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

1513

2011-2012 Regular Sessions

I N A S S E M B L Y

January 10, 2011

Introduced by M. of A. TEDISCO, BUTLER, CALHOUN, CROUCH, KOLB -- Multi-Sponsored by -- M. of A. FITZPATRICK, SAYWARD -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to requiring disclosure of hereditary diseases of an adopted child or the biological parents of an adopted child

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

Section 1. Legislative intent. The legislature hereby finds and declares that when an adoptive child is discovered to have a hereditary disease, in most cases, the biological parents are unaware because the adoptive parents fail to notify them and therefore as a result they may have no idea that they are carriers of the hereditary disease. The biological parents also will be unaware of the fact that any subsequent offspring will be susceptible to the disease.

Similarly, where the biological parents discover that they are carriers of a hereditary disease, they are unable to, or will not attempt to, contact the adoptive parents. The adoptive parents and the adopted child are therefore left unaware and are in a position where they are vulnerable to an unknown disease. They too, are unable to take any preparational measures that might help to diagnose and or treat the disease.

The legislature further finds and declares that to remedy such situation, it is imperative that adoptive parents, biological parents and adoptive children all be put on notice as to the existence of a hereditary disease by requiring the existence thereof to be promptly disclosed to such parties so that they may effectively deal with such matter.

S 2. The social services law is amended by adding a new section 373-b to read as follows:

S 373-B. DISCLOSURE OF HEREDITARY DISEASE. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

LBD01460-01-1

A. "INTERMEDIARY" SHALL MEAN ANY PRIVATE OR PUBLIC SOCIAL SERVICE ADOPTION AGENCY, OR ANY INDEPENDENT ADOPTION AGENCY, AND SHALL ALSO ENCOMPASS ANY INDIVIDUAL THAT ACTS AS A LIAISON FOR AN ADOPTION.

B. "ADOPTIVE PARENT" SHALL MEAN A PERSON WHO HAS ADOPTED A CHILD.

C. "HEREDITARY DISEASE" SHALL MEAN A CONDITION OR DISEASE TRANSMITTED FROM BIOLOGICAL PARENTS TO THEIR OFFSPRING THAT IS LIFE THREATENING OR NON-LIFE THREATENING, AND ONE WHICH WOULD CAUSE SIGNIFICANT MORBIDITY OR MORTALITY.

2. IN THE EVENT THAT ONE OR BOTH ADOPTIVE PARENTS DISCOVER THAT THEIR ADOPTED CHILD HAS, OR IS SUSCEPTIBLE TO, A HEREDITARY DISEASE, SUCH PARENT OR PARENTS SHALL IMMEDIATELY CONTACT THE INTERMEDIARY TO SUCH ADOPTION AND SUBMIT SUCH HEALTH INFORMATION TO THE INTERMEDIARY. IN THE EVENT ONE OR BOTH BIOLOGICAL PARENTS DISCOVER OR ARE AWARE OF THE FACT THAT THEY ARE OR MAY BE A CARRIER OF A HEREDITARY DISEASE THAT A BIOLOGICAL CHILD IS OR MAY BE SUSCEPTIBLE TO, SUCH PARENT OR PARENTS SHALL IMMEDIATELY CONTACT THE ADOPTION INTERMEDIARY AND SUBMIT SUCH HEALTH INFORMATION TO THE INTERMEDIARY.

3. UPON RECEIVING SUCH NOTICE FROM A BIOLOGICAL OR ADOPTIVE PARENT, THE INTERMEDIARY SHALL NOTIFY THE CORRESPONDING OTHER PARENT, AND PROVIDE THEM WITH THE PERTINENT INFORMATION CONCERNING THE HEREDITARY DISEASE.

4. THE ADOPTION INTERMEDIARY SHALL MAINTAIN THE CONFIDENTIALITY OF ALL PERSONS INVOLVED IN THE ADOPTION. THE INTERMEDIARY SHALL ONLY PROVIDE THE PERTINENT HEALTH INFORMATION CONCERNING A HEREDITARY DISEASE AND SUCH INFORMATION SHALL NOT INCLUDE ANY OTHER TYPE OF INFORMATION THAT WOULD TEND TO IDENTIFY ANY OF THE PARTIES OR WOULD OTHERWISE BE PROTECTED PURSUANT TO ANY OTHER PROVISION OF LAW.

5. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL SET A REASONABLE FEE WHICH AN INTERMEDIARY MAY ASSESS AGAINST SUCH PARTIES FOR ITS SERVICES AS REQUIRED IN THIS SECTION.

S 3. This act shall take effect immediately.