

FIRST REGULAR SESSION

SENATE BILL NO. 351

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time February 24, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1626S.011

AN ACT

To repeal section 453.121, RSMo, and to enact in lieu thereof two new sections relating to adoption records.

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

Section A. Section 453.121, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 453.121 and 453.123, to read as
3 follows:

453.121. 1. As used in this section **and section 453.123**, unless the
2 context clearly indicates otherwise, the following terms mean:

3 (1) "Adopted adult", any adopted person who is eighteen years of age or
4 over;

5 (2) "Adopted child", any adopted person who is less than eighteen years
6 of age;

7 (3) "Adult sibling", any brother or sister of the whole or half blood who is
8 eighteen years of age or over;

9 (4) **"Biological parent", the natural and biological mother or**
10 **father of the adopted child;**

11 (5) "Identifying information", information which includes the name, date
12 of birth, place of birth and last known address of the biological parent;

13 (6) **"Lineal descendant", a legal descendant of a person as defined**
14 **in section 472.010;**

15 [(5)] (7) "Nonidentifying information", information concerning the
16 physical description, nationality, religious background and medical history of the
17 biological parent or sibling.

18 2. All papers, records, and information pertaining to an adoption whether

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 part of any permanent record or file may be disclosed only in accordance with this
20 section.

21 3. Nonidentifying information, if known, concerning undisclosed biological
22 parents or siblings shall be furnished by the child-placing agency or the juvenile
23 court to the adoptive parents, legal guardians [or], adopted adult **or the**
24 **adopted adult's lineal descendants if the adopted adult is deceased,**
25 upon written request therefor.

26 4. **For adoptions completed prior to August 28, 2011,** an adopted
27 adult, **or the adopted adult's lineal descendants if the adopted adult is**
28 **deceased,** may make a written request to the circuit court having original
29 jurisdiction of such adoption to secure and disclose information identifying the
30 adopted adult's biological parents. If the biological parents have consented to the
31 release of identifying information under subsection [11] 10 of this section, the
32 court shall disclose such identifying information to the adopted adult **or the**
33 **adopted adult's lineal descendants if the adopted adult is deceased.** If
34 the biological parents have not consented to the release of identifying information
35 under subsection [11] 10 of this section, the court shall, within ten days of receipt
36 of the request, notify in writing [the adoptive parents of such petitioner and] the
37 child-placing agency or juvenile court personnel having access to the information
38 requested of the request by the adopted adult **or the adopted adult's lineal**
39 **descendants.**

40 5. Within three months after receiving notice of the request of the adopted
41 adult, [the child-placing agency or juvenile court personnel shall notify the
42 adoptive parents, if such adoptive parents are living and shall not make any
43 attempt to notify the biological parents without prior written consent of such
44 adoptive parents for adoptions instituted or completed prior to August 13, 1986,
45 but may proceed if there is proof that the adoptive parents are deceased or
46 incapacitated, as such term is defined in chapter 475. If the adoptive parents are
47 living but are unwilling to give such written consent, the child-placing agency or
48 the juvenile court personnel shall make a written report to the court stating that
49 they were unable to notify the biological parent. If the adoptive parents are
50 deceased or give written consent] **or the adopted adult's lineal descendants,**
51 the child-placing agency or the juvenile court personnel shall make reasonable
52 efforts to notify the biological parents of the request of the adopted adult **or the**
53 **adopted adult's lineal descendants.** The child-placing agency or juvenile
54 court personnel may charge actual costs to the adopted adult **or the adopted**

55 **adult's lineal descendants** for the cost of making such search. All
56 communications under this subsection are confidential. For purposes of this
57 subsection, "notify" means a personal and confidential contact with the biological
58 parent of the adopted adult, which initial contact shall [not be made by mail and
59 shall] be made by an employee of the child-placing agency which processed the
60 adoption, juvenile court personnel or some other licensed child-placing agency
61 designated by the child- placing agency or juvenile court. Nothing in this section
62 shall be construed to permit the disclosure of communications privileged pursuant
63 to section 491.060. At the end of three months, the child-placing agency or
64 juvenile court personnel shall file a report with the court stating that each
65 biological parent that was located was given the following information:

66 (1) The nature of the identifying information to which the agency has
67 access;

68 (2) The nature of any nonidentifying information requested;

69 (3) The date of the request of the adopted adult **or the adopted adult's**
70 **lineal descendants**;

71 (4) The right of the biological parent to file an affidavit with the court
72 stating that the identifying information should be disclosed;

73 (5) The effect of a failure of the biological parent to file an affidavit
74 stating that the identifying information should be disclosed.

75 6. If the child-placing agency or juvenile court personnel reports to the
76 court that it has been unable to notify the biological parent within three months,
77 the identifying information shall not be disclosed to the adopted adult **or the**
78 **adopted adult's lineal descendants**. Additional requests for the same or
79 substantially the same information may not be made to the court within one year
80 from the end of the three-month period during which the attempted notification
81 was made, unless good cause is shown and leave of court is granted.

82 7. If, within three months, the child-placing agency or juvenile court
83 personnel reports to the court that it has notified the biological parent pursuant
84 to subsection 5 of this section, the court shall receive the identifying information
85 from the child-placing agency. If an affidavit duly executed by a biological parent
86 authorizing the release of information is filed with the court, the court shall
87 disclose the identifying information as to that biological parent to the adopted
88 adult **or the adopted adult's lineal descendants if the adopted adult is**
89 **deceased**, provided that the other biological parent either:

90 (1) Is unknown;

91 (2) Is known but cannot be found and notified pursuant to section 5 of this
92 act;

93 (3) Is deceased; or

94 (4) Has filed with the court an affidavit authorizing release of identifying
95 information. If the biological parent fails or refuses to file an affidavit with the
96 court authorizing the release of identifying information, then the identifying
97 information shall not be released to the adopted adult. No additional request for
98 the same or substantially the same information may be made within three years
99 of the time the biological parent fails or refuses to file an affidavit authorizing the
100 release of identifying information.

101 8. If the biological parent is deceased [but previously had filed an
102 affidavit with the court stating that identifying information shall be disclosed, the
103 information shall be forwarded to and released by the court to the adopted adult.
104 If the biological parent is deceased and, at any time prior to his death, the
105 biological parent did not file an affidavit with the court stating that the
106 identifying information shall be disclosed, the adopted adult may petition the
107 court for an order releasing the identifying information. The court shall grant the
108 petition upon a finding that disclosure of the information is necessary for
109 health-related purposes], **the court shall disclose the identifying**
110 **information as to that biological parent to the adopted adult or the**
111 **adopted adult's lineal descendants if the adopted adult is deceased.**

112 9. Any adopted adult whose adoption was finalized in this state or whose
113 biological parents had their parental rights terminated in this state may request
114 the court to secure and disclose identifying information concerning an adult
115 sibling [and upon a finding by the court that such information is necessary for
116 urgent health-related purposes in the same manner as provided in this
117 section]. Identifying information pertaining exclusively to the adult sibling,
118 whether part of the permanent record of a file in the court or in an agency, shall
119 be released only upon consent of that adult sibling.

120 10. The central office of the children's division within the department of
121 social services shall maintain a registry by which biological parents, adult
122 siblings, and adoptive adults may indicate their desire to be contacted by each
123 other. The division may request such identification for the registry as a party
124 may possess to assure positive identifications. At the time of registry, a biological
125 parent or adult sibling may consent in writing to the release of identifying
126 information to an adopted adult. If such a consent has not been executed and the

127 division believes that a match has occurred on the registry between biological
128 parents or adult siblings and an adopted adult, an employee of the division shall
129 make the confidential contact provided in subsection 5 of this section with the
130 biological parents or adult siblings and with the adopted adult. If the division
131 believes that a match has occurred on the registry between one biological parent
132 or adult sibling and an adopted adult, an employee of the division shall make the
133 confidential contact provided by subsection 5 of this section with the biological
134 parent or adult sibling. The division shall then attempt to make such
135 confidential contact with the other biological parent, and shall proceed thereafter
136 to make such confidential contact with the adopted adult only if the division
137 determines that the other biological parent meets one of the conditions specified
138 in subsection 7 of this section. The biological parent, adult sibling, or adopted
139 adult may refuse to go forward with any further contact between the parties when
140 contacted by the division.

141 11. The provisions of this section, except as provided in subsection 5 of
142 this section governing the release of identifying and nonidentifying adoptive
143 information apply to adoptions completed before and after August 13, 1986.

**453.123. 1. Effective for all adoptions completed after August 28,
2 2011, an adopted adult, who is eighteen years of age, born in this state,
3 and provides proof of identification, or the adopted adult's lineal
4 descendants if the adopted adult is deceased, may obtain his or her
5 identifying information from the juvenile court, unless the biological
6 mother or biological father has objected as provided by subsection 2 of
7 this section.**

8 **2. Prior to the entry of any decree of adoption, the biological
9 parents shall be provided with a form by the juvenile court on which
10 to express their desires regarding the confidentiality of their
11 identifying information. The biological mother or biological father may
12 signify an objection to the disclosure of their identifying information
13 on the form provided by the juvenile court. The form shall be notarized
14 and then be filed with the juvenile court handling the adoption
15 proceedings. No decree of adoption shall be entered in this state until
16 the biological mother and biological father, unless he is unknown or
17 refuses to do so, has been afforded the opportunity to communicate
18 their individual desires as to the disclosure of their identifying
19 information.**

20 3. (1) If the biological mother or biological father does not object
21 to the disclosure of their identifying information at the time of the
22 adoption pursuant to subsection 2 of this section, then an adopted adult
23 who is at least eighteen years of age may obtain the identifying
24 information concerning the biological parent who did not object
25 pursuant to subsection 1 of this section.

26 (2) If the biological mother or biological father did object to
27 disclosure of their identifying information at the time of the adoption
28 pursuant to subsection 2 of this section, an adopted adult who is at
29 least 18 years of age, born in this state, and providing proof of
30 identification, or the adopted person's lineal descendants if the adopted
31 person is deceased, may request the child-placing agency which
32 processed the adoption, or the juvenile court personnel make
33 reasonable efforts to notify the biological parent of the request of the
34 adopted adult or the adopted adult's lineal descendants. The child-
35 placing agency or the juvenile court may charge actual costs to the
36 adopted adult or the adopted adult's lineal descendants for the cost of
37 attempting to notify the biological mother and biological father. All
38 communications under this section are confidential. For purposes of
39 this subsection, "notify" means personal and confidential contact with
40 the biological mother and biological father of the adopted adult, which
41 initial contact shall be made by an employee of the child-placing agency
42 which processed the adoption, juvenile court personnel or some other
43 licensed child-placing agency designated the child-placing agency or
44 the juvenile court. Nothing in this section shall be construed to permit
45 the disclosure of communications privileged pursuant to section
46 491.060.

47 (3) If, after being contacted by the child placing agency or the
48 juvenile court personnel, the biological mother or biological father
49 consent to the release of their identifying information, the biological
50 mother or biological father shall file an affidavit with the juvenile
51 court giving their consent to the release of their identifying
52 information. Upon receipt of such affidavit, the juvenile court shall
53 order the release of the identifying information of the biological parent
54 who signed the affidavit giving consent to the release of the identifying
55 information to the adopted adult, or the adopted adult's lineal
56 descendants if the adopted adult is deceased.

57 (4) If, after being contacted by the child placing agency, or the
58 juvenile court personnel, the biological mother or biological father do
59 not give consent to the release of their identifying information, the
60 biological mother or biological father shall file an affidavit with the
61 juvenile court objecting to the release of their identifying information
62 and the identifying information shall not be released. The adopted
63 adult or the adopted adult's lineal descendants if the adopted adult is
64 deceased may request that the child placing agency, or the juvenile
65 court personnel contact the biological mother or biological father again
66 not less than three years after the date of his or her original request
67 and not less than three years from the date of any future requests.

68 (5) If the biological parent is deceased, the juvenile court shall
69 release the identifying information of the deceased biological parent to
70 the adopted adult or the adopted adult's lineal descendants if the
71 adopted adult is deceased upon presentation to the court of proof the
72 death of the biological parent.

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