

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:

1 Section 1. The public health law is amended by adding a new section
2 4138-e to read as follows:

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

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14 ORIGINAL BIRTH CERTIFICATE HAS BEEN SUPERSEDED BY ANOTHER CERTIFICATE ON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

16 2. AT ANY TIME PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN, A PERSON
17 LISTED AS A BIRTH PARENT ON A CONFIDENTIAL LONG-FORM BIRTH CERTIFICATE
18 MAY, IN WRITING, CONFIRM THAT HE OR SHE WISHES TO MAINTAIN THE CONFIDEN-
19 TIALITY OF SUCH DOCUMENT. IF A WRITTEN CONFIRMATION AS DESCRIBED IN THIS
20 SUBDIVISION IS RECEIVED FROM SUCH A BIRTH PARENT BY THE DEPARTMENT ON OR
21 BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, THEN PARAGRAPH (A) OF
22 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.

LBD13149-04-1

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4 CONFIRMATION IS WITHDRAWN BY SUCH BIRTH PARENT IN WRITING, AND NO OTHER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

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

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

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

24 (I) I WOULD LIKE TO BE CONTACTED.

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

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

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

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

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

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

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

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

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