

BILL ANALYSIS

C.S.H.B. 770
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas requires supplementary birth certificates to be issued in lieu of standard birth certificates when an individual is adopted. Supplementary birth certificates differ from standard birth certificates because they do not divulge the name or location of the birth parents, regardless of the wishes of the adoptive parents, child, or court.

Under current law the original birth certificate cannot be accessed without an order issued by the same court that originally granted the adoption. In some cases, an adoptee may not be aware of which court granted the adoption, in which case the adoptee would have to pay a fee to register with the Central Adoption Registry in order to ascertain the court's information.

C.S.H.B.770 is designed to enable adults who were adopted as children to access their original birth certificate, without having to go through the courts. As proposed, C.S.H.B.770 allows adoptive parents and adoptive children over the age of 12 and/or the courts to specify that a supplementary birth certificate need not be issued. This bill provides a procedure for adopted persons over the age of 21, or if the adopted person is deceased, their adult descendant, adult sibling, or surviving spouse to obtain a copy of the original birth certificate and creates a "contact preference form" to allow birth parents who do not wish to be reunited with the adopted person an opportunity to express their preference as well as to update their family medical history.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

- SECTION 1.** Amends Section 192.008 of the Health and Safety Code by adding Subsections (f) and (g) which provides that under Subsection (f) subject to Subsection (g), the state registrar shall provide to a person who was adopted or, if the adopted person is deceased, an adult descendant, adult sibling, or surviving spouse of the adopted person a noncertified copy of the person's original birth certificate if:
- (1) the request is made on or after the 21st anniversary of the adopted person's birth;
 - (2) a supplementary birth certificate was issued for the adopted person; and
 - (3) the person requesting the certificate furnishes appropriate proof of the person's identity.
- (g) If a birth parent files with the state registrar a contact preference form indicating the birth parent's preference that a noncertified copy of the adopted person's original birth certificate not be released until after the death of the birth parent, the state registrar may not release, without a court order, a noncertified copy of the adopted person's original birth certificate before that birth parent dies regardless of the other birth parent's preference.

- SECTION 2.** Amends Subchapter A, Chapter 192 of the Health and Safety Code by adding Sections 192.0085 and 192.0086 to provide that a birth parent may

file an updated medical history and a contact preference form with the state registrar. (b) The state registrar shall develop a contact preference form on which a birth parent may state the birth parent's preference regarding contact by an adopted person who is the birth child of the birth parent. The contact preference form shall provide the birth parent with the following options:

- (1) authorize direct contact by the adopted person and the release of a noncertified copy of the adopted person's original birth certificate;
- (2) authorize contact by the adopted person only through an intermediary selected by the birth parent but not authorize the release of a noncertified copy of the adopted person's original birth certificate;
- (3) not authorize contact by the adopted person but authorize the release of a noncertified copy of the adopted person's original birth certificate; or
- (4) not authorize contact by the adopted person and request that a noncertified copy of the adopted person's original birth certificate not be released until after the death of the birth parent.

(c) Not later than the 15th day after the date the state registrar receives a request from a birth parent named on an original birth certificate for a contact preference form, the state registrar shall provide the birth parent with a contact preference form and an updated medical history form.

(d) The state registrar shall make the contact preference form and the updated medical history form available in English and Spanish.

(e) The department shall make the contact preference form and the updated medical history form available on the department's Internet website.

(f) The birth parent may return the completed contact preference form and updated medical history form together to the state registrar.

(g) The state registrar shall deliver the birth parent's updated medical history form and the contact preference form to an adopted person who receives a noncertified copy of the adopted person's original birth certificate under Section 192.008.

(h) The state registrar shall keep statistics on the number of:

- (1) updated medical histories and contact preference forms filed with the state registrar; and
- (2) updated medical histories and contact preference forms delivered by the state registrar under Subsection (g).
 - (i) The state registrar may charge an adopted person a reasonable fee for services provided under this section.

Further amends Section 192.0086 to provide that if a birth parent's contact preference form authorizes contact using an intermediary, the state registrar shall make the contact information for the intermediary selected by the birth parent available to the adopted person on request.

(b) If the birth parent has not provided the intermediary's contact information at the time the adopted person requests the information, the state registrar shall notify the birth parent by certified mail, return receipt requested, that the birth parent must provide the intermediary's contact information not later than the 90th day after the date the birth parent receives the notice.

(c) If the birth parent fails to provide the intermediary's contact information within the time required by Subsection (b), the state registrar shall release a noncertified copy of the adopted person's original birth certificate.

(d) If the state registrar is unable to notify the birth parent by certified mail, return receipt requested, because the birth parent fails to keep the birth parent's personal contact information current with the state registrar,

the state registrar shall release a noncertified copy of the adopted person's original birth certificate on the 91st day after the date the notice was sent by certified mail.

SECTION 3. Amends Subchapter A, Chapter 162 of the Family Code by adding Section 162.0061 which provides that the Department of Family and Protective Services, licensed child-placing agency, person, or entity placing a child for adoption shall inform the birth parents of the child of the provisions of Chapter 192, Health and Safety Code, relating to the birth parent contact preference form and the rights of an adopted child to obtain a noncertified copy of the adopted person's original birth certificate.

SECTION 4. The state registrar may not issue a noncertified copy of an original birth certificate under Section 192.008(f), Health and Safety Code, as added by this Act, before January 1, 2006. (b) The state registrar may not deliver an updated medical history or a contact preference form as provided by Section 192.0085(g), Health and Safety Code, as added by this Act, before January 1, 2006.

SECTION 5. The change in law made by this Act regarding access to birth certificate information applies without regard to the date an adoption order is rendered.

SECTION 6. This Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.770 modifies the original H.B.770 by eliminating Section 192.008(a), (a-1), (d) and (e) which referred to the information that could be changed on a supplementary birth certificate and the issuance or non-issuance of a supplementary birth certificate for adopted persons who are at least 12 years of age. The portion regarding the docket number of the adoption suit and the date the adoption order was rendered has been deleted and the jurisdictional court's ability to provide the documents upon which a supplementary birth certificate is based has been deleted.

Section 192.008(f) has been restated and the language is clearer as to who may request a noncertified copy of an adopted person's original birth certificate, and Subsection (4) has been deleted. Subsection (g) refers to when there are two birth parents named on an adopted person's original birth certificate and if one parent wishes contact and the other doesn't, then the parent who wishes no contact will supercede the wishes of the parent who wants contact until the parent who has asked for no contact has died and then the adopted person would be allowed to receive a noncertified copy of their original birth certificate.

Additionally, C.S.H.B.770 under Section 192.0085(b)(2), provides for the definition of a contact preference form and allows birth parents to file with the state registrar an updated medical history and a contact preference form. The substitute gives the state registrar the authority to develop a contact preference form with the options listed which are (1) direct contact and release of the original birth certificate; (2) authorize contact through an intermediary of the birth parent's choice, but not release the original birth certificate to the adopted person; (3) not authorize direct contact, but release a noncertified copy of the original birth certificate to the adopted person; or (4) not authorize contact by the adopted person and not release a noncertified copy of the original birth certificate until after the birth parent is deceased. Moreover, Subsection (c) provides the time period for which the state registrar may send out a contact preference form and medical history form when they are requested by a birth parent and makes the contact preference form and medical history form available in both English and Spanish as well as makes the contact preference form and medical history form available on the state registrar's website. Subsection (f) allows a birth parent to return the completed contact preference form and medical history form to

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the state registrar and (g) the state registrar to deliver the completed contact preference form and any medical history form to an adopted person when the adopted person requests a noncertified copy of their original birth certificate. Under Subsection (h) the bill requests that the state registrar keep statistics on the number of medical histories and contact preference forms filed and delivered by the state registrar, and (i) allows the state registrar to charge the adopted person a fee to cover the costs for the services provided under this bill. Lastly, the substitute creates a provision for use of an intermediary by a birth parent. If a birth parent chooses this option the intermediary's contact information will be delivered to an adopted person when they request a noncertified copy of their original birth certificate and a birth parent has indicated that they would prefer to use this system.