

FIRST REGULAR SESSION

HOUSE BILL NO. 355

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

0842L.04I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 193.085, 193.135, and 453.121, RSMo, and to enact in lieu thereof five new sections relating to sperm and egg donation.

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

Section A. Sections 193.085, 193.135, and 453.121, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 193.085, 193.135, 453.092, 453.093, and 453.121, to read as follows:

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after such birth and shall be registered if such certificate has been completed and filed pursuant to the provisions of this section.

2. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or such person's designated representative shall obtain the personal data, prepare the certificate, certify that the child was born alive at the place and time and on the date stated either by signature or an electronic process approved by the department, and file the certificate pursuant to this section or as otherwise directed by the state registrar within the required five days. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within five days after the birth. If the physician or other person in attendance does not certify to the facts of birth within the five-day period, the person in charge of the institution shall complete the certificate.

3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth;

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.

17 (2) Any other person in attendance at or immediately after the birth;

18 (3) The father, the mother, or, in the absence of the father and the inability of the mother,
19 the person in charge of the premises where the birth occurred.

20 4. When a birth occurs on a moving conveyance within the United States and the child
21 is first removed from the conveyance in this state, the birth shall be registered in this state and
22 such place shall be considered the place of birth. When a birth occurs on a moving conveyance
23 while in international waters or air space or in a foreign country or its air space and the child is
24 first removed from the conveyance in this state, the birth shall be registered in this state but the
25 certificate shall show the actual place of birth insofar as can be determined.

26 5. If the mother was married at the time of either conception or birth, or between
27 conception and birth, the name of the husband shall be entered on the certificate as the father of
28 the child, unless:

29 (1) Paternity has been determined otherwise by a court of competent jurisdiction; or

30 (2) The mother executes an affidavit attesting that the husband is not the father and the
31 putative father is the father, and the putative father executes an affidavit attesting that he is the
32 father, and the husband executes an affidavit attesting that he is not the father. If such affidavits
33 are executed, the putative father shall be shown as the father on the birth certificate and the
34 signed acknowledgment of paternity shall be considered a legal finding of paternity. The
35 affidavits shall be as provided for in section 193.215.

36 6. In any case in which paternity of a child is determined by a court of competent
37 jurisdiction, the name of the father and surname of the child shall be entered on the certificate
38 of birth pursuant to the finding and order of the court.

39 7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents,
40 the name of the father and other required information shall be entered on the certificate of birth
41 only if an acknowledgment of paternity pursuant to section 193.215 is completed, or if paternity
42 is determined by a court of competent jurisdiction or by an administrative order of the family
43 support division.

44 8. If the father is not named on the certificate of birth, no other information about the
45 father shall be entered on the certificate.

46 9. The birth certificate of a child born to a married woman as a result of artificial
47 insemination, with consent of her husband, shall be completed pursuant to the provisions of
48 subsection 5 of this section.

49 10. Either of the parents of the child, or other informant, shall attest to the accuracy of
50 the personal data entered on the certificate in time to permit the filing of the certificate within
51 the required five days.

52 **11. (1) Notwithstanding any other provision of law, in the case of a child born as**
53 **the result of sperm or egg donation, the name of the biological parent or parents and any**
54 **donor parent or parents shall be entered on the certificate.**

55 **(2) A new certificate of birth may be established following the birth of a child born**
56 **as a result of sperm or egg donation if so requested by a nondonor parent of the child. If**
57 **a new certificate of birth is established, the state registrar shall file the original certificate**
58 **of birth with all accompanying documentation provided under this section and such file**
59 **may be opened by the state registrar only in accordance with subsection 10 of section**
60 **453.121, RSMo.**

 193.135. 1. The state registrar shall establish a new certificate of birth for a person born
2 in this state when he or she received the following:

3 (1) A certificate of decree of adoption as provided in section 193.125 or a report of
4 adoption prepared and filed in accordance with the laws of another state or foreign country, or
5 a certified copy of the decree of adoption, together with the information necessary to identify the
6 original certificate of birth and to establish a new certificate of birth; except that a new certificate
7 of birth shall not be established if so requested by the court decreeing the adoption, the adoptive
8 parents, or the adopted person;

9 (2) A request that a new certificate be established upon such evidence as required by the
10 department proving that such person has been legitimated;

11 **(3) A request that a new certificate be established under subsection 11 of section**
12 **193.085.**

13 2. When a new certificate of birth is established, the actual place and date of birth shall
14 be shown. The new certificate shall be substituted for the original certificate of birth in the files,
15 and the original certificate of birth and the evidence of adoptions or legitimation shall not be
16 subject to inspection except upon order of a court of competent jurisdiction or as provided by
17 department rules **or as provided for under subsection 10 of section 453.121, RSMo, for adult**
18 **children of sperm or egg donation.**

19 3. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall
20 be amended.

21 4. Upon receipt of a report or decree of annulment of adoption, the original certificate
22 of birth shall be restored to its place in the files and the new certificate and evidence shall not
23 be subject to inspection except upon order of a court of competent jurisdiction or as provided by
24 department rules.

25 5. When a new certificate of birth is established by the state registrar, all copies of the
26 original certificate of birth in the custody of any other custodian of vital records in this state shall
27 be sealed from inspection or forwarded to the state registrar, as he **or she** directs.

2 **453.092. When a child is born as a result of sperm or egg donation, all legal**
3 **relationships and all rights and duties between such child and the child's donor parent or**
4 **parents shall cease and terminate unless expressly retained in writing by the donor parent**
5 **or parents.**

2 **453.093. After the live birth of a child born as a result of sperm or egg donation,**
3 **any person or entity required to file a certificate of birth under section 193.085, RSMo,**
4 **shall immediately send to the department of health and senior services documentation of**
5 **the live birth of such child, which shall set forth the name, sex, date and place of birth of**
6 **the child, the name or names of the child's biological parent or parents if other than a**
7 **donor parent or parents, the name or names of the child's donor parent or parents, if**
8 **known, and any other pertinent facts required by the department on forms prescribed and**
9 **furnished by the state registrar.**

2 453.121. 1. As used in this section, unless the context clearly indicates otherwise, the
3 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 child of sperm or egg donation", any person born as a result of sperm**
6 **or egg donation who is eighteen years of age or over;**

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

9 [(4)] (5) "Identifying information", information which includes the name, date of birth,
10 place of birth and last known address of the biological parent;

11 [(5)] (6) "Nonidentifying information", information concerning the physical description,
12 nationality, religious background and medical history of the biological parent or sibling.

13 2. All papers, records, and information pertaining to an adoption **or adult child of**
14 **sperm or egg donation** whether part of any permanent record or file may be disclosed only in
15 accordance with this section.

16 3. Nonidentifying information, if known, concerning undisclosed biological parents or
17 siblings shall be furnished:

18 (1) By the child-placing agency or the juvenile court to the adoptive parents, legal
19 guardians or adopted adult upon written request therefor; **or**

20 (2) **By the donation facility or agency, or attending physician at the time of**
21 **insemination or implantation to the adult child of sperm or egg donation upon written**
22 **request therefor.**

23 4. An adopted adult may make a written request to the circuit court having original
24 jurisdiction of such adoption to secure and disclose information identifying the adopted adult's

25 biological parents. If the biological parents have consented to the release of identifying
26 information under subsection 11 of this section, the court shall disclose such identifying
27 information to the adopted adult. If the biological parents have not consented to the release of
28 identifying information under subsection 11 of this section, the court shall, within ten days of
29 receipt of the request, notify in writing the adoptive parents of such petitioner and the
30 child-placing agency or juvenile court personnel having access to the information requested of
31 the request by the adopted adult.

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

- 53 (1) The nature of the identifying information to which the agency has access;
- 54 (2) The nature of any nonidentifying information requested;
- 55 (3) The date of the request of the adopted adult;
- 56 (4) The right of the biological parent to file an affidavit with the court stating that the
57 identifying information should be disclosed;
- 58 (5) The effect of a failure of the biological parent to file an affidavit stating that the
59 identifying information should be disclosed.

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

66 7. If, within three months, the child-placing agency or juvenile court personnel reports
67 to the court that it has notified the biological parent pursuant to subsection 5 of this section, the
68 court shall receive the identifying information from the child-placing agency. If an affidavit duly
69 executed by a biological parent authorizing the release of information is filed with the court, the
70 court shall disclose the identifying information as to that biological parent to the adopted adult,
71 provided that the other biological parent either:

72 (1) Is unknown;

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

74 (3) Is deceased; or

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

76 If the biological parent fails or refuses to file an affidavit with the court authorizing the release
77 of identifying information, then the identifying information shall not be released to the adopted
78 adult. No additional request for the same or substantially the same information may be made
79 within three years of the time the biological parent fails or refuses to file an affidavit authorizing
80 the release of identifying information.

81 8. If the biological parent is deceased but previously had filed an affidavit with the court
82 stating that identifying information shall be disclosed, the information shall be forwarded to and
83 released by the court to the adopted adult. If the biological parent is deceased and, at any time
84 prior to his death, the biological parent did not file an affidavit with the court stating that the
85 identifying information shall be disclosed, the adopted adult may petition the court for an order
86 releasing the identifying information. The court shall grant the petition upon a finding that
87 disclosure of the information is necessary for health-related purposes.

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

95 **10. (1) For sperm or egg donations made prior to January 1, 2010, an adult child**
96 **of sperm or egg donation may make a written request to the circuit court of the county in**
97 **which such adult resides or the county in which the records of the donation are located to**
98 **secure and disclose information identifying the adult child's donor parent or parents. If**
99 **the donor parent has registered under subsection 11 of this section, the court shall order**
100 **the release of the identifying information in the same manner as such information is**
101 **released in cases of adoption. If the donor parent has not registered under subsection 11**
102 **of this section, the court shall, within ten days of receipt of the request, notify the donation**
103 **facility or attending physician at the time of the insemination or implantation having access**
104 **to the information requested by such adult. If the donation facility or attending physician**
105 **refuses to disclose identifying information, the court may order the release of such**
106 **information in accordance with the provisions of this section established for release of**
107 **identifying information in cases of adoption.**

108 **(2) For sperm or egg donations made on or after January 1, 2010, an adult child of**
109 **sperm or egg donation may request and shall have a right to receive without a court order:**

110 **(a) From the state registrar, a copy of the adult child's original certificate of birth**
111 **and accompanying information filed under section 193.085, RSMo; and**

112 **(b) From the donation facility or attending physician at the time of insemination**
113 **or implantation, any medical history records of the donor parent maintained by such**
114 **facility or physician.**

115 **11.** The central office of the children's division within the department of social services
116 shall maintain a registry by which biological parents, adult siblings, and adoptive adults may
117 indicate their desire to be contacted by each other. The division may request such identification
118 for the registry as a party may possess to assure positive identifications. At the time of registry,
119 a biological parent or adult sibling may consent in writing to the release of identifying
120 information to an adopted adult. If such a consent has not been executed and the division
121 believes that a match has occurred on the registry between biological parents or adult siblings
122 and an adopted adult, an employee of the division shall make the confidential contact provided
123 in subsection 5 of this section with the biological parents or adult siblings and with the adopted
124 adult. If the division believes that a match has occurred on the registry between one biological
125 parent or adult sibling and an adopted adult, an employee of the division shall make the
126 confidential contact provided by subsection 5 of this section with the biological parent or adult
127 sibling. The division shall then attempt to make such confidential contact with the other
128 biological parent, and shall proceed thereafter to make such confidential contact with the adopted
129 adult only if the division determines that the other biological parent meets one of the conditions
130 specified in subsection 7 of this section. The biological parent, adult sibling, or adopted adult

131 may refuse to go forward with any further contact between the parties when contacted by the
132 division.

133 **12. The registry maintained under subsection 11 of this section shall include sperm**
134 **and egg donors and adult children of sperm and egg donation. At the time of registry, a**
135 **donor parent may consent in writing to the release of identifying information to an adult**
136 **child of sperm or egg donation. If such consent has not been executed, no contact shall be**
137 **attempted with a donor parent.**

138 [11.] **13.** The provisions of this section, except as provided in subsection 5 of this section
139 governing the release of identifying and nonidentifying adoptive information apply to adoptions
140 completed before and after August 13, 1986.

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