

Regular Session, 2014

HOUSE BILL NO. 1028

BY REPRESENTATIVE SCHEXNAYDER

ADOPTION: Provides relative to certain birth records

1

AN ACT

2 To amend and reenact Children's Code Article 1271(A), 1272(A), (B), and (C), 1273, and
3 1276 and R.S. 40:39.1(A)(introductory paragraph) and (D), 41(B)(1), 73(B), 77(B)
4 and (D), and 79(A)(4) and to enact Children's Code Articles 1271(D), 1272(E), and
5 1272.1 and R.S. 40:80, relative to birth records; to provide procedures for a birth
6 parent to file a contact preference form and updated statement of family history; to
7 authorize birth parents to prohibit the release of certain identifying information; to
8 provide procedures for an adult adoptee to obtain a noncertified copy of his original
9 birth certificate and statement of family history; to authorize the state registrar to
10 promulgate rules for the issuance of a noncertified copy of a birth certificate in
11 certain circumstances; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Children's Code Articles 1271(A), 1272(A), (B), and (C), 1273, and 1276
14 are hereby amended and reenacted and Children's Code Articles 1271(D), 1272(E), and
15 1272.1 are hereby enacted to read as follows:

16 Art. 1271. Registration

17 A. Registration shall be by affidavit filed with the office of community
18 children and family services. Upon registration, a registrant may file a contact
19 preference form indicating whether or not they desire to be contacted through the
20 registry if a match is made and may also prohibit the release of any identifying

1 information on a noncertified copy of an original birth certificate obtained pursuant
2 to R.S. 40:80, a contact preference form, or an updated statement of family history.
3 That office The office of children and family services shall develop and furnish
4 standardized affidavit forms and a contact preference form appropriate for effecting
5 the purpose of this Chapter.

* * *

7 D. A birth parent who files a contact preference form with the registry
8 indicating a "No Contact" preference shall be required to submit an updated
9 statement of family history form to the registry. The updated form shall be
10 maintained in the files of the registry until such time as a match is made pursuant to
11 Article 1272.

12 Art. 1272. Matching; verification by original documents; mandatory counseling

13 A. The office of ~~community~~ children and family services shall regularly
14 monitor registrant affidavits, utilizing computer services if necessary, to determine
15 whether affidavits have been filed by a registrant as enumerated in Article 1270.

16 B. If there appears to be a match between current registrants, the office of
17 community children and family services shall notify the registrants of the match and
18 of the counseling requirements of Paragraph D of this Article. Upon verification that
19 each registered person has met the requirements the office of community children
20 and family services shall provide the details of the match to the licensed clinical
21 social worker, social worker acting in the employ of a licensed adoption agency,
22 licensed professional counselor, licensed psychologist, licensed psychiatrist, or
23 licensed marriage and family therapist that provided counseling for the registrant,
24 who shall then contact the registered and matched parties in a careful and
25 confidential manner and give them the information necessary to contact each other.

26 C. If doubt exists that any registrants are biologically related, the office of
27 community children and family services shall advise them to file a motion with the
28 court having jurisdiction and request permission to open the sealed adoption record

1 for verification. Such verification shall be a compelling reason, within the meaning
2 of Article 1189, to open the adoption records for the limited purpose of verification.

3 * * *

4 E. If a match is made between a registered adoptee and a registered birth
5 parent and the birth parent has filed a contact preference form indicating "No
6 Contact" and an updated statement of family history, the office of children and
7 family services shall provide a copy of the contact preference form and the updated
8 statement of family history to the registered adoptee. If the birth parent has filed a
9 contact preference form prohibiting the release of identifying information, the office
10 of children and family services shall redact any identifying information from the
11 contact preference form and the updated statement of family history before providing
12 a copy to the registered adoptee.

13 Art. 1272.1. Contact preference form; statement of family history

14 A. Beginning on January 1, 2015, the office of children and family services
15 shall make reasonable efforts to inform the public of the voluntary registry and all
16 of the following:

17 (1) That an adoptee twenty-five years of age or older may obtain a
18 noncertified copy of the original certificate of live birth.

19 (2) That a birth parent of an adoptee who registers with the voluntary registry
20 may file a contact preference form with the registry and may prohibit the release of
21 identifying information on the original certificate of live birth, the contact preference
22 form, and the updated statement of family history.

23 (3) That a birth parent of an adoptee who files a contact preference form
24 indicating "No Contact" shall be required to submit an updated statement of family
25 history form.

26 B. The office of children and family services shall furnish a statement of
27 family history form, as provided in Article 1125, to a birth parent who files a contact
28 preference form indicating "No Contact".

1 Art. 1273. Confidentiality

2 Documents filed with the office of ~~community children and family~~ services,
3 pursuant to this Chapter, shall be confidential and shall not be available for
4 inspection, except under the procedures set forth in this Chapter.

5 * * *

6 Art. 1276. Disclosure of death of biological parents and adopted persons

7 When one or both of the biological parents are deceased, or when the adopted
8 person is deceased and this fact is known by the voluntary registry or by the licensed
9 adoption agency, firm, or lawyer which originally placed the adopted person for
10 adoption, this information shall be disclosed to any person permitted to register
11 pursuant to Article 1270 and who has registered with the office of ~~community~~
12 ~~children and family~~ services under the provisions of this Chapter, and the registered
13 persons shall then be afforded the option of deciding whether they still desire to avail
14 themselves of the contact opportunity provided through the voluntary registry.

15 Section 2. R.S. 40:39.1(A)(introductory paragraph) and (D), 41(B)(1), 73(B), 77(B)
16 and (D), and 79(A)(4) are hereby amended and reenacted and R.S. 40:80 is hereby enacted
17 to read as follows:

18 §39.1. Certified copies of birth certificates and death certificates; clerks of district
19 courts; Vital Records Conversion Fund

20 A. The state registrar of vital records shall promulgate rules to implement
21 the issuance of certified copies of birth certificates, noncertified copies of birth
22 certificates pursuant to R.S. 40:80, and death certificates through the office of the
23 clerk of district court in each parish. Such rules shall apply only to issuance of those
24 birth and death records that are available for electronic issuance from the Vital
25 Records Registry birth and death databases and shall include access to the following
26 items:

27 * * *

28 D.(1) The state registrar shall promulgate the rules necessary for the
29 implementation of the provisions of this Section on or before January 1, 2000.

1 (2) The state registrar shall promulgate the rules necessary for the
2 implementation of the issuance of noncertified copies of birth certificates pursuant
3 to R.S. 40:80 on or before August 1, 2014, in accordance with the Administrative
4 Procedure Act.

5 * * *

6 §41. Disclosure of records

7 * * *

8 B.(1) Disclosure Except as provided in R.S. 40:80, disclosure of confidential
9 birth information from which can be determined whether the child was born of or
10 outside of marriage may be made only upon order of the court in any case where that
11 information is necessary for the determination of personal or property rights and then
12 only for that purpose. Upon receiving an order from the court, the vital records
13 registrar shall file a copy of the birth certificate, marked for judicial purposes only,
14 under seal in the records of the clerk of court. The judge presiding over the matter
15 may review the birth certificate in chambers and may use the birth certificate within
16 his discretion during the course of the proceedings. No copies of the birth certificate
17 may be issued by the court to the litigants in the proceeding. The birth certificate
18 must be destroyed at the conclusion of the proceedings after all appeal delays have
19 lapsed. This Section shall not apply in any case where any sheriff, United States
20 attorney, attorney general, or district attorney makes written request to the state
21 registrar. Upon receipt of such written request, such registrar shall make disclosure
22 to any sheriff, United States attorney, attorney general, or district attorney requesting
23 same, of the contents of birth records in the registrar's custody.

24 * * *

25 §73. Certified copy of the new record; sealing and confidentiality of the original
26 birth record

27 * * *

28 B. This sealed package shall be opened only upon the demand of the adopted
29 person, or if deceased, by his or her descendants, or upon the demand of the adoptive

1 parent, or the state registrar, or the recognized public or private social agency which
2 was a party to the adoption, and then ~~only~~ by order of a Louisiana court of competent
3 jurisdiction at the domicile of the vital records registry, which order shall issue only
4 after a showing of compelling reasons. Information shall be revealed only to the
5 extent necessary to satisfy such compelling necessity.

6 * * *

Adoptive parents

7 §77. Certified copy for adoptive parents

9 B. Except as provided in R.S. 40:74, this sealed package shall be opened
10 only upon the demand of the adopted person, or if deceased, by his or her
11 descendants, or upon the demand of the adoptive parent, or the state registrar, or the
12 recognized public or private social agency which was a party to the adoption, and
13 then ~~only~~ by order of a Louisiana court of competent jurisdiction at the domicile of
14 the vital records registry which court order shall issue only after a showing of
15 compelling reasons, and opened only to the extent necessary to satisfy such
16 compelling necessity.

17 * * *

18 D. All motions for records under this Section shall be in accordance with and
19 subject to; the provisions of R.S. 9:437 the Louisiana Children's Code and, if an
20 adoption agency is involved, the agency shall be served with a copy of the motion
21 as provided in Article 1313 of the Louisiana Code of Civil Procedure.

22 * * *

23 §79. Record of adoption decree

24 A.

* * *

1 of a competent court or upon the application of an adoptee twenty-five years of age
2 or older, requesting a noncertified certificate of live birth.

* * *

4 §80. Adoptee request for a noncertified copy of an original birth certificate

5 A. Beginning on January 1, 2015, upon written application of an adoptee
6 twenty-five years of age or older, the state registrar shall issue to that adoptee a
7 noncertified copy of the original certificate of live birth of the adoptee. A
8 noncertified copy of an original certificate of live birth shall be subject to the same
9 fees as a certified photocopy or certified record of an original birth record as
10 provided in R.S. 40:40(2).

11 B. Each noncertified copy of certificate of birth shall display the words
12 "Noncertified - Not to be used for identification purposes".

13 C. Prior to the issuance of a noncertified copy of an original certificate of
14 live birth pursuant to Subsection A of this Section, the state registrar shall determine
15 whether a birth parent has filed a contact preference form with the voluntary registry
16 prohibiting the release of identifying information on a noncertified copy of an
17 original certificate of live birth. If a birth parent has filed a contact preference form
18 prohibiting the release of any identifying information, the state registrar shall redact
19 any identifying information from the noncertified copy of the original certificate of
20 live birth prior to issuance of the noncertified copy to the adoptee.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Schexnayder

HB No. 1028

Abstract: Provides an adoptee, age 25 and older, access to a noncertified copy of his original birth certificate, and authorizes a birth parent to file a contact preference form with the voluntary registry.

Present law (Ch.C. Art. 1271) provides procedures for registration with the voluntary adoption registry.

Proposed law retains present law and requires the office of children and family services to develop and furnish a contact preference form. Further requires a birth parent who files a preference form indicating "No Contact" to submit an updated statement of family history form to the registry. Allows a birth parent to prohibit the release of identifying information on a birth certificate, contact preference form, and updated statement of family history.

Present law (Ch.C. Art. 1272) provides procedures for matching registrants, including notice and mandatory counseling.

Proposed law retains present law and requires the office of children and family services to provide a copy of a contact preference form and updated statement of family history, if available, to the adoptee when an adoptee and birth parent have been matched.

Proposed law (Ch.C. Art. 1272.1) requires the department to make reasonable efforts to inform the public of the voluntary registry, that an adoptee who is 25 years old or older may obtain a noncertified copy of his original birth certificate, that the birth parent of an adoptee may file a contact preference form with the registry, that a birth parent may prohibit the release of identifying information, and that a birth parent electing "No Contact" is required to submit an updated statement of medical history.

Present law (R.S. 40:39.1) authorizes the state registrar of vital records to promulgate rules to implement the issuance of certified copies of birth certificates and death certificates and provides certain procedures.

Proposed law retains present law and adds noncertified copies of birth certificates to this list of documents.

Present law (R.S. 40:41) restricts disclosure of certain records in the custody of the state registrar, including confidential birth information that may disclose whether a child was born of or outside of marriage.

Proposed law retains present law but creates an exception for original birth certificates provided pursuant to R.S. 40:80.

Present law (R.S. 40:73) provides procedures for providing adoptive parents with a new record and requires the original birth certificate to be sealed with other documents related to the adoption. Further restricts opening the sealed package only upon order of a competent court after a showing of compelling reasons.

Proposed law retains present law except it deletes the requirement that an order of the court is the only method by which a sealed package can be opened.

Present law (R.S. 40:77) provides procedures for providing adoptive parents with a new record and requires the original birth certificate to be sealed with other documents related to the adoption. Further restricts opening the sealed package only upon order of a competent court after a showing of compelling reasons.

Proposed law retains present law except it deletes the requirement that an order of the court is the only method by which a sealed package can be opened.

Present law (R.S. 40:79) provides for records of adoption decrees and requires the original birth certificate to be sealed by the state registrar with the certificate of the adoption decree. Further restricts opening the sealed package only upon order of a competent court.

Proposed law retains present law but expands restriction to allow a sealed package to be opened upon the application of an adoptee 25 years old or older who has requested a noncertified original birth certificate.

Proposed law (R.S. 40:80) requires the state registrar to issue a noncertified copy of an original birth certificate and statement of family history to an adoptee who is 25 years old or older upon the adoptee's written application and requires the state registrar to redact any identifying information from the noncertified copy if a birth parent has prohibited the release of any identifying information.

Effective upon signature by governor or lapse of time for gubernatorial action.

(Amends Ch.C. Art. 1271(A), 1272(A), (B), and (C), 1273, and 1276 and R.S. 40:39.1(A)(intro. para.) and (D), 41(B)(1), 73(B), 77(B) and (D), and 79(A)(4); Adds Ch.C. Arts. 1271(D), 1272(E), and 1272.1 and R.S. 40:80)