

SECOND REGULAR SESSION

SENATE BILL NO. 1132

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS DAYS AND BRAY.

Read 1st time February 13, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5013S.01I

AN ACT

To repeal sections 193.125 and 193.255, RSMo, and to enact in lieu thereof four new sections relating to adoption records.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 193.125 and 193.255, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 193.125, 193.128, 193.132, and 193.255, to read as follows:

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state, the court shall require the preparation of a certificate of decree of adoption on a form as prescribed or approved by the state registrar. The certificate of decree of adoption shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted, and shall provide information necessary to establish a new certificate of birth of the person adopted and shall identify the court and county of the adoption and be certified by the clerk of the court. The state registrar shall file the original certificate of birth with the certificate of decree of adoption and such file may be opened by the state registrar only upon receipt of a certified copy of an order as decreed by the court of adoption **or in accordance with section 193.128.**

12 2. Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The social welfare agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report. The provision of such information shall be prerequisite to the issuance of a final decree in the matter by the court.

18 3. Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof, which shall include such facts as are

20 necessary to identify the original adoption report and the facts amended in the
21 adoption decree as shall be necessary to properly amend the birth record.

22 4. Not later than the fifteenth day of each calendar month or more
23 frequently as directed by the state registrar the clerk of the court shall forward
24 to the state registrar reports of decrees of adoption, annulment of adoption and
25 amendments of decrees of adoption which were entered in the preceding month,
26 together with such related reports as the state registrar shall require.

27 5. When the state registrar shall receive a report of adoption, annulment
28 of adoption, or amendment of a decree of adoption for a person born outside this
29 state, he or she shall forward such report to the state registrar in the state of
30 birth.

31 6. In a case of adoption in this state of a person not born in any state,
32 territory or possession of the United States or country not covered by interchange
33 agreements, the state registrar shall upon receipt of the certificate of decree of
34 adoption prepare a birth certificate in the name of the adopted person, as decreed
35 by the court. The state registrar shall file the certificate of the decree of
36 adoption, and such documents may be opened by the state registrar only by an
37 order of court. The birth certificate prepared under this subsection shall have the
38 same legal weight as evidence as a delayed or altered birth certificate as provided
39 in section 193.235.

40 7. The department, upon receipt of proof that a person has been adopted
41 by a Missouri resident pursuant to laws of countries other than the United
42 States, shall prepare a birth certificate in the name of the adopted person as
43 decreed by the court of such country. If such proof contains the surname of either
44 adoptive parent, the department of health and senior services shall prepare a
45 birth certificate as requested by the adoptive parents. Any subsequent change
46 of the name of the adopted person shall be made by a court of competent
47 jurisdiction. The proof of adoption required by the department shall include a
48 copy of the original birth certificate and adoption decree, an English translation
49 of such birth certificate and adoption decree, and a copy of the approval of the
50 immigration of the adopted person by the Immigration and Naturalization Service
51 of the United States government which shows the child lawfully entered the
52 United States. The authenticity of the translation of the birth certificate and
53 adoption decree required by this subsection shall be sworn to by the translator
54 in a notarized document. The state registrar shall file such documents received
55 by the department relating to such adoption and such documents may be opened

56 by the state registrar only by an order of a court. A birth certificate pursuant to
57 this subsection shall be issued upon request of one of the adoptive parents of such
58 adopted person or upon request of the adopted person if of legal age. The birth
59 certificate prepared pursuant to the provisions of this subsection shall have the
60 same legal weight as evidence as a delayed or altered birth certificate as provided
61 in sections 193.005 to 193.325.

62 8. If no certificate of birth is on file for the person under twelve years of
63 age who has been adopted, a belated certificate of birth shall be filed with the
64 state registrar as provided in sections 193.005 to 193.325 before a new birth
65 record is to be established as result of adoption. A new certificate is to be
66 established on the basis of the adoption under this section and shall be prepared
67 on a certificate of live birth form.

68 9. If no certificate of birth has been filed for a person twelve years of age
69 or older who has been adopted, a new birth certificate is to be established under
70 this section upon receipt of proof of adoption as required by the department. A
71 new certificate shall be prepared in the name of the adopted person as decreed
72 by the court, registering adopted parents' names. The new certificate shall be
73 prepared on a delayed birth certificate form. The adoption decree is placed in a
74 sealed file and shall not be subject to inspection except upon an order of the
75 court.

**193.128. 1. Notwithstanding any other provision of law, an
2 adopted person, the adopted person's attorney, or the adopted person's
3 descendants, if the adopted person is deceased, may obtain a copy of
4 such adopted person's original certificate of birth from the state
5 registrar in accordance with this section.**

6 **2. In order for an adopted person to receive a copy of his or her
7 original certificate of birth, the adopted person shall:**

8 **(1) Be at least eighteen years of age;**

9 **(2) Have been born in this state;**

10 **(3) File a written application with and provide appropriate proof
11 of identification to the state registrar; and**

12 **(4) If included with the copy of the original birth certificate,
13 agree in writing to abide by the birth parent's preference stated in the
14 contact preference form attached to the adopted person's original birth
15 certificate in accordance with section 193.132.**

16 **3. The state registrar may require a waiting period and impose**

17 a fee for issuance of the uncertified copy under subsection 4 of this
18 section. The fees and waiting period imposed under this subsection
19 shall be identical to the fees and waiting period generally imposed on
20 persons seeking their own birth certificates.

21 4. Upon receipt of a written application and proof of
22 identification under subsection 2 of this section and fulfillment of the
23 requirements of subsection 3 of this section, the state registrar shall
24 issue an uncertified copy of the unaltered original birth certificate to
25 the applicant. If a contact preference or medical history form has been
26 completed and submitted to the state registrar under section 193.132,
27 the state registrar shall also provide such information.

28 5. The state registrar shall develop by rule the application form
29 required by this section and may adopt other rules for the
30 administration of this section. Any rule or portion of a rule, as that
31 term is defined in section 536.010, RSMo, that is created under the
32 authority delegated in this section shall become effective only if it
33 complies with and is subject to all of the provisions of chapter 536,
34 RSMo, and, if applicable, section 536.028, RSMo. This section and
35 chapter 536, RSMo, are nonseverable and if any of the powers vested
36 with the general assembly pursuant to chapter 536, RSMo, to review, to
37 delay the effective date, or to disapprove and annul a rule are
38 subsequently held unconstitutional, then the grant of rulemaking
39 authority and any rule proposed or adopted after August 28, 2008, shall
40 be invalid and void.

41 6. Nothing in this section shall be construed as violating the
42 provisions of section 453.121, RSMo.

193.132. 1. As used in this section, the following terms mean:

2 (1) "Adoptee", the person who is the subject of a birth certificate;
3 (2) "Birth parent", the person who is the biological parent of an
4 adoptee and who is named as the parent on the original birth
5 certificate of the adoptee;

6 (3) "Contact preference form", the form developed by the state
7 registrar under subsection 4 of this section;

8 (4) "Medical history form", the form developed by the state
9 registrar under subsection 3 of this section.

10 2. Notwithstanding any other provision of law, the state registrar
11 shall develop and, upon request, provide each birth parent with a

12 contact preference form and a medical history form as described in this
13 section.

14 3. A birth parent may use a medical history form to describe the
15 medical history of the birth parent. A birth parent shall fill out a
16 medical history form if such birth parent also fills out a contact
17 preference form.

18 4. The birth parent may state a preference regarding contact by
19 an adoptee on a contact preference form. The form shall contain the
20 following statements from which the birth parent may choose only one:

21 (1) "I would like to be contacted. I have completed this contact
22 preference form and a medical history form and am filing both forms
23 with the State Registrar.";

24 (2) "I would prefer to be contacted only through an intermediary.
25 I have completed this contact preference form and a medical history
26 form and am filing both with the State Registrar."; or

27 (3) "Do not contact me. I may change this preference by filling
28 out another contact preference form. I have completed this contact
29 preference form and a medical history form and am filing both with the
30 State Registrar.".

31 5. Upon receipt of a completed contact preference form or
32 medical history form, the state registrar shall attach the completed
33 form to the original birth certificate of the adoptee. A completed
34 contact preference form and medical history form shall have the same
35 level of confidentiality as the original birth certificate.

36 6. The state registrar shall develop by rule the forms required by
37 this section and may adopt other rules for the administration of this
38 section. Any rule or portion of a rule, as that term is defined in section
39 536.010, RSMo, that is created under the authority delegated in this
40 section shall become effective only if it complies with and is subject to
41 all of the provisions of chapter 536, RSMo, and, if applicable, section
42 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
43 and if any of the powers vested with the general assembly pursuant to
44 chapter 536, RSMo, to review, to delay the effective date, or to
45 disapprove and annul a rule are subsequently held unconstitutional,
46 then the grant of rulemaking authority and any rule proposed or
47 adopted after August 28, 2008, shall be invalid and void.

48 7. Nothing in this section shall be construed as violating the

49 provisions of section 453.121, RSMo.

193.255. 1. The state registrar and other custodians of vital records
2 authorized by the state registrar to issue certified copies of vital records upon
3 receipt of application shall issue a certified copy of any vital record in his **or her**
4 custody or a part thereof to any applicant having a direct and tangible interest
5 in the vital record. Each copy issued shall show the date of registration, and
6 copies issued from records marked "Delayed" or "Amended" shall be similarly
7 marked and show the effective date. The documentary evidence used to establish
8 a delayed certificate shall be shown on all copies issued. All forms and
9 procedures used in the issuance of certified copies of vital records in the state
10 shall be provided or approved by the state registrar. **In accordance with**
11 **sections 193.128 and 193.132, the state registrar and other custodians**
12 **of vital records authorized by the state registrar to issue copies of vital**
13 **records shall issue an uncertified copy of an original birth certificate,**
14 **contact preference form, and medical history form to an adopted**
15 **person.**

16 2. A certified copy of a vital record or any part thereof, issued in
17 accordance with subsection 1 of this section, shall be considered for all purposes
18 the same as the original and shall be *prima facie* evidence of the facts stated
19 therein, provided that the evidentiary value of a certificate or record filed more
20 than one year after the event, or a record which has been amended, shall be
21 determined by the judicial or administrative body or official before whom the
22 certificate is offered as evidence.

23 3. The federal agency responsible for national vital statistics may be
24 furnished such copies or data from the system of vital statistics as it may require
25 for national statistics, provided such federal agency share in the cost of collecting,
26 processing, and transmitting such data, and provided further that such data shall
27 not be used for other than statistical purposes by the federal agency unless so
28 authorized by the state registrar.

29 4. Federal, state, local and other public or private agencies may, upon
30 request, be furnished copies or data of any other vital statistics not obtainable
31 under subsection 1 of this section for statistical or administrative purposes upon
32 such terms or conditions as may be prescribed by regulation, provided that such
33 copies or data shall not be used for purposes other than those for which they were
34 requested unless so authorized by the state registrar.

35 5. The state registrar may, by agreement, transmit copies of records and

36 other reports required by sections 193.005 to 193.325 to offices of vital statistics
37 outside this state when such records or other reports relate to residents of those
38 jurisdictions or persons born in those jurisdictions. This agreement shall require
39 that the copies be used for statistical and administrative purposes only, and the
40 agreement shall further provide for the retention and disposition of such
41 copies. Copies received by the department from offices of vital statistics in other
42 states shall be handled in the same manner as prescribed in this section.

43 6. No person shall prepare or issue any certificate which purports to be
44 an original, certified copy, or copy of a vital record except as authorized herein
45 or by regulations adopted hereunder.

46 7. Upon application from either parent, or if both parents are deceased,
47 the sibling of the stillborn child, pursuant to subsection 7 of section 193.165, the
48 state registrar or other custodians of vital records shall issue to such applicant
49 a certificate of birth resulting in stillbirth. The certificate shall be based upon
50 the information available from the spontaneous fetal death report filed pursuant
51 to section 193.165. Any certificate of birth resulting in stillbirth issued shall
52 conspicuously include, in no smaller than twelve-point type, the statement "This
53 is not proof of a live birth.". No certificate of birth resulting in stillbirth shall be
54 issued to any person other than a parent, or if both parents are deceased, the
55 sibling of the stillborn child who files an application pursuant to section
56 193.165. The state registrar or other custodians of vital records are authorized
57 to charge a minimal fee to such applicant to cover the actual costs of providing
58 the certificate pursuant to this section.

59 8. Any parent, or if both parents are deceased, any sibling of the stillborn
60 child may file an application for a certificate of birth resulting in stillbirth for a
61 birth that resulted in stillbirth prior to August 28, 2004.

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