

BILL ANALYSIS

C.S.S.B. 499
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Public Health
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 adopted 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 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 name.

C.S.S.B. 499 requires the state registrar on request to provide to a person who was adopted a noncertified copy of the person's original birth certificate under certain conditions. The bill requires the state registrar to develop a contact preference form on which a birth parent states the birth parent's preference regarding contact by an adopted person who is the birth child of the birth parent and to develop an updated medical history form.

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

C.S.S.B. 499 amends the Health and Safety Code to require the state registrar on request to provide to a person who was adopted on or after January 1, 2010, 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 the request is made on or after the adopted person's 18th birthday, a supplementary birth certificate was issued for the adopted person, and the person requesting the certificate furnishes appropriate proof of the person's identity. The bill prohibits the state registrar from releasing a noncertified copy of the adopted person's original birth certificate without a court order 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, regardless of the other birth parent's preference. The bill prohibits the state registrar from releasing a noncertified copy of the adopted person's birth certificate without a court order if a birth parent indicates a preference that the certificate not be released, until after the death of the birth parent, regardless of the other birth parent's preference. The bill prohibits the state registrar from releasing a noncertified copy of the adopted person original birth certificate without a court order if neither parent has filed a contact preference form with the state registrar.

C.S.S.B. 499 requires the state registrar to develop a contact preference form on which a birth parent shall state the birth parent's preference regarding contact by an adopted person who is the birth child of the birth parent. The bill requires the contact preference form to provide the birth

parent with the following options: authorize direct contact by the adopted person and the release of a noncertified copy of the adopted person's original birth certificate; authorize contact by the adopted person only through an intermediary selected by the birth parent and the release of a noncertified copy of the adopted person's original birth certificate; 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; not authorize contact by the adopted person but authorize the release of a noncertified copy of the adopted person's original birth certificate; 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; or not authorize contact by the adopted person or the release of a noncertified copy of the adopted person's original birth certificate.

C.S.S.B. 499 requires the state registrar to develop an updated medical history form that does not contain any personal identifying information about either birth parent and make the contact preference form and the updated medical form available in English and Spanish. The bill requires the state registrar to develop the forms not later than January 1, 2010. The bill requires the Department of State Health Services (DSHS) to make the contact preference form and the updated medical history form available on the DSHS Internet website. The bill authorizes a birth parent to file an updated contact preference form and an updated medical history form with the state registrar and to return the updated contact preference form and updated medical history form together to the state registrar. The bill requires the state registrar to deliver the birth parent's contact preference form and updated medical history form to an adopted person who receives a noncertified copy of the adopted person's original birth certificate. The bill requires the state registrar to deliver, on the adopted person's request, the birth parent's updated medical history form. The bill requires the state registrar, if a birth parent has authorized contact, and on the adopted person's request, to deliver to the adopted person the birth parent's contact preference form. The bill authorizes the state registrar to charge an adopted person a reasonable fee for such services provided.

C.S.S.B. 499 requires the state registrar, if a birth parent's contact preference form authorizes contact using an intermediary, to make the contact information for the intermediary selected by the birth parent available to the adopted person on request. The bill requires the state registrar, if the birth parent has not provided the intermediary's contact information at the time the adopted person requests the information, to 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. The bill requires the central registry to act as the intermediary for the birth parent, if the birth parent fails to provide the intermediary's contact information within the time required and requires the central registry to act as such on or after the 91st day after the date the notice was sent by certified mail from the state registrar if the state registrar is unable to notify the birth parent by certified mail because the birth parent fails to keep the birth parent's personal contact information current with the state registrar. The bill requires the state registrar, before the release of a contact preference form authorizing contact between an adopted child and a birth parent, to require verification in a form satisfactory to the state registrar that the adopted child and the biological parent have each individually participated in counseling for not less than one hour with a social worker or mental health professional with expertise in postadoption counseling. The bill defines "central registry."

C.S.S.B. 499 amends the Family Code to specify that provisions regarding the notice and filing of a contact preference form do not apply to an adoption by the child's grandparent; aunt or uncle by birth, marriage, or prior adoption; stepparent; or adult sibling. The bill requires the Department of Family and Protective Services (DFPS) or the licensed child-placing agency, person, or other entity placing a child for adoption to inform the birth parents of the child of the provisions of law 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 and that the birth parents are required to provide a completed contact preference form to DFPS or the licensed child-placing agency, person, or other entity placing a child for adoption; provide the

birth parents of the child with a contact preference form; and forward each original completed contact preference form to the state registrar.

C.S.S.B. 499 requires the notification to a child's birth parents to be provided at the time that the birth parent's parental rights to a child are terminated. The bill prohibits a petition for adoption from being granted until a copy of the birth parent's contact preference form has been filed. The bill authorizes a court having jurisdiction of a suit affecting the parent-child relationship by order to waive the contact preference form filing requirement if the child's birth parents cannot be located or are deceased or the court determines it is in the best interest of the child to waive the requirement. The bill makes these provisions of the Family Code applicable to a suit for adoption filed on or after January 1, 2010.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 499 differs from the original in nonsubstantive ways by making conforming changes and using language reflective of certain bill drafting conventions.

C.S.S.B. 499 adds a provision not included in the original prohibiting the state registrar, if neither birth parent has filed a contact preference form with the state registrar, from releasing a noncertified copy of the adopted person's original birth certificate without a court order.

C.S.S.B. 499 differs from the original by specifying that the updated medical history form required to be developed by the state registrar is a form that does not contain any personal identifying information about either birth parent.

C.S.S.B. 499 differs from the original by removing references to the release of a contract preference form authorizing contact between an adopted child and an intermediary in provisions requiring the state registrar, before the release of such a form to require verification that the adopted child and the biological parent have each individually participated in counseling for not less than one hour with a social worker of mental health professional with expertise in postadoption counseling.

C.S.S.B. 499 differs from the original by specifying that the notification of the contact preference form to a child's birth parents is required to be provided at the time, rather than at or near the time, that the birth parent's parental rights to a child are terminated. The substitute differs from the original by establishing that the change in law relating to the notice and filing of a contact preference form applies only to a suit for adoption filed on or after January 1, 2010, rather than a suit in which parental rights are terminated on or after January 1, 2010, as in the original.