

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 89 Adoption Records

SPONSOR(S): Health & Human Services Committee, Stark and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 302

FINAL HOUSE FLOOR ACTION: 119 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/HB 89 passed the House on March 4, 2020, and subsequently passed the Senate on March 13, 2020.

In Florida, all adoptions, whether private or from the child welfare system, are subject to the Florida Adoption Act (Act). The Act is intended to provide a stable and permanent home for adoptive children in a prompt manner, prevent the disruption of adoptive placement, and hold parents accountable for meeting the needs of children. All adoption records, including copies of an original birth certificate, are confidential and may not be released except by court order or authorization of all parties involved.

The bill authorizes each party to an adoption to authorize the release of his or her own records. However, a minor must obtain written consent of his or her adoptive parent to obtain a birth parent's name or identity. Adoption records may still be released upon order of the court.

The bill has no fiscal impact on state or local government.

The bill was approved by the Governor on June 18, 2020, ch. 2020-42, L.O.F., and the effective date is July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Birth Certificates

The Florida Vital Statistics Act directs the Department of Health (DOH) to establish the Bureau of Vital Statistics (Bureau)¹ under the direction of a state registrar for the uniform and efficient registration, compilation, storage, and preservation of all vital records² in this state.³ DOH must also establish registration districts throughout the state and appoint a local registrar of vital statistics for each registration district.

Within five days of each live birth in this state, a certificate of live birth must be filed with the local registrar in the district where the birth took place.⁴ The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer.

A birth certificate may be amended under the following limited circumstances:

- Until a child's first birthday, a child's given name or surname may be amended if authorized by both parents named on the original birth certificate or by the registrant's guardian.⁵
- Upon receipt of a notarized voluntary acknowledgment of paternity by the mother and father acknowledging paternity of a registrant born out of wedlock.⁶
- Upon receipt of the report or certified copy of an adoption decree or an annulment-of-adoption decree.⁷
- Upon receipt of a name change order by a court of competent jurisdiction.⁸
- Upon receipt of a final judgment establishing paternity or disestablishing paternity.⁹

Certified copies of the original birth certificate or a new or amended birth certificate are confidential and exempt and may only be issued to the following specified persons:¹⁰

- The person named on the birth certificate (registrant), if the registrant has reached the age of majority, is a certified homeless youth, or is a minor who has had the disability of nonage legally removed;
- The parent, guardian, or other legal representative of the registrant;
- The spouse, child, grandchild, or sibling of the registrant, but only with a copy of the registrant's death certificate;
- Any person if the birth record is over 100 years old and not under seal pursuant to court order;
- Law enforcement agencies for official purposes;
- Any state or federal agency for official purposes approved by DOH; or
- Any person authorized to receive the birth certificate by court order.

Adoption in Florida

¹ Although the statute refers to an Office of Vital Statistics, it has been established as the Bureau of Vital Statistics within DOH.

² A vital record is defined as a certificate or report of birth, death, fetal death, marriage, dissolution of marriage, certain name changes, and data related thereto. Section 382.001(17), F.S.

³ Section 382.003, F.S.

⁴ Section 382.013, F.S.

⁵ Section 382.016(1)(a), F.S.

⁶ Section 382.016(1)(b), F.S.

⁷ Section 382.015, F.S.

⁸ Section 68.07, F.S.

⁹ Section 742.18, F.S.

¹⁰ Section 382.025(1), F.S.

The Florida Adoption Act (Act), ch. 63, F.S., applies to all adoptions, whether private or from the child welfare system, involving the following entities:¹¹

- The Department of Children and Families (DCF);
- Child-placing agencies licensed by DCF under s. 63.202, F.S.;
- Child-caring agencies registered under s. 409.176, F.S.;
- An attorney licensed to practice in Florida; or
- A child-placing agency licensed in another state which is qualified by DCF to place children in Florida.

The Act is intended to provide stable and permanent homes for adoptive children in a prompt manner, to prevent the disruption of adoptive placements, and to hold parents accountable for meeting the needs of children.¹² In every adoption, the child's best interest should govern the court's determination in placement, and the court must specific findings as to those best interests.¹³ The court must protect and promote the well-being of any person being adopted.¹⁴ Certain statutory safeguards ensure that a minor is legally eligible for adoption, the required persons consent to the adoption, or a parent-child relationship is terminated by judgment of the court.¹⁵

The Act also provides the process and regulation of adoption in this state, such as, who may adopt, the rights and responsibilities of involved parties, proceedings for terminating parental rights, required notifications, licensure of adoption agencies, and confidentiality of adoption records.

Issuance of Birth Certificates in Adoption

Within 30 days of final disposition of an adoption case, the court clerk must forward a certified copy of the court order to the Bureau, with sufficient information to identify the original birth certificate and to create a new birth certificate.¹⁶ Unless the court, adoptive parents, or adult adoptee object, the Bureau must prepare and file a new birth certificate. The new certificate must have the same file number as the original birth certificate.¹⁷ The names and identifying information of the adoptive parents are entered on the new certificate without any reference to the parents being adoptive.¹⁸ All other information remains the same, including the date of registration and filing.

Once a new birth certificate is prepared, DOH must substitute the new birth certificate for the original certificate on file.¹⁹ Thereafter, DOH may only issue a certified copy of the new birth certificate, unless a court order requires a certified copy of the original birth certificate.²⁰ The original birth certificate and all related documents must be sealed and remain sealed, unless a court order or other law directs the unsealing.²¹

Confidentiality of Adoption Records

All documents and records related to an adoption, including the original birth certificate, are confidential.²² Prior to an adoption becoming final, the adoptive parents must be provided with non-identifying information, including the family medical history and social history of the adoptee and the

¹¹ Section 63.032(3), F.S.

¹² Section 63.022(1), F.S.

¹³ Section 63.022(2), F.S.

¹⁴ Section 63.022(3), F.S.

¹⁵ Section 63.022(4), F.S.

¹⁶ Section 382.015(1)(a), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Section 382.015(4), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Section 63.162(2), F.S.

adoptee's parents, when available. Upon reaching the age of majority, an adoptee may also request such non-identifying information.²³ However, the name and identity of a birth parent, an adoptive parent, or an adoptee may not be disclosed unless:²⁴

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, age 18 or older, authorizes in writing the release of his or her name;
- An adoptive parent of an adoptee under age 18 provides written consent to disclose the adoptee's name;
- An adoptive parent authorizes in writing the release of his or her name; or
- Upon order of the court for good cause shown.

Effect of Proposed Changes

CS/HB 89 authorizes the disclosure of adoption records without a court order, under the following circumstances:

- A birth parent may authorize, in writing, the disclosure of his or her name or identity;
- An adoptee, age 18 or older, may authorize, in writing, the disclosure of his or her name or identity;²⁵ or
- An adoptive parent may authorize, in writing, the disclosure of his or her name or identity.

The bill clarifies that a party to an adoption does not need authorization from all other parties to an adoption in order to receive the name and identity of one party who has provided authorization. Thus, a party to an adoption may obtain records revealing:

- His or her own name and identity, with the name and identity of all other parties redacted; and
- The name or identity of any other party who authorizes disclosure, with the name and identity of any unauthorized person redacted.

However, the bill requires an adoptee who is a minor to have the written consent of the adoptive parent to obtain the name or identity of a birth parent.

The bill provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

²³ Section 63.162(6), F.S.

²⁴ Section 63.162(4), F.S.

²⁵ The bill retains current law, which requires the adoptive parent's written authorization to release the name and identity of an adoptee who is under the age of 18.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.