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

5783--A

2011-2012 Regular Sessions

I N S E N A T E

June 16, 2011

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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:

Section 1. The public health law is amended by adding a new section 4138-e to read as follows:

S 4138-E. BILL OF ADOPTEE RIGHTS. 1. (A) COMMENCING ON JANUARY FIRST, TWO THOUSAND FOURTEEN, EXCEPT AS PROVIDED IN SUBDIVISION TWO OR THREE OF THIS SECTION, AND NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, A PERSON EIGHTEEN YEARS OF AGE OR MORE WHO WAS BORN IN THIS STATE AND THEN ADOPTED AND WHOSE LONG-FORM BIRTH CERTIFICATE WAS THEN SEALED IN THIS STATE, MAY OBTAIN A CERTIFIED COPY OF SUCH LONG-FORM BIRTH CERTIFICATE FROM THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION. (B) SUCH A CERTIFIED COPY OF A LONG-FORM BIRTH CERTIFICATE SUPPLIED BY THE DEPARTMENT SHALL INCLUDE A LEGEND, APPEARING PROMINENTLY ON EACH PAGE OF THE DOCUMENT PROVIDED, STATING AS FOLLOWS:

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 THIS ORIGINAL BIRTH CERTIFICATE HAS BEEN SUPERSEDED BY ANOTHER CERTIFICATE ON FILE WITH THE APPROPRIATE GOVERNMENT AGENCY.

2. AT ANY TIME PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN, A PERSON LISTED AS A BIRTH PARENT ON A CONFIDENTIAL LONG-FORM BIRTH CERTIFICATE MAY, IN WRITING, CONFIRM THAT HE OR SHE WISHES TO MAINTAIN THE CONFIDENTIALITY OF SUCH DOCUMENT. IF A WRITTEN CONFIRMATION AS DESCRIBED IN THIS SUBDIVISION IS RECEIVED FROM SUCH A BIRTH PARENT BY THE DEPARTMENT ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, THEN PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL NOT APPLY TO SUCH LONG-FORM BIRTH

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

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CERTIFICATE PROVIDED, HOWEVER, THAT PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION SHALL APPLY ON OR AFTER THAT DATE IF, AFTER SUCH CONFIRMATION IS RECEIVED BY THE DEPARTMENT, SUCH BIRTH PARENT DIES OR THE CONFIRMATION IS WITHDRAWN BY SUCH BIRTH PARENT IN WRITING, AND NO OTHER TIMELY CONFIRMATION REMAINS ON FILE WITH THE DEPARTMENT FROM A LIVING BIRTH PARENT.

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

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

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

(I) I WOULD LIKE TO BE CONTACTED.

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

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

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

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

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

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

6. THE DEPARTMENT SHALL DEVELOP AN AFFIRMATIVE INFORMATION CAMPAIGN AND WIDELY DISSEMINATE TO THE PUBLIC, THOUGH ITS WEBSITE, PUBLIC SERVICE ANNOUNCEMENTS AND OTHER MEANS, IN MULTIPLE LANGUAGES AND THROUGH MULTI-

PLE OUTLETS, INFORMATION CONCERNING THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO THE MEANS BY WHICH A BIRTH PARENT MAY CONFIRM THAT HE OR SHE WISHES TO MAINTAIN THE CONFIDENTIALITY OF A LONG-FORM BIRTH CERTIFICATE HELD BY THE DEPARTMENT IN WHICH SUCH BIRTH PARENT IS NAMED, AND BY WHICH SUCH BIRTH PARENT MAY WITHDRAW SUCH A CONFIRMATION.

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