

Regular Session, 2014

HOUSE BILL NO. 1028

BY REPRESENTATIVES SCHEXNAYDER, ADAMS, ARMES, ARNOLD, BADON, BARROW, BERTHELOT, STUART BISHOP, BROADWATER, BROWN, HENRY BURNS, CARMODY, CARTER, CHAMPAGNE, COX, EDWARDS, FOIL, GISCLAIR, GUINN, HILL, HOFFMANN, HOWARD, HUNTER, KLECKLEY, LEBAS, LEGER, MILLER, MONTOUCET, POPE, PUGH, REYNOLDS, RITCHIE, THIBAUT, WHITNEY, ALFRED WILLIAMS, WILLMOTT, AND WOODRUFF

ADOPTION: Provides relative to certain birth records

1 AN ACT

2 To amend and reenact Children's Code Articles 1271, 1272(A), (B), and (C), 1273, and 1276
3 and R.S. 40:41(B)(1), 73(B), 77(B) and (D), and 79(A)(4) and to enact Children's
4 Code Articles 1124(D), 1272(E), and 1272.1 and R.S. 40:80, relative to adoption
5 records; to provide procedures for a birth parent to file a contact preference form and
6 updated statement of family history; to authorize birth parents to prohibit the release
7 of certain identifying information; to provide procedures for an adult adoptee to
8 obtain a noncertified copy of his original birth certificate and statement of family
9 history; to provide for the promulgation of rules; to provide for a public awareness
10 campaign; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Children's Code Articles 1271, 1272(A), (B), and (C), 1273, and 1276 are
13 hereby amended and reenacted and Children's Code Articles 1124(D), 1272(E), and 1272.1
14 are hereby enacted to read as follows:

15 Art. 1124. Requirement of family information

16 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 D. A surrendering parent shall submit an updated statement of family history
2 to the voluntary registry, as provided for in Article 1271, every five years after the
3 initial execution of the statement of family history.

4 * * *

5 Art. 1271. Registration

6 A. Registration shall be by affidavit filed with the office of children and
7 family services. ~~That~~ The office shall develop and furnish standardized affidavit
8 forms and contact preference forms appropriate for effecting the purpose of this
9 Chapter. Registration shall be effective upon filing and shall remain effective until
10 withdrawn by the affiant's written request. The department may establish
11 registration and renewal fees not to exceed twenty five dollars.

12 B.(1) Registration shall be effective upon filing and shall remain effective
13 until withdrawn by the affiant's written request. A birth parent, or sibling of an
14 adoptee who is a child of the birth parent, who registers with the voluntary registry
15 may do any of the following:

16 (a) File a contact preference form indicating whether or not he desires to be
17 contacted if a match is made.

18 (b) Consent to or prohibit the release of a noncertified copy of the adoptee's
19 original birth certificate.

20 (c) Consent to or prohibit the release of his identifying information contained
21 on any document filed with the voluntary registry.

22 (2) A birth parent who files a contact preference form with the registry shall
23 be required to submit an updated statement of family history form to the registry
24 upon filing and every five years thereafter.

25 C.(1) The department may establish registration and renewal fees not to
26 exceed twenty-five dollars. An adoptee who registers with the voluntary registry may
27 do any of the following:

28 (a) Request a noncertified copy of his original birth certificate.

29 (b) Request an updated statement of family history.

1 (c) File a contact preference form indicating whether or not he desires to be
2 contacted if a match is made.

3 (d) Consent to or prohibit the release of his identifying information contained
4 on any document filed with the voluntary registry.

5 (2)(a) If an adoptee requests a noncertified copy of his original birth
6 certificate, the office of children and family services shall determine whether a birth
7 parent has filed a consent with the voluntary registry authorizing the release of the
8 information. Upon determination of whether a consent exists, the office of children
9 and family services shall do the following:

10 (i) If a birth parent has consented to the release of the adoptee's original birth
11 certificate, the office of children and family services shall coordinate with the vital
12 records registry to facilitate the release of the noncertified copy of the original birth
13 certificate to the adoptee. If only one birth parent has filed with the voluntary
14 registry and consented to the release of the adoptee's original birth certificate, the
15 name of the birth parent who has not consented shall be redacted before a
16 noncertified copy of the original birth certificate is issued to the adoptee.

17 (ii) If a birth parent has not filed with the registry or has prohibited the
18 release of the noncertified copy of the original birth certificate to the adoptee, the
19 office of children and family services shall notify the adoptee of such and a copy of
20 the noncertified copy of the original birth certificate shall not be issued.

21 (iii) If a birth parent has filed a contact preference form and an updated
22 statement of family history, regardless of whether the birth parent has consented to
23 or prohibited the release of the adoptee's original birth certificate, the office of
24 children and family services shall issue a copy of the contact preference form and
25 any updated statement of family history to the adoptee, but shall redact any
26 identifying information if the birth parent has prohibited the release of any
27 identifying information.

28 (b) If an adoptee requests an updated statement of family history, the office
29 of children and family services shall determine whether a birth parent has submitted

1 an updated statement of family history and shall issue a copy, if one is filed, to the
2 adoptee. If a birth parent has submitted an updated statement of family history but
3 has prohibited the release of any identifying information, the office of children and
4 family services shall redact all identifying information from the updated statement
5 of family history before issuing a copy to the adoptee.

6 (c) Upon receipt of the updated statement of family history submitted by a
7 birth parent every five years after the initial filing, the office of children and family
8 services shall issue to the adoptee a copy of the updated statement of family history.

9 D. All documents filed with the voluntary registry pursuant to the provisions
10 of this Article shall be maintained in the files of the registry until such time as a
11 match is made pursuant to Article 1272.

12 E. The Department of Children and Family Services and the Department of
13 Health and Hospitals shall promulgate the rules necessary for the implementation of
14 this Article on or before September 1, 2015, in accordance with the Administrative
15 Procedure Act.

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

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

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

1 C. If doubt exists that any registrants are biologically related, the office of
2 ~~community children and family~~ services shall advise them to file a motion with the
3 court having jurisdiction and request permission to open the sealed adoption record
4 for verification. Such verification shall be a compelling reason, within the meaning
5 of Article 1189, to open the adoption records for the limited purpose of verification.

6 * * *

7 E. If a match is made between a registered adoptee and a registered birth
8 parent or registered sibling, disclosure or issuance of any document contained within
9 the files of the voluntary registry or the vital records registry shall be made in
10 accordance with the provisions of this Chapter and R.S. 40:80.

11 Art. 1272.1. Contact preference form; statement of family history; public awareness
12 campaign

13 A. The office of children and family services shall develop and implement
14 a one-year-long, nationwide campaign to be conducted from September 1, 2014
15 through August 31, 2015, for the express purpose of informing the public of all of
16 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 if the birth parent has
19 consented.

20 (2) That a birth parent of an adoptee, or a sibling of the adoptee who is a
21 child of the birth parent, who registers with the voluntary registry may file a contact
22 preference form with the voluntary registry, consent to or prohibit the release of a
23 noncertified copy of the adoptee's original birth certificate, and consent to or prohibit
24 the release of the birth parent's identifying information on any document filed with
25 the voluntary registry.

26 (3) That a birth parent of an adoptee who files a contact preference form
27 shall be required to submit an updated statement of family history form.

1 B. The office of children and family services shall furnish a statement of
2 family history form, as provided in Article 1125, to a birth parent who files a contact
3 preference form.

4 C. The nationwide campaign required in Paragraph A of this Article shall
5 include but not be limited to the following:

6 (1) Public service announcements and press releases to be distributed to local
7 and national radio stations and newspapers, if the national advertising is at no cost
8 to the state.

9 (2) Announcements posted on the website of the Department of Children and
10 Family Services.

11 (3) Notices to be distributed throughout the state to physician's offices,
12 religious institutions, social welfare organizations, retirement homes, and other
13 entities capable of reaching individuals who may be impacted by R.S. 40:80 and
14 Children's Code Articles 1271 and 1272.

15 (4) Information regarding the campaign, or a website address where a person
16 can obtain information about the campaign, to be printed on the outside of every
17 motor vehicle registration renewal application and every driver's license renewal
18 application issued by the office of motor vehicles, Department of Public Safety and
19 Corrections.

20 D. The secretary of the Department of Children and Family Services and the
21 secretary of the Department of Public Safety and Corrections shall develop the
22 campaign information statement provided for in Subparagraph (C)(4) of this Article.

23 E. The Department of Children and Family Services, after consultation with
24 the secretary of the Department of Public Safety and Corrections, shall promulgate
25 the rules necessary for the implementation of this Article on or before August 1,
26 2014, in accordance with the Administrative Procedure Act.

1 Art. 1273. Confidentiality

2 A. Documents filed with the office of ~~community~~ children and family
3 services, 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 B. No person shall have a cause of action against the office of children and
6 family services or an employee for any injury or damage caused by the disclosure of
7 any information that is filed in the records of the voluntary registry and is disclosed
8 in accordance with the procedures of this Chapter, unless the injury or damage was
9 caused by willful or wanton misconduct or gross negligence.

10 * * *

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

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

20 Section 2. R.S. 40:41(B)(1), 73(B), 77(B) and (D), and 79(A)(4) are hereby amended
21 and reenacted and R.S. 40:80 is hereby enacted to read as follows:

22 §41. Disclosure of records

23 * * *

24 B.(1) ~~Disclosure~~ Except as provided in R.S. 40:80, disclosure of confidential
25 birth information from which can be determined whether the child was born of or
26 outside of marriage may be made only upon order of the court in any case where that
27 information is necessary for the determination of personal or property rights and then
28 only for that purpose. Upon receiving an order from the court, the vital records
29 registrar shall file a copy of the birth certificate, marked for judicial purposes only,

1 under seal in the records of the clerk of court. The judge presiding over the matter
 2 may review the birth certificate in chambers and may use the birth certificate within
 3 his discretion during the course of the proceedings. No copies of the birth certificate
 4 may be issued by the court to the litigants in the proceeding. The birth certificate
 5 must be destroyed at the conclusion of the proceedings after all appeal delays have
 6 lapsed. This Section shall not apply in any case where any sheriff, United States
 7 attorney, attorney general, or district attorney makes written request to the state
 8 registrar. Upon receipt of such written request, such registrar shall make disclosure
 9 to any sheriff, United States attorney, attorney general, or district attorney requesting
 10 same, of the contents of birth records in the registrar's custody.

11 * * *

12 §73. Certified copy of the new record; sealing and confidentiality of the original
 13 birth record

14 * * *

15 B. This sealed package shall be opened only upon the demand of the adopted
 16 person, or if deceased, by his or her descendants, or upon the demand of the adoptive
 17 parent, or the state registrar, or the recognized public or private social agency which
 18 was a party to the adoption, and then ~~only~~ by order of a Louisiana court of competent
 19 jurisdiction at the domicile of the vital records registry, which order shall issue only
 20 after a showing of compelling reasons. Information shall be revealed only to the
 21 extent necessary to satisfy such compelling necessity.

22 * * *

23 §77. Certified copy for adoptive parents

24 * * *

25 B. Except as provided in R.S. 40:74, this sealed package shall be opened
 26 only upon the demand of the adopted person, or if deceased, by his or her
 27 descendants, or upon the demand of the adoptive parent, or the state registrar, or the
 28 recognized public or private social agency which was a party to the adoption, and
 29 then ~~only~~ by order of a Louisiana court of competent jurisdiction at the domicile of

1 the vital records registry which court order shall issue only after a showing of
2 compelling reasons, and opened only to the extent necessary to satisfy such
3 compelling necessity.

4 * * *

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

9 * * *

10 §79. Record of adoption decree

11 A.

12 * * *

13 (4) The state registrar shall seal and file the original certificate of birth with
14 the certificate of the decree. This sealed package may be opened ~~only~~ on the order
15 of a competent court or in accordance with the provisions of Children's Code Article
16 1271 and R.S. 40:80.

17 * * *

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

19 A. Beginning on September 1, 2015, if an adoptee twenty-five years of age
20 or older requests a copy of a noncertified copy of his original birth certificate, and
21 a birth parent has consented to the release of the noncertified copy of the adoptee's
22 original birth certificate, the state registrar, in coordination with the office of children
23 and family services, shall issue to the adoptee a noncertified copy of the original
24 certificate of live birth of the adoptee. A noncertified copy of an original certificate
25 of live birth shall be subject to the same fees as a certified photocopy or certified
26 record of an original birth record as provided in R.S. 40:40(2).

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

1 C. The issuance of a noncertified copy of an original birth certificate to an
 2 adoptee shall be in accordance with the provisions of Children's Code Articles 1271,
 3 et seq.

4 D. Noncertified copies of an original certificate of live birth issued pursuant
 5 to this Section shall be issued only by the Vital Records Registry. The state registrar
 6 shall promulgate the rules necessary for the implementation of the issuance of
 7 noncertified copies of certificates of live birth pursuant to this Section on or before
 8 September 1, 2015, in accordance with the Administrative Procedure Act.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
 10 signed by the governor, upon expiration of the time for bills to become law without signature
 11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 13 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 upon consent of a birth parent, authorizes a birth parent to file a contact preference form with the voluntary registry, requires a birth parent to file an updated statement of family history in certain circumstances, and provides for a nationwide, public awareness campaign.

Present law (Ch.C. Art. 1124) requires a surrendering parent in an adoption to execute a Statement of Family History, to be included in the sealed adoption record.

Proposed law retains present law and requires the surrendering parent to provide an updated statement of family history every five years after initial execution.

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 and updated statement of family history form. Permits a birth parent or sibling of an adoptee to do any of the following:

- (1) File a contact preference form indicating whether or not he desires to be contacted if a match is made.

- (2) Consent to or prohibit the release of a noncertified copy of the adoptee's original birth certificate.
- (3) Consent to or prohibit the release of his identifying information contained on any document filed with the registry.

Proposed law requires a birth parent who files with the voluntary registry to submit an updated statement of family history upon registration and every five years thereafter.

Proposed law permits an adoptee to do any of the following:

- (1) Request a noncertified copy of his original birth certificate.
- (2) Request an updated statement of family history.
- (3) File a contact preference form indicating whether or not he desires to be contacted if a match is made.
- (4) Consent to or prohibit the release of his identifying information contained on any document filed with the registry.

Proposed law requires the office of children and family services to do the following:

- (1) Issue an updated statement of family history to an adoptee who requests if a birth parent has filed one with the registry.
- (2) Coordinate with the vital records registry to issue a noncertified copy of an adoptee's original birth certificate if the request is made and the birth parent has consented and redact the information of a birth parent who has not consented.
- (3) Redact any identifying information of the birth parent from any document filed with the registry that is released to the adoptee if the birth parent has prohibited the release of the identifying information.

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 office of children and family services to conduct a one-year-long, nationwide campaign to inform the public 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 consent to or prohibit the release of the adoptee's original birth certificate or any identifying information, and that a birth parent is required to submit an updated statement of family history.

Proposed law further requires the nationwide campaign to include the following:

- (1) Public service announcements and press releases to radio stations and newspapers.
- (2) Announcements posted on DCFS's website.
- (3) Notices distributed throughout the state to physician's offices, social welfare organizations, and other like entities.

- (4) Information about the campaign to be printed on the outside of every motor vehicle registration renewal and every driver's license renewal application issued by the office of motor vehicles.

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 in accordance with proposed law.

Proposed law (R.S. 40:80) requires the state registrar to issue a noncertified copy of an original birth certificate to an adoptee who is 25 years old or older in accordance with proposed law.

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

(Amends Ch.C. Arts. 1271, 1272(A), (B), and (C), 1273, and 1276 and R.S. 40:41(B)(1), 73(B), 77(B) and (D), and 79(A)(4); Adds Ch.C. Arts. 1124(D), 1272(E), and 1272.1 and R.S. 40:80)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Required the office of children and family services to conduct a one-year-long, nationwide public awareness campaign to inform the public of proposed law.
2. Changed the effective date of release of the noncertified copy of the original birth certificate from Jan. 1, 2015, to Sept. 1, 2015.
3. Changed the entity authorized to release the noncertified copy of the original birth certificate from the clerk of court to the Vital Records Registry.

House Floor Amendments to the engrossed bill.

1. Required a birth parent to consent to the release of the adoptee's original birth certificate, and for the name of a birth parent who has not consented to be redacted before release to the adoptee.
2. Required a surrendering parent who executes a statement of family history to file an updated statement of family history with the voluntary registry every five years after initial execution.
3. Required a birth parent who files with the voluntary registry to file an updated statement of family history upon registration and every five years thereafter.
4. Authorized the vital records registry to release a noncertified copy of an adoptee's original birth certificate to the adoptee if a birth parent consented to the release and required the vital records registry to redact the name of a birth parent who has not consented.
5. Required the office of children and family services to release a copy of a contact preference form and updated statement of family history to an adoptee who registers with the registry and required the office of children and family services to redact any identifying information from the documents prior to issuing to the adoptee if the birth parent has prohibited the release of the identifying information.
6. Authorized DCFS and DHH to promulgate rules for the issuance of the noncertified copy of the adoptee's birth certificate.