTIVE ADOPTIVE PARENTS MUST BE ADVISED BY THE AUTHORIZED AGENCY RESPONSIBLE FOR THE PLACEMENT OF A CHILD FOR ADOPTION WHETHER AT THE TIME OF PLACEMENT THE BIOLOGICAL PARENT OR PARENTS HAS AUTHORIZED OR PROHIBITED THE DISCLOSURE OF RECORDS IN ACCORDANCE WITH THIS SECTION. REASONABLE FEES FOR THE PROCESSING OF A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY. AUTHORIZED AGENCIES SHALL PROVIDE COUNSELING, WHERE APPLICABLE AND IN CONFORMANCE WITH THE REGULATIONS OF THE DEPARTMENT, TO THE BIOLOGICAL PARENT, ADOPTIVE PARENT OR ADOPTEE REGARDING THE DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION.

(B) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION REGARDING THE DISCLOSURE OF CLIENT IDENTIFIABLE INFORMATION, A QUALIFIED ADOPTEE SHALL MEAN AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE.

2. (A) THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CHILDREN FREED FOR ADOPTION AND ADOPTED PRIOR TO JULY FIRST, TWO THOUSAND TEN. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THE DOMESTIC RELATIONS LAW AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, ADOPTION AND FOSTER CARE RECORDS, INCLUDING CLIENT IDENTIFIABLE AND NON-CLIENT IDENTIFIABLE INFORMATION, SHALL, UPON REQUEST, BE MADE AVAILABLE BY AN AUTHORIZED AGENCY TO A QUALIFIED ADOPTEE, SUBJECT TO THE PROVISIONS OF THIS SECTION. FOR THE PURPOSE OF THIS SUBDIVISION, A QUALIFIED ADOPTEE MEANS AN ADOPTED FORMER FOSTER CHILD IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION. THE QUALIFIED ADOPTEE'S ENTIRE ADOPTION AND FOSTER CARE RECORD SHALL BE MADE AVAILABLE, INCLUDING IDENTIFIABLE INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY. A COPY OF THE ENTIRE ADOPTION AND FOSTER CARE RECORD OR ANY PART THEREOF, INCLUDING IDENTIFYING INFORMATION CONCERNING THE QUALIFIED ADOPTEE'S

BIOLOGICAL PARENT OR PARENTS, SIBLINGS AND EXTENDED FAMILY, MUST BE PROVIDED AT THE REQUEST OF THE QUALIFIED ADOPTEE. DISCLOSURE OF RECORDS UNDER THIS SECTION TO A QUALIFIED ADOPTEE IS REQUIRED AND PERMITTED ONLY IF AUTHORIZED BY A BIOLOGICAL PARENT OR PARENTS WHOSE CONSENT TO ADOPTION IS OTHERWISE REQUIRED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THE DOMESTIC RELATIONS LAW. SUCH AUTHORIZATION OF DISCLOSURE SHALL BE EXECUTED SUBSEQUENT TO THE ADOPTION OF THE CHILD IN AN AFFIDAVIT EXECUTED BY THE PARENT AND FILED WITH THE AUTHORIZED AGENCY WHICH PLACED THE CHILD FOR ADOPTION. A BIOLOGICAL PARENT OR PARENTS MAY WITHDRAW AN AUTHORIZATION OF DISCLOSURE, OR ANY SUBSEQUENT AUTHORIZATION OR PROHIBITION OF DISCLOSURE, BY FILING AN AFFIDAVIT SETTING FORTH SUCH WITHDRAWAL AND EITHER AUTHORIZING OR PROHIBITING DISCLOSURE, AS THE CASE MAY BE, WITH THE AUTHORIZED AGENCY WHICH PLACED THE QUALIFIED ADOPTEE FOR ADOPTION. AUTHORIZED AGENCIES SHALL PROVIDE COUNSELING, WHERE APPLICABLE AND IN CONFORMANCE WITH THE REGULATIONS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, TO THE BIOLOGICAL PARENT, ADOPTIVE PARENT OR ADOPTEE REGARDING THE DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION. REASONABLE FEES FOR THE PROCESSING OF A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY OR THE COURT.

(B) FOR THE PURPOSES OF PARAGRAPH (A) OF THIS SUBDIVISION REGARDING THE DISCLOSURE OF CLIENT IDENTIFIABLE INFORMATION, A "QUALIFIED ADOPTEE" SHALL INCLUDE AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND WHO SUBMITS TO THE AUTHORIZED AGENCY WHICH PLACED THE ADOPTEE FOR ADOPTION, EITHER PROOF THAT THE ADOPTEE'S ADOPTIVE PARENT OR PARENTS ARE DECEASED OR THE CONSENT OF THE SURVIVING ADOPTIVE PARENT OR PARENTS TO DISCLOSE CLIENT IDENTIFIABLE INFORMATION. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, AN ADOPTEE WHO IS AT LEAST EIGHTEEN YEARS OF AGE SHALL HAVE ACCESS TO NON-CLIENT IDENTIFIABLE INFORMATION PURSUANT TO THIS SECTION WITHOUT REGARD TO THE CONSENT OF THE ADOPTIVE PARENT OR PARENTS.

3. NOTWITHSTANDING SECTION ONE HUNDRED FOURTEEN OF THE DOMESTIC RELATIONS LAW AND ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO THE EXTENT AVAILABLE, INFORMATION REGARDING AN ADOPTED CHILD'S SIBLINGS SHALL BE MADE AVAILABLE BY AN AUTHORIZED AGENCY UPON REQUEST TO ANY QUALIFIED ADOPTEE SUBJECT TO THE PROVISIONS OF THIS SECTION. DISCLOSURE SHALL BE CONDITIONED UPON THE CONSENT OF THE SIBLING FILED WITH THE ADOPTION INFORMATION REGISTRY IN ACCORDANCE WITH SUBDIVISION TWELVE OF SECTION FORTY-ONE HUNDRED THIRTY-EIGHT-C OF THE PUBLIC HEALTH LAW. FOR THE PURPOSE ONLY OF THIS SUBDIVISION, A "QUALIFIED ADOPTEE" MEANS AN ADOPTED CHILD WHO HAS REACHED THE AGE OF EIGHTEEN. SUCH INFORMATION, IF AVAILABLE, SHALL INCLUDE THE NAME OF THE SIBLING, THE SIBLING'S DATE OF BIRTH, AND ADDRESS OF THE SIBLING. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE THE AUTHORIZED AGENCY TO DISCLOSE CLIENT IDENTIFIABLE INFORMATION REGARDING THE ADOPTEE'S BIOLOGICAL PARENT OR PARENTS EXCEPT IN ACCORDANCE WITH SUBDIVISIONS ONE AND TWO OF THIS SECTION. REASONABLE FEES FOR THE PROCESSING OF A REQUEST FOR INFORMATION PURSUANT TO THIS SUBDIVISION MAY BE IMPOSED BY THE AUTHORIZED AGENCY.

4. NOTHING IN THIS SECTION SHALL BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION RELATING TO WRONGFUL ACTIONS BY THE PERSONS OR AGENCIES INVOLVED IN THE PLACEMENT AND THE ADOPTION OF THE QUALIFIED ADOPTEE, NOR SHALL THIS SECTION BE DEEMED TO AFFECT LIMITATIONS ON THE TIME TO COMMENCE AN ACTION OR PROCEEDING AS OTHERWISE AUTHORIZED BY LAW. NOTHING IN THIS SECTION SHALL BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION FOR WRONGFUL DISCLOSURE OF FOSTER CARE OR ADOPTION INFORMATION, NOR SHALL THIS SECTION BE DEEMED TO CREATE OR SUPPORT ANY CAUSE OF ACTION

AGAINST AN ADOPTIVE PARENT OR A BIOLOGICAL PARENT FOR ANY REFUSAL TO CONSENT OR REFUSAL TO DISCLOSE FOSTER CARE OR ADOPTION INFORMATION.

S 5. Subdivision 5 of section 383-c of the social services law is amended by adding two new paragraphs (i) and (j) to read as follows:

(I) THE JUDICIAL SURRENDER AND THE EXTRA-JUDICIAL SURRENDER INSTRUMENTS SHALL INCLUDE A PROVISION EITHER AUTHORIZING OR PROHIBITING DISCLOSURE OF ADOPTION AND FOSTER CARE RECORDS TO THE CHILD IN ACCORDANCE WITH THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-THREE-C OF THIS TITLE.

(J) THE JUDICIAL SURRENDER AND THE EXTRA-JUDICIAL SURRENDER INSTRUMENTS MAY INCLUDE THE CONSENT OF THE BIOLOGICAL PARENT AUTHORIZING THE DISCLOSURE OF INFORMATION REGARDING SUCH PARENT, INCLUDING BUT NOT LIMITED TO, HIS OR HER NAME, ADDRESS AND TELEPHONE NUMBER TO THE ADOPTIVE PARENT, AT THE REQUEST OF THE BIOLOGICAL PARENT, AT ANY TIME AFTER THE ADOPTION IS FINALIZED; PROVIDED HOWEVER, NOTHING IN THIS SUBDIVISION SHALL REQUIRE THE ADOPTIVE PARENT TO RECEIVE OR TO DISCLOSE SUCH INFORMATION.

S 6. Subdivision 2 of section 384 of the social services law is amended by adding two new paragraphs (c) and (d) to read as follows:

(C) THE INSTRUMENT SHALL INCLUDE A PROVISION EITHER AUTHORIZING OR PROHIBITING DISCLOSURE OF ADOPTION AND FOSTER CARE RECORDS TO THE CHILD IN ACCORDANCE WITH THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-THREE-C OF THIS TITLE.

(D) THE INSTRUMENT MAY INCLUDE THE CONSENT OF THE BIOLOGICAL PARENT AUTHORIZING THE DISCLOSURE OF INFORMATION REGARDING SUCH PARENT, INCLUDING BUT NOT LIMITED TO, HIS OR HER NAME, ADDRESS AND TELEPHONE NUMBER TO THE ADOPTIVE PARENT, AT THE REQUEST OF THE BIOLOGICAL PARENT, AT ANY TIME AFTER THE ADOPTION IS FINALIZED; PROVIDED, HOWEVER, NOTHING IN THIS SUBDIVISION SHALL REQUIRE THE ADOPTIVE PARENT TO RECEIVE OR TO DISCLOSE SUCH INFORMATION.

S 7. Section 384-b of the social services law is amended by adding a new subdivision 13 to read as follows:

13. AN ORDER COMMITTING THE GUARDIANSHIP AND CUSTODY OF A CHILD PURSUANT TO THIS SECTION MAY INCLUDE A PROVISION EITHER AUTHORIZING OR PROHIBITING DISCLOSURE OF ADOPTION AND FOSTER CARE RECORDS TO THE CHILD IN ACCORDANCE WITH THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-THREE-C OF THIS TITLE.

S 8. Section 4138-c of the public health law is amended by adding a new subdivision 12 to read as follows:

12. THE REGISTRY SHALL ACCEPT AND MAINTAIN THE NAME, DATE OF BIRTH, ADDRESS, AND SUCH NON-IDENTIFYING INFORMATION AS IN THE COMMISSIONER'S JUDGMENT SHALL BE OF ASSISTANCE IN UNDERTAKING MATCHING OF NAMES FOR PURPOSES OF THIS SUBDIVISION, OF PERSONS WHO CONSENT TO CONTACT BY, AND DISCLOSURE OF THEIR NAMES AND ADDRESSES TO, A SIBLING OR SIBLINGS WHO HAVE BEEN ADOPTED IN THIS STATE OR PLACED FOR ADOPTION BY AN AUTHORIZED AGENCY AS DEFINED IN SUBDIVISION TEN OF SECTION THREE HUNDRED SEVENTY-ONE OF THE SOCIAL SERVICES LAW. THE REGISTRY, UPON THE REQUEST OF A COURT OR AN AUTHORIZED AGENCY IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION ONE HUNDRED FOURTEEN-A OF THE DOMESTIC RELATIONS LAW OR SECTION THREE HUNDRED SEVENTY-THREE-C OF THE SOCIAL SERVICES LAW, SHALL PROVIDE THE NAME, DATE OF BIRTH, ADDRESS, AND SUCH NON-IDENTIFYING INFORMATION OF THE REGISTRANT AS THE COMMISSIONER SHALL DETERMINE IS APPROPRIATE, TO SUCH COURT OR AUTHORIZED AGENCY FOR VERIFICATION BY IT THAT THE REGISTRANT IS OR APPEARS TO BE THE SAME PERSON IDENTIFIED ON ITS ADOPTION RECORDS AS A SIBLING OF A QUALIFIED ADOPTEE, AS DEFINED IN SUCH LAWS, WHO IS SEEKING SUCH SIBLING INFORMATION, AND FOR DISCLOSURE

PURSUANT TO SUCH SECTIONS UPON VERIFICATION. THE DEPARTMENT MAY ESTABLISH A REGISTRATION FEE SUFFICIENT TO RECOVER ITS COSTS IN CONNECTION WITH REGISTRY AND SEARCH COSTS AND SERVICES, INCLUDING THE COSTS ASSOCIATED WITH RECEIPT OF SUCH INFORMATION FROM CONSENTING SIBLINGS FOR PLACEMENT ON THE REGISTRY, AND COSTS ASSOCIATED WITH RESPONDING TO REQUESTS FOR INFORMATION PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

S 9. This act shall not be deemed to affect any custodial or parental rights of an adoptive parent or biological parent with respect to an adopted child, nor shall this act be deemed to create or support any obligation on the part of an adoptive parent to advise an adoptee that he or she was adopted.

S 10. This act shall take effect July 1, 2010.