

2018 Regular Session

SENATE BILL NO. 392

BY SENATOR CARTER

CHILDREN. Provides relative to adoption records by adopted persons. (gov sig)

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AN ACT

To amend and reenact Children's Code Art. 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) and to enact Children's Code Articles 1124(D), 1272(E), and 1272.1 and R.S. 40:80, relative to adoption; to provide relative to adoption records; to provide procedures for a birth parent to file a contact preference form and updated statement of family history; to authorize birth parents to prohibit the release of certain identifying information; to provide procedures for an adult adoptee to obtain a noncertified copy of his original birth certificate and statement of family history; to provide for the promulgation of rules; to provide for a public awareness campaign; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

Art. 1124. Requirement of family information

* * *

D. A surrendering parent shall submit an updated statement of family

1 history to the voluntary registry, as provided for in Article 1271, every five
2 years after the initial execution of the statement of family history.

3 * * *

4 Art. 1271. Registration

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9 **until withdrawn by the affiant's written request.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

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12 ~~until withdrawn by the affiant's written request.~~ **A birth parent, or sibling of an**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

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

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

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

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

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

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

28 (b) **Request an updated statement of family history.**

29 (c) **File a contact preference form indicating whether or not he desires**

1 to be contacted if a match is made.

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

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

9 (i) If a birth parent has consented to the release of the adoptee's original
10 birth certificate, the office of children and family services shall coordinate with
11 the vital records registry to facilitate the release of the noncertified copy of the
12 original birth certificate to the adoptee. If only one birth parent has filed with
13 the voluntary registry and consented to the release of the adoptee's original
14 birth certificate, the name of the birth parent who has not consented shall be
15 redacted before a noncertified copy of the original birth certificate is issued to
16 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,
19 the office of children and family services shall notify the adoptee of such and a
20 copy of 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
23 consented to or prohibited the release of the adoptee's original birth certificate,
24 the office of children and family services shall issue a copy of the contact
25 preference form and any updated statement of family history to the adoptee, but
26 shall redact any identifying information if the birth parent has prohibited the
27 release of any identifying information.

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

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

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

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

14 E. The Department of Children and Family Services and the Department
15 of Health shall promulgate the rules necessary for the implementation of this
16 Article on or before September 1, 2018, in accordance with the Administrative
17 Procedure Act.

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

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

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

1 who shall then contact the registered and matched parties in a careful and
2 confidential manner and give them the information necessary to contact each other.

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

8 * * *

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

13 **Art. 1272.1. Contact preference form; statement of family history; public**
14 **awareness campaign**

15 **A. The office of children and family services shall develop and implement**
16 **a one-year-long, nationwide campaign to be conducted from September 1, 2018,**
17 **through August 31, 2019, for the express purpose of informing the public of all**
18 **of the following:**

19 **(1) That an adoptee eighteen years of age or older may obtain a**
20 **noncertified copy of the original certificate of live birth if the birth parent has**
21 **consented.**

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

28 **(3) That a birth parent of an adoptee who files a contact preference form**
29 **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**
3 **contact preference form.**

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

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

9 **(2) Announcements posted on the website of the Department of Children**
10 **and Family Services including information regarding the campaign.**

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**
16 **person can obtain information about the campaign, to be printed on the outside**
17 **of every motor vehicle registration renewal application and every driver's**
18 **license renewal application issued by the office of motor vehicles, Department**
19 **of Public Safety and Corrections.**

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

24 **E. The Department of Children and Family Services, after consultation**
25 **with the secretary of the Department of Public Safety and Corrections, shall**
26 **promulgate the rules necessary for the implementation of this Article on or**
27 **before August 1, 2018, in accordance with the Administrative Procedure Act.**

28 Art. 1273. Confidentiality

29 **A. Documents filed with the office of ~~community~~ children and family**

1 services, pursuant to this Chapter, shall be confidential and shall not be available for
2 inspection, except under the procedures set forth in this Chapter.

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

9 * * *

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

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

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

21 §41. Disclosure of records

22 * * *

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

1 over the matter may review the birth certificate in chambers and may use the birth
2 certificate within his discretion during the course of the proceedings. No copies of
3 the birth certificate shall be issued by the court to the litigants in the proceeding. The
4 birth certificate shall be destroyed at the conclusion of the proceedings after all
5 appeal delays have lapsed.

6 (b) The provisions of Subparagraph (a) of this Paragraph shall not apply in
7 any case where any member of law enforcement, United States attorney, attorney
8 general, or district attorney makes written request to the state registrar. Upon receipt
9 of such written request, the registrar shall make disclosure to any member of law
10 enforcement, United States attorney, attorney general, or district attorney requesting
11 same, of the contents of birth records in the registrar's custody.

12 * * *

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

15 * * *

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

23 * * *

24 §77. Certified copy for adoptive parents

25 * * *

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

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

5 * * *

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

10 * * *

11 §79. Record of adoption decree

12 A.

13 * * *

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

18 * * *

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

20 **A. Beginning on September 1, 2019, if an adoptee eighteen years of age**
21 **or older requests a copy of a noncertified copy of his original birth certificate,**
22 **and a birth parent has consented to the release of the noncertified copy of the**
23 **adoptee's original birth certificate, the state registrar, in coordination with the**
24 **office of children and family services, shall issue to the adoptee a noncertified**
25 **copy of the original certificate of live birth of the adoptee.**

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

28 **C. The issuance of a noncertified copy of an original birth certificate to**
29 **an adoptee shall be in accordance with the provisions of Children's Code Art.**

1271 et seq.

D. Noncertified copies of an original certificate of live birth issued pursuant to this Section shall be issued only by the Vital Records Registry. The state registrar shall promulgate the rules necessary for the implementation of the issuance of noncertified copies of certificates of live birth pursuant to this Section on or before September 1, 2019, in accordance with the Administrative Procedure Act.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 392 Original

2018 Regular Session

Carter

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 18 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 18 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)