

STATE OF NEW YORK

2492

2019-2020 Regular Sessions

IN SENATE

January 25, 2019

Introduced by Sen. BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the domestic relations law and the public health law, in relation to access to birth records by adoptees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature hereby states its
2 intention to ensure equal access to vital records and end decades of
3 discrimination against adoption and adopted persons. The legislature
4 finds that an adopted person should have access to his or her original
5 birth record in the same manner as a non-adopted person. The provisions
6 of this act establish an absolute right under the law for adopted
7 persons to access their birth certificates while referencing the fact of
8 their adoption.

9 § 2. Subdivision 2 of section 114 of the domestic relations law, as
10 amended by chapter 559 of the laws of 1992 and as designated by chapter
11 601 of the laws of 1994, is amended to read as follows:

12 2. (a) No person, including the attorney for the adoptive parents
13 shall disclose the surname of the child directly or indirectly to the
14 adoptive parents except upon order of the court. No person shall be
15 allowed access to such sealed records and order and any index thereof
16 except upon an order of a judge or surrogate of the court in which the
17 order was made or of a justice of the supreme court. No order for
18 disclosure or access and inspection shall be granted except on good
19 cause shown and on due notice to the adoptive parents and to such addi-
20 tional persons as the court may direct. Nothing contained herein shall
21 be deemed to require the state commissioner of health or his designee to
22 secure a court order authorizing disclosure of information contained in
23 adoption or birth records requested pursuant to the authority of section
24 forty-one hundred thirty-eight-c or section forty-one hundred thirty-
25 eight-d of the public health law; upon the receipt of such request for

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

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1 information, the court shall transmit the information authorized to be
2 released thereunder to the state commissioner of health or his designee.

3 (b) Notwithstanding paragraph (a) of this subdivision and any other
4 section of law to the contrary, an adoptee over the age of eighteen, the
5 adoptive parents of an adoptee who has not yet attained the age of eigh-
6 teen, and any lawful descendant or agent of an adoptee may apply for
7 access to a certified copy of the birth certificate of such adoptee
8 marked as not valid for identification and with a notation referencing
9 the circumstance of the adoption. Such certified copy shall be issued
10 for the same fee charged for a certified copy of the unsealed birth
11 record of a non-adoptee. No judicial review of the application shall be
12 necessary for an adoptee to receive a certified copy of his or her
13 original birth certificate marked as "Certified copy of a Sealed Record
14 - Not valid for identification with the adoption facts recited".

15 § 3. Section 4132 of the public health law is amended by adding a new
16 subdivision 5 to read as follows:

17 5. In the case of an adopted person, the certified copy of the certifi-
18 cate of birth issued upon request shall: (a) contain a notation that
19 the document is not valid for identification; and (b) recite the facts
20 of the adoption in the form as follows:

21 "I certify that the record above is a copy of the original birth
22 record of _____ (insert birth name), who was adopted by
23 _____ (adoptive parent) and _____ (adoptive parent, if two) on
24 _____ (adoption decree date). This original birth record is main-
25 tained in a sealed file by the State of New York. This copy is released
26 pursuant to the laws of the State of New York."

27 § 4. This act shall take effect April 15, 2019.