

SECOND REGULAR SESSION

HOUSE BILL NO. 1758

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), ROORDA,
HARRIS (110) AND SCHIEFFER (Co-sponsors).

Read 1st time January 22, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4009L.02I

AN ACT

To repeal sections 193.125, 193.255, 453.080, 453.120, and 453.121, RSMo, and to enact in lieu thereof five new sections relating to adoption records, with a penalty provision.

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

Section A. Sections 193.125, 193.255, 453.080, 453.120, and 453.121, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 193.125, 193.255,
3 453.080, 453.120, and 453.121, to read as follows:

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state,
2 the court shall require the preparation of a certificate of decree of adoption on a form as
3 prescribed or approved by the state registrar. The certificate of decree of adoption shall include
4 such facts as are necessary to locate and identify the certificate of birth of the person adopted,
5 and shall provide information necessary to establish a new certificate of birth of the person
6 adopted and shall identify the court and county of the adoption and be certified by the clerk of
7 the court. The state registrar shall file the original certificate of birth with the certificate of
8 decree of adoption and such file may be opened by the state registrar only upon receipt of a
9 certified copy of an order as decreed by the court of adoption **under subsection 2 of this section.**
10 2. **Upon receipt of a written application to the state registrar, any adopted person**
11 **twenty-one years of age or older born in the state of Missouri shall be issued a certified**
12 **copy of his or her unaltered, original, and unamended certificate of birth in the custody of**
13 **the state registrar, with procedures, filing fees, and waiting periods identical to those**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **imposed upon nonadopted citizens of the state of Missouri. Nothing in this subsection shall**
15 **be construed as violating the provisions of section 453.121, RSMo.**

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

21 **[3.] 4.** Whenever an adoption decree is amended or annulled, the clerk of the court shall
22 prepare a report thereof, which shall include such facts as are necessary to identify the original
23 adoption report and the facts amended in the adoption decree as shall be necessary to properly
24 amend the birth record.

25 **[4.] 5.** Not later than the fifteenth day of each calendar month or more frequently as
26 directed by the state registrar the clerk of the court shall forward to the state registrar reports of
27 decrees of adoption, annulment of adoption and amendments of decrees of adoption which were
28 entered in the preceding month, together with such related reports as the state registrar shall
29 require.

30 **[5.] 6.** When the state registrar shall receive a report of adoption, annulment of adoption,
31 or amendment of a decree of adoption for a person born outside this state, he or she shall forward
32 such report to the state registrar in the state of birth.

33 **[6.] 7.** In a case of adoption in this state of a person not born in any state, territory or
34 possession of the United States or country not covered by interchange agreements, the state
35 registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in
36 the name of the adopted person, as decreed by the court. The state registrar shall file the
37 certificate of the decree of adoption, and such documents may be opened by the state registrar
38 only by an order of court **or written application to the state registrar by any adopted person**
39 **twenty-one years of age or older as provided in subsection 2 of this section.** The birth
40 certificate prepared under this subsection shall have the same legal weight as evidence as a
41 delayed or altered birth certificate as provided in section 193.235.

42 **[7.] 8.** The department, upon receipt of proof that a person has been adopted by a
43 Missouri resident pursuant to laws of countries other than the United States, shall prepare a birth
44 certificate in the name of the adopted person as decreed by the court of such country. If such
45 proof contains the surname of either adoptive parent, the department of health and senior services
46 shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of
47 the name of the adopted person shall be made by a court of competent jurisdiction. The proof
48 of adoption required by the department shall include a copy of the original birth certificate and
49 adoption decree, an English translation of such birth certificate and adoption decree, and a copy

50 of the approval of the immigration of the adopted person by the Immigration and Naturalization
51 Service of the United States government which shows the child lawfully entered the United
52 States. The authenticity of the translation of the birth certificate and adoption decree required
53 by this subsection shall be sworn to by the translator in a notarized document. The state registrar
54 shall file such documents received by the department relating to such adoption and such
55 documents may be opened by the state registrar only by an order of a court **or written**
56 **application to the state registrar by any adopted person twenty-one years of age or older**
57 **as provided in subsection 2 of this section.** A birth certificate pursuant to this subsection shall
58 be issued upon request of one of the adoptive parents of such adopted person or upon request of
59 the adopted person if of legal age. The birth certificate prepared pursuant to the provisions of
60 this subsection shall have the same legal weight as evidence as a delayed or altered birth
61 certificate as provided in sections 193.005 to 193.325.

62 [8.] **9.** If no certificate of birth is on file for the person under twelve years of age who has
63 been adopted, a belated certificate of birth shall be filed with the state registrar as provided in
64 sections 193.005 to 193.325 before a new birth record is to be established as result of adoption.
65 A new certificate is to be established on the basis of the adoption under this section and shall be
66 prepared on a certificate of live birth form.

67 [9.] **10.** If no certificate of birth has been filed for a person twelve years of age or older
68 who has been adopted, a new birth certificate is to be established under this section upon receipt
69 of proof of adoption as required by the department. A new certificate shall be prepared in the
70 name of the adopted person as decreed by the court, registering adopted parents' names. The new
71 certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed
72 in a sealed file and shall not be subject to inspection except upon an order of the court.

193.255. 1. The state registrar and other custodians of vital records authorized by the
2 state registrar to issue certified copies of vital records upon receipt of application shall issue a
3 certified copy of any vital record in [his] **the registrar's** custody or a part thereof to any
4 applicant having a direct and tangible interest in the vital record, **including an adopted person**
5 **twenty-one years of age or older as provided for in section 193.125.** Each copy issued shall
6 show the date of registration, and copies issued from records marked "Delayed" or "Amended"
7 shall be similarly marked and show the effective date. The documentary evidence used to
8 establish a delayed certificate shall be shown on all copies issued. All forms and procedures
9 used in the issuance of certified copies of vital records in the state shall be provided or approved
10 by the state registrar.

11 2. A certified copy of a vital record or any part thereof, issued in accordance with
12 subsection 1 of this section, shall be considered for all purposes the same as the original and shall
13 be prima facie evidence of the facts stated therein, provided that the evidentiary value of a

14 certificate or record filed more than one year after the event, or a record which has been
15 amended, shall be determined by the judicial or administrative body or official before whom the
16 certificate is offered as evidence.

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

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

27 5. The state registrar may, by agreement, transmit copies of records and other reports
28 required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such
29 records or other reports relate to residents of those jurisdictions or persons born in those
30 jurisdictions. This agreement shall require that the copies be used for statistical and
31 administrative purposes only, and the agreement shall further provide for the retention and
32 disposition of such copies. Copies received by the department from offices of vital statistics in
33 other states shall be handled in the same manner as prescribed in this section.

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

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

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

 453.080. 1. The court shall conduct a hearing to determine whether the adoption shall
2 be finalized. During such hearing, the court shall ascertain whether:

3 (1) The person sought to be adopted, if a child, has been in the lawful and actual custody
4 of the petitioner for a period of at least six months prior to entry of the adoption decree; except
5 that the six-month period may be waived if the person sought to be adopted is a child who is
6 under the prior and continuing jurisdiction of a court pursuant to chapter 211, RSMo, and the
7 person desiring to adopt the child is the child's current foster parent. "Lawful and actual custody"
8 shall include a transfer of custody pursuant to the laws of this state, another state, a territory of
9 the United States, or another country;

10 (2) The court has received and reviewed a postplacement assessment on the monthly
11 contacts with the adoptive family pursuant to section 453.077, except for good cause shown in
12 the case of a child adopted from a foreign country;

13 (3) The court has received and reviewed an updated financial affidavit;

14 (4) The court has received the recommendations of the guardian ad litem and has
15 received and reviewed the recommendations of the person placing the child, the person making
16 the assessment and the person making the postplacement assessment;

17 (5) There is compliance with the uniform child custody jurisdiction act, sections 452.440
18 to 452.550, RSMo;

19 (6) There is compliance with the Indian Child Welfare Act, if applicable;

20 (7) There is compliance with the Interstate Compact on the Placement of Children
21 pursuant to section 210.620, RSMo; and

22 (8) It is fit and proper that such adoption should be made.

23 2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of
24 custody has occurred pursuant to section 453.110, the court may authorize the filing for
25 finalization in another state if the adoptive parents are domiciled in that state.

26 3. If the court determines the adoption should be finalized, a decree shall be issued
27 setting forth the facts and ordering that from the date of the decree the adoptee shall be for all
28 legal intents and purposes the child of the petitioner or petitioners. The court may decree that
29 the name of the person sought to be adopted be changed, according to the prayer of the petition.

30 4. Before the completion of an adoption, the exchange of information among the parties
31 shall be at the discretion of the parties. Upon completion of an adoption, further contact among
32 the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction
33 to deny continuing contact between the adopted person and the birth parent, or an adoptive parent

34 and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of
35 identifying information between an adoptive parent and a birth parent.

36 **5. Upon completion of an adoption, the following documents and information, if**
37 **included in the adoption records, shall be subject to release in accordance with section**
38 **453.121:**

39 **(1) The original birth certificate;**

40 **(2) Consent to termination of parental rights;**

41 **(3) Any waiver of consent to future adoption of the child;**

42 **(4) The adoption decree and order;**

43 **(5) The social history, including the adoptive social history face sheet;**

44 **(6) The petition for temporary custody and adoption; and**

45 **(7) Any other documents or information maintained by any state agency or court**
46 **regarding the adoption.**

453.120. 1. The files and records of the court in adoption proceedings shall not be open
2 to inspection or copy by any person or persons, except [upon an order of the court expressly
3 permitting the same issued] in accordance with the provisions of section 453.121. **The**
4 **provisions of this section shall not apply to an adopted adult who is twenty-one years of age**
5 **or older.**

6 2. Any person who permits such inspection or copy [without an order of the court as
7 provided in this section shall be] **in violation of this section is** guilty of a class C misdemeanor.

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

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

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

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

7 (4) "Identifying information", information which includes the name, date of birth, place
8 of birth and last known address of the biological parent;

9 (5) "Nonidentifying information", information concerning the physical description,
10 nationality, religious background and medical history of the biological parent or sibling.

11 2. All papers, records, and information pertaining to an adoption whether part of any
12 permanent record or file may be disclosed only in accordance with this section **or to an adopted**
13 **adult who is twenty-one years of age or older.**

14 3. Nonidentifying information, if known, concerning undisclosed biological parents or
15 siblings shall be furnished by the child-placing agency or the juvenile court to the adoptive
16 parents, legal guardians or adopted adult upon written request therefor.

17 4. An adopted adult may make a written request to the circuit court having original
18 jurisdiction of such adoption to secure and disclose information identifying the adopted adult's
19 biological parents. [If the biological parents have consented to the release of identifying
20 information under subsection 11 of this section, the court shall disclose such identifying
21 information to the adopted adult. If the biological parents have not consented to the release of
22 identifying information under subsection 11 of this section, the court shall, within ten days of
23 receipt of the request, notify in writing the adoptive parents of such petitioner and the
24 child-placing agency or juvenile court personnel having access to the information requested of
25 the request by the adopted adult.]

26 5. Within three months after receiving notice of the request of the adopted adult, the
27 child-placing agency or juvenile court personnel shall [notify the adoptive parents, if such
28 adoptive parents are living and shall] not make any attempt to notify the biological parents
29 [without prior written consent of such adoptive parents for adoptions instituted or completed
30 prior to August 13, 1986, but may proceed if there is proof that the adoptive parents are deceased
31 or incapacitated, as such term is defined in chapter 475, RSMo. If the adoptive parents are living
32 but are unwilling to give such written consent, the child-placing agency or the juvenile court
33 personnel shall make a written report to the court stating that they were unable to notify the
34 biological parent. If the adoptive parents are deceased or give written consent, the child-placing
35 agency or the juvenile court personnel shall make reasonable efforts to notify the biological
36 parents of the request of the adopted adult] . The child-placing agency or juvenile court
37 personnel may charge actual costs to the adopted adult for the cost of making such search. All
38 communications under this subsection are confidential. [For purposes of this subsection, "notify"
39 means a personal and confidential contact with the biological parent of the adopted adult, which
40 initial contact shall not be made by mail and shall be made by an employee of the child-placing
41 agency which processed the adoption, juvenile court personnel or some other licensed
42 child-placing agency designated by the child-placing agency or juvenile court.] Nothing in this
43 section shall be construed to permit the disclosure of communications privileged pursuant to
44 section 491.060, RSMo. At the end of three months, the child-placing agency or juvenile court
45 personnel shall file a report with the court stating [that each biological parent that was located
46 was given] the following information:

- 47 (1) The nature of the identifying information to which the agency has access;
48 (2) The nature of any nonidentifying information requested;
49 (3) The date of the request of the adopted adult;
50 (4) The right of the biological parent to file an affidavit with the court stating that the
51 identifying information should be disclosed;

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

54 6. [If the child-placing agency or juvenile court personnel reports to the court that it has
55 been unable to notify the biological parent within three months, the identifying information shall
56 not be disclosed to the adopted adult. Additional requests for the same or substantially the same
57 information may not be made to the court within one year from the end of the three-month period
58 during which the attempted notification was made, unless good cause is shown and leave of court
59 is granted.

60 7.] If, within three months, the child-placing agency or juvenile court personnel reports
61 to the court that it has notified the biological parent pursuant to subsection 5 of this section, the
62 court shall receive the identifying information from the child-placing agency. [If an affidavit
63 duly executed by a biological parent authorizing the release of information is filed with the court,
64 the court shall disclose the identifying information as to that biological parent to the adopted
65 adult, provided that the other biological parent either:

66 (1) Is unknown;

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

68 (3) Is deceased; or

69 (4) Has filed with the court an affidavit authorizing release of identifying information.

70 If the biological parent fails or refuses to file an affidavit with the court authorizing the release
71 of identifying information, then the identifying information shall not be released to the adopted
72 adult. No additional request for the same or substantially the same information may be made
73 within three years of the time the biological parent fails or refuses to file an affidavit authorizing
74 the release of identifying information.

75 8.] 7. If the biological parent is deceased [but previously had filed an affidavit with the
76 court stating that identifying information shall be disclosed], the information shall be forwarded
77 to and released by the court to the adopted adult. [If the biological parent is deceased and, at any
78 time prior to his death, the biological parent did not file an affidavit with the court stating that
79 the identifying information shall be disclosed, the adopted adult may petition the court for an
80 order releasing the identifying information. the court shall grant the petition upon a finding that
81 disclosure of the information is necessary for health-related purposes.

82 9.] 8. Any adopted adult whose adoption was finalized in this state or whose biological
83 parents had their parental rights terminated in this state may request the court to secure and
84 disclose identifying information concerning an adult sibling [and upon a finding by the court that
85 such information is necessary for urgent health-related purposes in the same manner as provided
86 in this section]. Identifying information pertaining exclusively to the adult sibling, whether part

87 of the permanent record of a file in the court or in an agency, shall be released [only upon
88 consent of that adult sibling].

89 [10.] 9. The central office of the children's division within the department of social
90 services shall maintain a registry by which biological parents, adult siblings, and adoptive adults
91 may indicate their desire to be contacted by each other. The division may request such
92 identification for the registry as a party may possess to assure positive identifications. At the
93 time of registry, a biological parent or adult sibling may consent in writing to the release of
94 identifying information to an adopted adult. If such a consent has not been executed and the
95 division believes that a match has occurred on the registry between biological parents or adult
96 siblings and an adopted adult, [an employee of] the division shall [make the confidential contact
97 provided in] **comply with the provisions of** subsection 5 of this section [with the biological
98 parents or adult siblings and with the adopted adult]. If the division believes that a match has
99 occurred on the registry between one biological parent or adult sibling and an adopted adult, [an
100 employee of] the division shall [make the confidential contact provided by] **comply with the**
101 **provisions of** subsection 5 of this section [with the biological parent or adult sibling]. [The
102 division shall then attempt to make such confidential contact with the other biological parent,
103 and shall proceed thereafter to make such confidential contact with the adopted adult only if the
104 division determines that the other biological parent meets one of the conditions specified in
105 subsection 7 of this section. The biological parent, adult sibling, or adopted adult may refuse to
106 go forward with any further contact between the parties when contacted by the division.

107 11.] 10. The provisions of this section, except as provided in subsection 5 of this section
108 governing the release of identifying and nonidentifying adoptive information apply to adoptions
109 completed before and after August 13, 1986.

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