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

8307

2011-2012 Regular Sessions

I N A S S E M B L Y

June 13, 2011

Introduced by M. of A. LAVINE -- read once and referred 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:

Section 1. Section 4138-c of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-A. FOR THE PURPOSES OF THIS SECTION, "ADOPTEE" SHALL INCLUDE: THOSE PERSONS BORN IN THIS STATE, AND THOSE PERSONS BORN IN ANY OTHER STATE WITHIN THE UNITED STATES OR IN THE DISTRICT OF COLUMBIA WHOSE ADOPTION OCCURRED WITHIN THIS STATE.

S 2. Subdivisions 2 and 4 of section 4138-c of the public health law, as amended by chapter 181 of the laws of 2010, are amended to read as follows:

2. UPON APPLICATION FOR REGISTRATION BY AN ADOPTEE NOT BORN IN THIS STATE, OR BY A BIRTH PARENT OR SIBLING OF SUCH AN ADOPTEE, THE DEPARTMENT SHALL SEARCH THE RECORDS OF THE DEPARTMENT TO DETERMINE WHETHER THE ADOPTEE'S ADOPTION OCCURRED WITHIN THIS STATE. IF THE DEPARTMENT DETERMINES THAT THE ADOPTION OCCURRED WITHIN THIS STATE, IT SHALL REGISTER THE APPLICANT IF HE OR SHE IS OTHERWISE QUALIFIED AND MAKE APPROPRIATE NOTIFICATIONS PURSUANT TO SUBDIVISION FOUR OF THIS SECTION. The registry shall accept, at any time, and maintain the verified registration transmitted by an agency pursuant to section forty-one hundred thirty-eight-d of this title, or of the birth parents of an adoptee [if such adoptee] WHO was born in this state. The registry shall [not] NEITHER accept nor maintain the registration of an adoptee sooner than eighteen years after the adoptee's birth, or in the case of registration by a biological sibling of an adoptee, no sooner than the longer of eighteen years after the biological sibling's birth or eighteen years after the adoptee's 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.

LBD11163-02-1

accepted may withdraw such registration prior to the release of any identifying information. The adoptee registrant, and the biological sibling registrant, shall include as part of the registration the identification, including the name and address, of known biological siblings of the adoptee. The adoptee may upon registration, or any time thereafter, elect not to have release of information by the authorized agency involved in such adoption. The department shall establish an authorized agency fee schedule for search costs and registry costs and services provided by such agency in gathering and forwarding information pursuant to this section. The fee schedule may also include costs for disseminating information about the registry and the adoption medical information sub-registry to the public. Such publications or brochures may include information as to identifying and non-identifying information, how to register and fees charged to the registrants, and any other information deemed appropriate.

4. Upon acceptance of a registration OF AN ADOPTEE BORN IN THIS STATE, OR BY A BIRTH PARENT OR SIBLING OF SUCH ADOPTEE, pursuant to this section, the department shall search the records of the department to determine whether the adoptee's adoption occurred within [the] THIS state. UPON COMPLETION OF A SEARCH OF THE RECORDS PURSUANT TO THIS SUBDIVISION OR SUBDIVISION TWO OF THIS SECTION:

(a) If the department determines that the adoption occurred within [the] THIS state, it shall notify the court wherein the adoption occurred to submit to the department non-identifying information as may be contained in the records of the court and the names of the birth parents of the adoptee. Notwithstanding any other provision of law to the contrary, the court shall thereupon transmit to the department non-identifying information as may be contained in the records of the court, and the names of the birth parents of the adoptee, provided that, if the court determines from its records that the adoption was from an authorized agency, the court shall submit to the department only the name and address of such authorized agency and the names of the birth parents of the adoptee. In such cases, unless the adoptee registrant shall have elected otherwise, the department shall notify the authorized agency whose name was provided by the court to release promptly to the adoptee all non-identifying information as may be contained in the agency records. Such agency shall thereafter promptly release the non-identifying information to the adoptee registrant. If the adoptee registrant shall have elected not to have the information released to him or her by the authorized agency, the agency shall submit promptly to the department all non-identifying information as may be contained in the agency records. In any case where the agency records are incomplete, no longer exist or are otherwise unavailable, the department shall so notify the court. The court shall thereupon promptly submit such non-identifying information as may be contained in their records. If no authorized agency was involved or if the adoptee registrant shall have elected not to have release of information by the authorized agency involved in such adoption, the department shall release the non-identifying information to the adoptee registrant. The department and/or an authorized agency may restrict the nature of the non-identifying information released pursuant to this section upon a reasonable determination that disclosure of such non-identifying information would not be in the adoptee's, biological sibling's, or parent's best interest.

(b) If the department determines that the adoption did not occur within the state, it shall notify the adoptee registrant that no record exists of the adoption occurring within the state.

S 3. Subdivision 6-a of section 4138-c of the public health law, as added by chapter 612 of the laws of 1996, is amended to read as follows:

6-a. (a) There shall be established in the registry an adoption medical information sub-registry. Access to all identifying records and information in the sub-registry shall be subject to the same restrictions as the adoption information registry.

(b) The department shall establish procedures by which a birth parent may provide medical information to the sub-registry, and by which an adoptee aged eighteen years or older or the adoptive parents of an adoptee who has not attained the age of eighteen years may access such medical information.

(c) A birth parent may provide the adoption medical information sub-registry with certified medical information. Such certified medical information must include other information sufficient to locate the adoptee's birth record.

(d) Upon receipt from the birth parent of certified medical information and other information needed to identify the adopted person, the department shall determine if the adoptee was [born and] adopted in New York state. If the adoptee was [born and] adopted in New York state, the department shall register such information and determine if the adoptee or adoptive parent of the adoptee is registered. Upon such determination, the department shall release the non-identifying medical information only to an adoptee, aged eighteen years or older, or adoptive parent of an adoptee who has not attained the age of eighteen years.

(e) Upon receipt from an adoptee aged eighteen years or older or the parent of an adoptee of a registration, the department shall determine if the adoptee was [born and] adopted in New York state. If the adoptee was [born and] adopted in New York state, the department shall search its records for medical information provided by the adoptee's birth parent. If such medical information is found, the department shall release the non-identifying medical information only, to an adoptee, aged eighteen years or older, or adoptive parent of an adoptee who has not attained the age of eighteen years.

(f) The department shall not solicit or request the provision of medical information from a birth parent or the registration by an adoptee or parent of an adoptee.

(g) A fee shall not be required from a birth parent for providing health information.

S 4. Subdivision 2 of section 4138-d of the public health law, as amended by chapter 435 of the laws of 2008, is amended to read as follows:

2. The agency shall accept, at any time, and maintain the verified registration of the birth parents of an adoptee. The agency shall accept and maintain the verified registration of an adoptee or of the biological sibling of an adoptee if such adoptee was born in this state, OR WAS BORN IN ANY OTHER STATE WITHIN THE UNITED STATES, OR IN THE DISTRICT OF COLUMBIA, AND HIS OR HER ADOPTION OCCURRED WITHIN THIS STATE, no sooner than eighteen years after the adoptee's birth or in the case of a biological sibling registrant, no sooner than the longer of eighteen years after the birth of the adoptee or eighteen years after the birth of the biological sibling; provided however, that any person whose registration was accepted may withdraw such registration prior to the release of any identifying information.

S 5. This act shall take effect immediately.