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I N A S S E M B L Y

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Introduced by M. of A. WEPRIN, CARROLL, D'URSO, COLTON, WOERNER, GOTTFRIED, SEAWRIGHT, RIVERA, THIELE, BLAKE, L. ROSENTHAL, JOHNS, SKOUFIS, BARRON, MURRAY, BRABENEC, PELLEGRINO, SCHIMMINGER, McDONOUGH -- Multi-Sponsored by -- M. of A. BUTLER, COOK -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the domestic relations law, in relation to authorizing adoptees to obtain a certified copy of their birth certificate

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. ADOPTEE'S RIGHT TO A CERTIFIED COPY OF HIS OR HER BIRTH
4 CERTIFICATE. 1. THE LEGISLATURE HEREBY STATES ITS INTENTION TO ACKNOWLEDGE, SUPPORT AND ENCOURAGE THE LIFE-LONG HEALTH AND WELL-BEING NEEDS OF
5 PERSONS WHO HAVE BEEN AND WILL BE ADOPTED IN THIS STATE. THE LEGISLATURE
6 FURTHER RECOGNIZES THAT THE DENIAL OF ACCESS TO ACCURATE AND COMPLETE
7 MEDICAL AND SELF-IDENTIFYING DATA OF ANY ADOPTED PERSON, KNOWN AND
8 WILFULLY WITHHELD BY OTHERS, MAY RESULT IN SUCH PERSON SUCCUMBING TO
9 PREVENTABLE DISEASE, PREMATURE DEATH OR OTHERWISE UNHEALTHY LIFE, IS A
10 VIOLATION OF THAT PERSON'S HUMAN RIGHTS AND IS CONTRARY TO THE TENETS OF
11 GOVERNANCE. AS SUCH, THE PROVISIONS OF THIS SECTION SEEK TO ESTABLISH
12 CONSIDERATIONS UNDER THE LAW FOR ADOPTED PERSONS EQUAL TO SUCH CONSIDER-
13 ATIONS PERMITTED BY LAW TO ALL NON-ADOPTED PERSONS; THIS SECTION DOES SO
14 WHILE PROVIDING FOR THE PRIVACY OF AN ADOPTED PERSON AND HIS OR HER
15 BIRTH.
16
17 2. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER OR
18 A LOCAL REGISTRAR OR ANY PERSON AUTHORIZED BY THE COMMISSIONER OR A
19 LOCAL REGISTRAR, UPON APPLICATION, PROOF OF IDENTITY AND PAYMENT OF A
20 NOMINAL FEE, SHALL ISSUE CERTIFIED COPIES OF ORIGINAL LONG FORM LINE BY

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

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1 LINE, VAULT COPY BIRTH CERTIFICATES AND ANY CHANGE ATTACHED TO THAT
2 CERTIFICATE BY A BIRTH PARENT OR PARENTS, AND, IF AVAILABLE, MEDICAL
3 HISTORY FORMS UPON SPECIFIC REQUEST THEREFOR (I) BY AN ADOPTED PERSON,
4 IF EIGHTEEN YEARS OF AGE OR MORE, OR (II) IF THE ADOPTED PERSON IS
5 DECEASED, THE ADOPTED PERSON'S DIRECT LINE DESCENDANTS, OR (III) THE
6 LAWFUL REPRESENTATIVES OF SUCH ADOPTED PERSON, OR LAWFUL REPRESENTATIVES
7 OF SUCH DECEASED ADOPTED PERSON'S DIRECT LINE DESCENDANTS, AS THE CASE
8 MAY BE.

9 (B) WHEN IT SHALL BE IMPOSSIBLE THROUGH GOOD-FAITH EFFORTS TO PROVIDE
10 A COPY OF AN ADULT ADOPTED PERSON'S ORIGINAL BIRTH CERTIFICATE (AS IN
11 THE CASE OF AN ADOPTED PERSON BORN OUTSIDE OF, BUT ADOPTED WITHIN, THE
12 STATE), THE TRUE AND CORRECT IDENTIFYING INFORMATION THAT WOULD HAVE
13 APPEARED ON SUCH ORIGINAL BIRTH CERTIFICATE SHALL BE PROVIDED BY A COURT
14 OF COMPETENT JURISDICTION OR THE ADOPTION AGENCY, UPON SPECIFIC REQUEST
15 THEREFOR, TO: (I) THE ADULT ADOPTED PERSON, IF EIGHTEEN YEARS OF AGE OR
16 MORE, OR (II) IF THE ADOPTED PERSON IS DECEASED, THE ADOPTED PERSON'S
17 DIRECT LINE DESCENDANTS, OR (III) LAWFUL REPRESENTATIVES OF SUCH ADOPTED
18 PERSON, OR LAWFUL REPRESENTATIVES OF SUCH DECEASED ADOPTED PERSON'S
19 DIRECT LINE DESCENDANTS, AS THE CASE MAY BE. IN SUCH CASE THE AGENCY
20 SHALL BE HELD HARMLESS FROM ANY LIABILITY ARISING OUT OF THE DISCLOSURE.

21 (C) FOR PURPOSES OF THIS SUBDIVISION:

22 (I) THE TERM "COMMISSIONER" SHALL INCLUDE THE COMMISSIONER OF HEALTH
23 AND MENTAL HYGIENE OF THE CITY OF NEW YORK AND FOR RECORDS OF BIRTH
24 PRIOR TO JANUARY FIRST, NINETEEN HUNDRED FOURTEEN, THE LOCAL REGISTRARS
25 OF THE CITIES OF ALBANY, BUFFALO AND YONKERS; AND

26 (II) THE TERM "DEPARTMENT" SHALL INCLUDE THE DEPARTMENT OF HEALTH AND
27 MENTAL HYGIENE OF THE CITY OF NEW YORK AND, FOR RECORDS OF BIRTH PRIOR
28 TO JANUARY FIRST, NINETEEN HUNDRED FOURTEEN, THE OFFICE OF VITAL STATIS-
29 TICS OF THE CITY OF ALBANY, THE OFFICE OF VITAL RECORDS OF THE CITY OF
30 BUFFALO AND THE OFFICE OF CLERK OF THE CITY OF YONKERS.

31 S 2. Subdivision 4 of section 4138 of the public health law, as
32 amended by chapter 559 of the laws of 1992, is amended to read as
33 follows:

34 4. The commissioner may make a microfilm or other suitable copy of the
35 original certificate of birth and all papers pertaining to the new
36 certificate of birth. In such event, the original certificate and papers
37 may be destroyed. All undestroyed certificates and papers and copies
38 thereof shall be confidential and the contents thereof shall not be
39 released or otherwise divulged except by order of a court of competent
40 jurisdiction or pursuant to section forty-one hundred thirty-eight-c
41 [or], forty-one hundred thirty-eight-d OR FORTY-ONE HUNDRED
42 THIRTY-EIGHT-E of this [article] TITLE.

43 S 3. Subdivision 5 of section 4138 of the public health law, as
44 amended by chapter 201 of the laws of 1972, is amended to read as
45 follows:

46 5. Thereafter, when a certified copy or certified transcript of the
47 certificate of birth of such a person, or a certification of birth for
48 such person is issued, it shall be based upon the new certificate of
49 birth, except when an order of a court of competent jurisdiction shall
50 require the issuance of a copy of the original certificate of birth OR
51 UPON APPLICATION BY AN ADOPTED PERSON EIGHTEEN YEARS OF AGE OR MORE ONCE
52 PROPER PROOF OF IDENTITY IS PROVIDED TO THE REGISTRAR.

53 S 4. Paragraph (b) of subdivision 3 of section 4138 of the public
54 health law, as added by chapter 201 of the laws of 1972, is amended to
55 read as follows:

1 (b) Thereafter, when a verified transcript or certification of birth
2 of such person is issued by the registrar, it shall be based upon the
3 new certificate, except when an order of a court of competent jurisdic-
4 tion shall require the issuance of a verified transcript or certif-
5 ication based upon the original local record of birth OR UPON APPLICA-
6 TION BY AN ADOPTED PERSON EIGHTEEN YEARS OF AGE OR MORE ONCE PROPER
7 PROOF OF IDENTITY IS PROVIDED TO THE REGISTRAR.

8 S 5. Subdivision 7 of section 4138 of the public health law, as
9 amended by chapter 644 of the laws of 1988, is amended to read as
10 follows:

11 7. Whenever the commissioner makes a new birth certificate for any
12 person pursuant to the provisions of subdivision one of this section, he
13 OR SHE shall forward to (I) such person, if eighteen years of age or
14 more, [or to the parents of such person,] OR (II) IF THE ADOPTEE IS
15 DECEASED, THE ADOPTEE'S DIRECT LINE DESCENDANTS, OR (III) LAWFUL REPRE-
16 SENTATIVES OF SUCH ADOPTEE, OR LAWFUL REPRESENTATIVES OF SUCH DECEASED
17 ADOPTEE'S DIRECT LINE DESCENDANTS, AS THE CASE MAY BE, a certified copy,
18 a certified transcript [or] AND a certification of birth, [whichever he
19 deems appropriate under the circumstances,] without making any charge
20 therefor.

21 S 6. Section 4138 of the public health law is amended by adding a new
22 subdivision 8 to read as follows:

23 8. AN ADOPTED PERSON EIGHTEEN YEARS OF AGE OR OLDER, OR THE BIRTH
24 PARENT OR PARENTS, MAY SUBMIT TO THE REGISTRAR A NOTICE OF CHANGE OF
25 NAME AND/OR ADDRESS AND SUCH INFORMATION SHALL BE ATTACHED TO THE
26 ORIGINAL BIRTH CERTIFICATE OF THE ADOPTED PERSON.

27 S 7. Paragraph (b) of subdivision 3 of section 4138-d of the public
28 health law, as amended by chapter 181 of the laws of 2010, is amended to
29 read as follows:

30 (b) If the agency determines that the agency was involved in such
31 adoption, it shall transmit the registration to the adoption information
32 registry operated by the department and the agency shall release the
33 non-identifying information, as defined in section forty-one hundred
34 thirty-eight-c of this title, to the [adoptee registrant. The agency may
35 restrict the nature of the non-identifying information released pursuant
36 to this section upon a reasonable determination that disclosure of such
37 non-identifying information would not be in the adoptee's, the biolog-
38 ical sibling's or parent's best interest] ADOPTED PERSON.

39 S 8. Section 4104 of the public health law, as amended by chapter 153
40 of the laws of 2011, is amended to read as follows:

41 S 4104. Vital statistics; application of article. The provisions of
42 this article except for the provisions contained in paragraph (i) of
43 subdivision two and subdivision four of section four thousand one
44 hundred, section four thousand one hundred three, subdivision two of
45 section four thousand one hundred thirty-five, section four thousand one
46 hundred thirty-five-b, subdivision eight of section four thousand one
47 hundred seventy-four, paragraphs (b) and (e) of subdivision one, PARA-
48 GRAPH (B) OF SUBDIVISION THREE, AND SUBDIVISIONS FIVE, SEVEN AND EIGHT
49 of section four thousand one hundred thirty-eight, subdivision eleven of
50 section four thousand one hundred thirty-eight-c, PARAGRAPH (B) OF
51 SUBDIVISION THREE OF SECTION FOUR THOUSAND ONE HUNDRED THIRTY-EIGHT-D,
52 SECTION FOUR THOUSAND ONE HUNDRED THIRTY-EIGHT-E and section four thou-
53 sand one hundred seventy-nine of this article, shall not apply to the
54 city of New York.

1 S 9. Subdivision 1 of section 114 of the domestic relations law, as
2 amended by chapter 751 of the laws of 1989 and designated by chapter 601
3 of the laws of 1994, is amended to read as follows:

4 1. If satisfied that the best interests of the adoptive child will be
5 promoted thereby, the judge or surrogate shall make an order approving
6 the adoption and directing that the adoptive child shall thenceforth be
7 regarded and treated in all respects as the child of the adoptive
8 parents or parent. In determining whether the best interests of the
9 adoptive child will be promoted by the adoption, the judge or surrogate
10 shall give due consideration to any assurance by a LOCAL commissioner of
11 social services that he OR SHE will provide necessary support and main-
12 tenance for the adoptive child pursuant to the social services law. Such
13 order shall contain the full name, date and place of birth and reference
14 to the schedule annexed to the petition containing the medical history
15 of the child in the body thereof and shall direct that the child's
16 medical history, heritage of the BIRTH parents, which shall include
17 nationality, ethnic background and race; education, which shall be the
18 number of years of school completed by the BIRTH parents at the time of
19 the birth AND ALSO AT THE TIME OF SURRENDER of the adoptive child;
20 general physical appearance of the BIRTH parents at the time of the
21 birth AND ALSO AT THE TIME OF SURRENDER of the adoptive child, which
22 shall include height, weight, color of hair, eyes, skin; occupation of
23 the BIRTH parents at the time of the birth AND ALSO AT THE TIME OF
24 SURRENDER of the adoptive child; health and medical history of the BIRTH
25 parents at the time of the birth AND ALSO AT THE TIME OF SURRENDER of
26 the adoptive child, including all available information setting forth
27 conditions or diseases believed to be hereditary, any drugs or medica-
28 tion taken during the pregnancy by the child's mother; and any other
29 information which may be a factor influencing the child's present or
30 future health, INCLUDING THE talents, hobbies and special interests of
31 THE BIRTH parents as contained in the petition, be furnished to the
32 adoptive parents. If the judge or surrogate is also satisfied that
33 there is no reasonable objection to the change of name proposed, the
34 order shall direct that the name of the adoptive child be changed to the
35 name stated in the agreement of adoption and that henceforth he OR SHE
36 shall be known by that name. All such orders made by a family court
37 judge of Westchester county since September first, nineteen hundred
38 sixty-two, and on file in the office of the county clerk of such county
39 shall be transferred to the clerk of the family court of such county.
40 Such order and all the papers in the proceeding shall be filed in the
41 office of the court granting the adoption and the order shall be entered
42 in books which shall be kept under seal and which shall be indexed by
43 the name of the adoptive parents and by the full original name of the
44 child. Such order, including orders heretofore entered, shall be subject
45 to inspection and examination only as hereinafter provided. Notwith-
46 standing the fact that adoption records shall be sealed and secret, they
47 may be microfilmed and processed pursuant to an order of the court,
48 provided that such order provides that the confidentiality of such
49 records be maintained. If the confidentiality is violated, the person or
50 company violating it can be found guilty of contempt of court. The fact
51 that the adoptive child was born out of wedlock shall in no case appear
52 in such order. The written report of the investigation together with all
53 other papers pertaining to the adoption shall be kept by the judge or
54 surrogate as a permanent record of his OR HER court and such papers must
55 be sealed by him OR HER and withheld from inspection. No certified copy
56 of the order of adoption shall issue unless authorized by court order,

1 except that certified copies may issue to the agency or agencies in the
2 proceeding prior to the sealing of the papers. Before the record is
3 sealed, such order may be granted upon written ex parte application on
4 good cause shown and upon such conditions as the court may impose. After
5 the record is sealed, such order may be granted only upon notice as
6 hereinafter provided for disclosure or access and inspection of records.
7 The clerk upon request of a person or agency entitled thereto shall
8 issue certificates of adoption which shall contain only the new name of
9 the child and the date and place of birth of the child, the name of the
10 adoptive parents and the date when and court where the adoption was
11 granted, which certificate as to the facts recited therein shall have
12 the same force and effect as a certified copy of an order of adoption.

13 S 10. This act shall take effect January 15, 2019, provided, however,
14 that, effective immediately, the commissioner of health is directed to
15 promulgate such rules and regulations as may be necessary to carry out
16 the provisions of this act.