

Rep(s). By Representatives Dolbare and Fuller

HB690

Engrossed

Under existing law, an adopted person born in the State of Alabama cannot obtain a copy of his or her original birth certificate absent a court order. This bill would provide that an adopted person, 19 years of age or older, born in the State of Alabama is entitled to obtain a copy of his or her original birth certificate upon written application to the State Registrar.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 22-9A-12, 26-10A-31, and 26-10A-32 of the Code of Alabama 1975, relating to birth certificates and identifying information for adopted persons born in the State of Alabama; to provide procedures for obtaining copies of original birth certificates; and to provide for an effective date of this act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 22-9A-12, 26-10A-31, and 26-10A-32 of the Code of Alabama 1975, are amended to read as follows:

§22-9A-12.

"(a) The State Registrar shall establish a new certificate of birth for a person born in this state upon receipt of any of the following:

"(1) A report of adoption as provided in Section 22-9A-11 or a report of adoption prepared and filed in accordance with the laws of another state, the District of Columbia, a territory of the United States, or a foreign country, or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth. A new certificate of birth shall not be established if so requested by the court decreeing the adoption.

"(2) A request that a new certificate be established upon completion of the legitimation procedure specified in Sections 26-11-2 and 26-17-6. If the name of another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.

"(3) A certified copy of a valid court determination of paternity that establishes the name of the father and decrees the name the child is to bear together with the information necessary to identify the original certificate of birth.

"(b) The new certificate of birth prepared as a result of subsection (a) shall be on the form in use at the time of its preparation and shall include all of the following items and other

information necessary to complete the certificate:

"(1) The name of the child.

"(2) The actual place and date of birth as shown on the original certificate.

"(3) The names and personal particulars of the adoptive parents or of the natural parents, whichever is appropriate.

"(4) The name of the attendant.

"(5) The birth number assigned to the original birth certificate.

"(6) The original filing date.

"(c) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, legitimation, or paternity determination shall not be subject to inspection except upon order of a court of competent jurisdiction. ~~Notwithstanding the foregoing, any adopted person 19 years of age or older born in the State of Alabama, upon written application to the State Registrar, may receive a copy of his or her unaltered, original, and unamended certificate of birth. All procedures, fees, and waiting periods applicable to non-adopted citizens born in the State of Alabama seeking copies of certificates of birth shall apply. Notwithstanding the foregoing, any person 19 years of age or older who was born in the State of Alabama and who has had an original birth certificate removed from the files due to an adoption, legitimation, or paternity determination may, upon written request, receive a copy of that birth certificate and any evidence of the adoption, legitimation, or paternity determination held with the original record. The copy of the original birth certificate shall be in a form that clearly indicates it is not a certified copy and that it may not be used for legal purposes. All procedures, fees, and waiting periods applicable to non-adopted citizens born in the State of Alabama seeking copies of certificates of birth shall apply.~~

"(d) Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be amended as provided in Section 22-9A-19.

"(e) Upon receipt of a report or decree of annulment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction or as specified by the board.

"(f) If no certificate of birth is on file for the person for whom a new birth certificate is to be established under this section, and the date and place of birth have been determined in the adoption or paternity proceedings, a delayed certificate of birth shall be filed with the State Registrar as provided in Section 22-9A-9 or Section 22-9A-10 before a new certificate of birth is established. The new birth certificate shall be prepared on the appropriate delayed birth certificate form.

"(g) When a new certificate of birth is established by the State Registrar, all copies of the original certificate of birth in the custody of any other party shall be forwarded to the State Registrar upon receipt of his or her request.

"(h)(1) The State Registrar shall, upon request, prepare and register a certificate in this state for a person born in a foreign country who is not a citizen of the United States and who was adopted through a court in this state. The certificate shall be established upon receipt of a report of adoption from the court decreeing the adoption, proof of the date and place of birth of the child, and a request from the court, the adopting parents, or the adopted person if 18 years of age or over that a certificate be prepared. The certificate shall be labeled "CERTIFICATE OF FOREIGN BIRTH" and shall show the actual country of birth. A statement shall also be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued. After registration of the birth certificate in the new name of the adopted person, the State Registrar shall seal and file the report of adoption which shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by statute. ~~The original certificate of birth shall not be available for inspection except as provided by statute.~~ receive a copy of any information about the adoption held in files under the jurisdiction of the State Registrar.

"(2) If the child was born in a foreign country but was a citizen of the United States at the time of birth, the State Registrar shall not prepare a "CERTIFICATE OF FOREIGN BIRTH" and shall notify the adoptive parents of the procedures for obtaining a revised birth certificate for their child through the U.S. Department of State.

§26-10A-31.

"(a) After the petition is filed and prior to the entry of the final decree, the records in adoption proceedings shall be open to inspection only by the petitioner or his or her attorney, the investigator appointed under Section 26-10A-19, any attorney appointed for the adoptee under Section 26-10A-22, and any attorney retained by or appointed to represent the adoptee. Such records shall be open to other persons only upon order of court for good cause shown.

"(b) All hearings in adoption proceedings shall be confidential and shall be held in closed court without admittance of any person other than interested parties and their counsel, except with leave of court.

"(c) After the final decree of adoption has been entered, all papers, pleadings, and other documents pertaining to the adoption shall be sealed, kept as a permanent record of the court, and withheld from inspection except as otherwise provided in this section and in subsection (c) of Section 22-9A-12. No person shall have access to such records except upon order of the court in which the decree of adoption was entered for good cause shown except as provided in subsection (c) of Section 22-9A-12. ~~Identifying information should not be given except with the consent of the parties in interest.~~

"(d) When the court issues the adoption order, all licensed agencies or individuals shall send a sealed information summary sheet and the non-identifying information referred to in subsection (g) in a separate summary sheet to the State Department of Human Resources. The following information shall be included:

- "(1) Birthname and adoptive name;
- "(2) Date and place of birth of person adopted, except in the case of abandonment;
- "(3) Circumstances under which the child came to be placed for adoption;
- "(4) Physical and mental condition of the person adopted, insofar as this can be determined by the aid of competent medical authority;
- "(5) Name and last known address of natural parents, dates of birth and social security numbers, if known;
- "(6) Age of the natural parents at child's birth;
- "(7) Nationality, ethnic background, race, and religious preference of the natural parents;
- "(8) Educational level of the natural parents;
- "(9) Pre-adoptive brother/sister relationships;
- "(10) Whether the identity and location of the natural father is known or ascertainable.

"(e) The State Department of Human Resources and the investigating agency's adoption records must be kept for a minimum term of 75 years. If a licensed child placing agency ceases to operate in Alabama, all adoption records of the agency, including those of the child, the natural family and the adoptive family, shall be transferred to the Department of Human Resources.

"(f) ~~All~~ Except as otherwise provided in this section and in subsection (c) of Section 22-9A-12, all files of the investigating office or agency appointed by the court under Section 26-10A-19 shall be confidential and shall be withheld from inspection except upon order of the court for good cause shown.

"(g) Notwithstanding subsection (f) of this section, the State Department of Human Resources or the licensed investigating agency appointed by the court pursuant to Section 26-10A-19(b) and (c), shall furnish, upon request, to the petitioners, natural parents or an adoptee 19 years of age or older, nonidentifying information which shall be limited to the following:

- "(1) Health and medical histories of the adoptee's natural parents;
- "(2) The health and medical history of the adoptee;
- "(3) The adoptee's general family background, including ancestral information, without name references or geographical designations;
- "(4) Physical descriptions;
- "(5) The length of time the adoptee was in the care and custody of one other than the petitioner; and
- "(6) Circumstances under which child comes to be placed for adoption.

"(h) Notwithstanding subsection (f), if either the natural mother or the natural or presumed father have given consent in writing under oath to disclosure of identifying information; as defined in subsection (d) and which is not otherwise provided in this section and in subsection (c) of Section 22-9A-12, the State Department of Human Resources or a licensed child placing agency shall release such identifying information ~~including a copy of the birth certificate as it relates to the consenting parent to an adult adoptee when that adoptee reaches the age of 19.~~

"(i) If the court finds that any person has a compelling need for nonidentifying information not otherwise available under subsection (e) of this section which only can be obtained through contact with the adoptee, the adoptee's parents, an alleged or presumed father of the adoptee, or the adoptee's adoptive parents, the court shall direct the agency or a mutually agreed upon intermediary, to furnish such information or to establish contact with the adoptee, the adoptee's natural parents, the alleged or presumed father of the adoptee, or the adoptive parents of the adoptee in order to obtain the information needed without disclosure of identifying information to or about the applicant. Said information then shall be filed with the court and released to the applicant within the discretion of the court. However, the identity and whereabouts of the person or persons contacted shall remain confidential.

"(j) Notwithstanding any subsection of this section to the contrary, when an adult adoptee reaches the age of 19, the adoptee may petition the court for the disclosure of identifying information as defined in subsection (d) and which is not otherwise provided for in this section or in subsection (c) of Section 22-9A-12, if a natural or presumed parent has not previously given consent under subsection (h). The court shall direct an intermediary to contact the natural parents to determine if the natural parents will consent to the release of ~~their identity~~ identifying information. If the natural parents consent to the release of ~~their identity~~ identifying information the court shall so direct. If the natural parents are deceased, cannot be found or do not consent to the release of ~~the~~ identifying information then the court shall weigh the interest and rights of all of the parties and determine if the identifying information should be released without the consent of the natural parents. ~~Moreover, if the court releases the identifying information without the consent of the natural parents, the court may restrict the distribution and use of that information and may restrict or prohibit contact between the parties as the court determines to be fair and equitable.~~

§26-10A-32.

"(a) Within 10 days of the final decree being entered the judge or the clerk of the court shall send a copy of the final order to the Department of Human Resources and shall send a certificate of the final order of adoption to the State Registrar of Vital Statistics of the State Board of Health upon the form supplied by the state registrar for that purpose.

"(b) Upon receipt of copy of any final order of adoption the State Registrar of Vital Statistics shall cause to be made a new record of the birth in the new name and with the name or names of the adopting parent or parents as contained in the final decree. The state registrar shall then cause to be sealed and filed the original certificate of birth with the decree of the court.

"(c) ~~After~~ Except as otherwise provided by subsection (c) of Section 22-9A-12, after the new birth certificate has been issued, the original birth certificate and the evidence of adoption are not subject to inspection except upon order of the court for good cause shown."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Records

Birth Certificates

Adoption

State Registrar