STATE OF NEW YORK

5141

2021-2022 Regular Sessions

IN ASSEMBLY

February 11, 2021

Introduced by M. of A. BENEDETTO, AUBRY, HUNTER, FORREST, JACKSON -- read once and referred to the Committee on Judiciary

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:

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

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

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

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

LBD08445-01-1

such request for information, the court shall transmit the information authorized to be released thereunder to the state commissioner of health or his or her designee.

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

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

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

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

§ 4. This act shall take effect April 15, 2022.