

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 659

DATE: March 30, 2005

Version: First Engrossment

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Subject: Adoption

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Overview

This bill modifies current adoption law to give adopted persons greater access to their original birth record information under certain circumstances.

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- 1** **Adoption.** Amends § 144.218. Gives an adopted person who is adopted on or after January 1, 2006, and is at least 19 years old access to their original birth record if they request it from the Department of Health.

Under current data privacy and adoption laws, the original birth record of an adopted person is inaccessible to the adopted person unless: (1) the adopted person has a court order requiring disclosure of the record; or (2) for adoptions made on or after August 1, 1982, the birth parent does not object to the release of the information to the adopted person. Under current law, a birth parent may object to the release of an adopted person's original birth record by filing an affidavit of nondisclosure with the agency or the Department of Health.

The amendments to this section make the original birth record more readily accessible to an adopted person at age 19, if the birth parents have not filed an affidavit of nondisclosure objecting to the release of the information.

- 2** **Adoption of foreign persons.** Amends § 144.218. Gives an adopted person who was born in a foreign country and who is at least 19-years-old access to, upon request, certified copies of the court findings, order or decree of adoption, certificate of adoption, or decree issued at the time of their adoption.

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3 Services provided. Amends § 259.83, subd. 1. (a) Modifies provisions related to the assistance that agencies provide regarding siblings of adopted persons, regardless of when the adoption took place. Requires agencies to provide assistance and counseling services to adult siblings of adopted persons. Requires agencies to inform adopted persons age 19 or older of any siblings. Also requires agencies to inform persons age 19 or older who were under the guardianship of the state of any siblings, and to search for and offer services to other siblings.

(b) Authorizes a person age 19 or older who was adopted from a foreign country to receive from an agency all documents and referral information the adoptive parents received from the foreign country at the time of the adoption.

4 Birth record information from agency. Amends § 259.83, subd. 3. For adoptive placements made on or after August 1, 1982, current law specifies a process that must be followed if an adopted person requests that an agency give the adopted person the information on their original birth record.

This process requires the agency supervising the adoptive placement to inform the birth parents of the adopted person's right at age 19 to request original birth record information and the birth parent's right to object to the release of that information by filing an affidavit of nondisclosure. Under current law, if a birth parent does not file an affidavit of nondisclosure before the adopted person reaches age 19, the agency will release the information to the adopted person who has requested it. If the birth parent has filed an affidavit of nondisclosure, an adopted person may petition the court for the release of the identifying information about a birth parent.

The amendment to this section clarifies that this process from current law remains in effect for all adopted placements made up until January 1, 2006, the effective date of this bill.

5 Birth record from Department of Health. Amends § 259.83, by adding subd. 3a. Specifies a new procedure for the release of birth record and other information to adopted persons for all adoptive placements made on or after January 1, 2006, the effective date of this bill.

Under the new procedure, the agency responsible for the adoptive placement must notify the birth parents of the following:

- the adopted person's right at age 19 to receive their original birth record from the Department of Health, and the birth parents' name, last known address, birth date and birth place of each birth parent and all available medical and social information from the agency;
- that each birth parent may submit a contact preference statement to the agency indicating their preference regarding whether the adopted person directly contacts the birth parent, contacts the parent through an intermediary, or has no contact with the birth parent;
- that, if the birth parent prefers no contact with the adopted person, the agency will

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release the birth parents' last known address and medical and social information. The adopted person may still contact the birth parent, however; and

- that, if the birth parent files no contact preference statement before the adopted person reaches age 19, the agency will disclose the information to the adopted person if the adopted person requests the information.

6 Access to original birth record information. Modifies and clarifies provisions in current law authorizing the Department of Health to give adopted persons age 19 or older access to their original birth record information. Strikes obsolete and unnecessary language from current law.

Subd. 1. Request. For all adoptions granted before January 1, 2006, provides that the Department of Health must disclose an adopted person's original birth record to an adopted person who is age 19 or older unless the birth parent has filed an unrevoked affidavit of nondisclosure with the department. Specifies that, if only one birth parent has filed an affidavit of nondisclosure, the department must disclose the information regarding the other parent. Also requires the department to notify the adopted person requesting the original birth record in writing of the date of the filing of the affidavit of nondisclosure.

Subd. 1a. Affidavit of nondisclosure. Provides that regardless of the date of relinquishment if the birth parent has filed an affidavit of nondisclosure on or before January 1, 2006, the affidavit must be honored.

Subd. 2. Search. If a birth parent has filed an affidavit of nondisclosure, permits the adopted person to request assistance from the commissioner of human services in:

- contacting the birth parent;
- notifying the birth parent of the adopted person's request for information; and
- asking the birth parent if they want to revoke the affidavit of nondisclosure.

Also specifies that the following information must be provided to the adopted person after the attempt to contact the birth parent:

- the date the birth parent was contacted;
- the birth parent's response; and
- if the birth parent decided after being contacted to revoke the affidavit of nondisclosure, a copy of the signed and dated affidavit of disclosure.

Also specifies that if the birth parent decided not to revoke the affidavit of nondisclosure, that the birth parent must be advised of the right to file a consent to

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disclosure with the commissioner of health at any time.

Subd. 3. Failure to notify parent. In cases where the Department of Human Services certifies that it was unable to notify a parent who filed an affidavit of nondisclosure or the parent is deceased, the commissioner of health must release the original birth record to the adopted person. Strikes unnecessary and obsolete language.

Subd. 4. Release of information; adoptions on or after January 1, 2006. Provides that, for all adoptions on or after January 1, 2006, the commissioner of health shall release a copy of the original birth record upon request to adopted persons age 19 or older pursuant to the procedures in section 5 of this bill. Strikes unnecessary language.

Subd. 5. Determination of eligibility for enrollment or membership in a federally recognized American Indian tribe. Makes no change to current law. Strikes unnecessary language.

7 Effective date. Makes sections 1 to 6 of the bill effective January 1, 2006.