

1-1 By: Lucio, Gallegos S.B. No. 499  
1-2 (In the Senate - Filed January 16, 2009; February 17, 2009,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 April 20, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 20, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 499 By: Watson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to birth records of adopted children.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 192.008, Health and Safety Code, is  
1-13 amended by amending Subsection (f) and adding Subsections (g), (h),  
1-14 and (i) to read as follows:

1-15 (f) Notwithstanding Subsections (h) and (i), an [An] adult  
1-16 adoptee who is applying for access to the person's original birth  
1-17 certificate and who knows the identity of each parent named on the  
1-18 original birth certificate is entitled to a noncertified copy of  
1-19 the original birth certificate without obtaining a court order.

1-20 (g) Subject to Subsections (h) and (i), the state registrar  
1-21 shall on request provide to a person who was adopted on or after  
1-22 January 1, 2010, or, if the adopted person is deceased, an adult  
1-23 descendant, adult sibling, or surviving spouse of the adopted  
1-24 person, a noncertified copy of the person's original birth  
1-25 certificate if:

1-26 (1) the request is made on or after the 18th  
1-27 anniversary of the adopted person's birth;

1-28 (2) a supplementary birth certificate was issued for  
1-29 the adopted person; and

1-30 (3) the person requesting the certificate furnishes  
1-31 appropriate proof of the person's identity.

1-32 (h) Except as provided by Subsection (f), if a birth parent  
1-33 files with the state registrar a contact preference form indicating  
1-34 the birth parent's preference that a noncertified copy of the  
1-35 adopted person's original birth certificate not be released, the  
1-36 state registrar may not release, without a court order, a  
1-37 noncertified copy of the adopted person's original birth  
1-38 certificate, regardless of the other birth parent's preference.

1-39 (i) Except as provided by Subsections (f) and (h), if a  
1-40 birth parent files with the state registrar a contact preference  
1-41 form indicating the birth parent's preference that a noncertified  
1-42 copy of the adopted person's original birth certificate not be  
1-43 released until after the death of the birth parent, the state  
1-44 registrar may not release, without a court order, a noncertified  
1-45 copy of the adopted person's original birth certificate before that  
1-46 birth parent dies, regardless of the other birth parent's  
1-47 preference.

1-48 SECTION 2. Subchapter A, Chapter 192, Health and Safety  
1-49 Code, is amended by adding Sections 192.0085, 192.0086, and  
1-50 192.0087 to read as follows:

1-51 Sec. 192.0085. CONTACT PREFERENCE FORM AND UPDATED MEDICAL  
1-52 HISTORY FORM. (a) The state registrar shall develop a contact  
1-53 preference form on which a birth parent shall state the birth  
1-54 parent's preference regarding contact by an adopted person who is  
1-55 the birth child of the birth parent. The contact preference form  
1-56 shall provide the birth parent with the following options:

1-57 (1) authorize direct contact by the adopted person and  
1-58 the release of a noncertified copy of the adopted person's original  
1-59 birth certificate;

1-60 (2) authorize contact by the adopted person only  
1-61 through an intermediary selected by the birth parent and the  
1-62 release of a noncertified copy of the adopted person's original  
1-63 birth certificate;

(3) 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;

(4) not authorize contact by the adopted person, but authorize the release of a noncertified copy of the adopted person's original birth certificate;

(5) 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

(6) not authorize contact by the adopted person or the release of a noncertified copy of the adopted person's original birth certificate.

(b) The state registrar shall develop an updated medical history form.

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

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

(e) A birth parent may file an updated contact preference form and an updated medical history form with the state registrar. The birth parent may return the updated contact preference form and updated medical history form together to the state registrar.

(f) The state registrar shall 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 under Section 192.008.

(g) Notwithstanding a birth parent's contact preference under Subsection (a), the state registrar shall deliver to the adopted person on the adopted person's request the birth parent's updated medical history form.

(h) If a birth parent has authorized contact under Subsection (a), the state registrar shall deliver to the adopted person on the adopted person's request the birth parent's contact preference form.

(i) The state registrar may charge an adopted person a reasonable fee for services provided under this section.

Sec. 192.0086. CONTACT USING INTERMEDIARY. (a) 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 central registry shall act as the intermediary for the birth parent.

(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 central registry shall act as the intermediary for the birth parent on or after the 91st day after the date the notice was sent by certified mail.

(e) In this section, "central registry" has the meaning assigned by Section 162.402, Family Code.

Sec. 192.0087. REQUIRED COUNSELING BEFORE RELEASE OF CERTAIN CONTACT PREFERENCE FORMS. Before the release of a contact preference form authorizing contact between an adopted child and a birth parent, or between an adopted child and an intermediary, as required by Section 192.0085, the state registrar shall require verification in a form satisfactory to the state registrar that the

adopted child and the biological parent or intermediary, as applicable, have participated in counseling for not less than one hour with a social worker or mental health professional with expertise in postadoption counseling.

SECTION 3. Subchapter A, Chapter 162, Family Code, is amended by adding Section 162.0061 to read as follows:

Sec. 162.0061. CONTACT PREFERENCE FORM: NOTICE AND FILING.

(a) This section does not apply to an adoption by the child's:

- (1) grandparent;
- (2) aunt or uncle by birth, marriage, or prior adoption;
- (3) stepparent; or
- (4) adult sibling.

(b) The Department of Family and Protective Services or the licensed child-placing agency, person, or other entity placing a child for adoption shall:

(1) inform the birth parents of the child:  
 (A) 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; and

(B) that the birth parents are required to provide a completed contact preference form to the Department of Family and Protective Services or the licensed child-placing agency, person, or other entity placing a child for adoption;

(2) provide the birth parents of the child with a contact preference form; and

(3) forward each original completed contact preference form to the state registrar.

(c) The notification to a child's birth parents required by this section shall be provided at or near the time that the birth parent's parental rights to a child are terminated.

(d) Except as provided by Subsection (e), a petition for adoption may not be granted until a copy of each birth parent's contact preference form has been filed.

(e) A court having jurisdiction of a suit affecting the parent-child relationship may by order waive the contact preference form filing requirement of this section if the child's biological parents cannot be located or are deceased or the court determines that it is in the best interest of the child to waive the requirement.

SECTION 4. The state registrar shall develop the contact preference form and the updated medical history form as required by Section 192.0085, Health and Safety Code, as added by this Act, not later than January 1, 2010.

SECTION 5. The change in law made by Section 162.0061, Family Code, as added by this Act, applies only to a suit in which parental rights are terminated on or after January 1, 2010. A suit for adoption filed before January 1, 2010, or with respect to which parental rights were terminated before January 1, 2010, is governed by the law in effect at the time the suit for adoption was filed, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2009.

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