

SECOND REGULAR SESSION

HOUSE BILL NO. 1822

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

5215H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 193.125 and 453.121, RSMo, and to enact in lieu thereof two new sections relating to the release of certain adoption records.

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

Section A. Sections 193.125 and 453.121, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 193.125 and 453.121, to read as follows:

193.125. 1. This section shall be known and may be cited as the "Debbi Daniel Law".

2. Except as otherwise provided in subsection 3 of this section, 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. **If the state registrar releases a copy of an original birth certificate upon presentation of a court order entered in accordance with subsection 8 of section 453.121, the state registrar shall issue an uncertified copy of the unaltered original birth certificate. The copy of the birth certificate shall have the following statement printed on it: "For informational purposes only - not to be used for establishing identity."**

3. No new certificate of birth shall be established following an adoption by a stepparent if so requested by the adoptive parent or the adoptive stepparent of the child.

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.

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

23 5. Whenever an adoption decree is amended or annulled, the clerk of the court shall
24 prepare a report thereof, which shall include such facts as are necessary to identify the original
25 adoption report and the facts amended in the adoption decree as shall be necessary to properly
26 amend the birth record.

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

31 7. When the state registrar shall receive a report of adoption, annulment of adoption, or
32 amendment of a decree of adoption for a person born outside this state, he or she shall forward
33 such report to the state registrar in the state of birth.

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

42 9. The department, upon receipt of proof that a person has been adopted by a Missouri
43 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. A birth certificate
56 pursuant to this subsection shall be issued upon request of one of the adoptive parents of such
57 adopted person or upon request of the adopted person if of legal age. The birth certificate
58 prepared pursuant to the provisions of this subsection shall have the same legal weight as
59 evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

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

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

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) "Biological parent", the natural and biological mother or father of the adopted child;
- 8 (5) "Identifying information", information which includes the name, date of birth, place
9 of birth and last known address of the biological parent;
- 10 (6) "Lineal descendant", a legal descendant of a person as defined in section 472.010;
- 11 (7) "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 whether part of any
14 permanent record or file may be disclosed only in accordance with this section.

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

19 4. An adopted adult, or the adopted adult's lineal descendants if the adopted adult is
20 deceased, may make a written request to the circuit court having original jurisdiction of such
21 adoption to secure and disclose information identifying the adopted adult's biological parents.
22 If the biological parents have consented to the release of identifying information under
23 subsection [8] 9 of this section, the court shall disclose such identifying information to the
24 adopted adult or the adopted adult's lineal descendants if the adopted adult is deceased. If the
25 biological parents have not consented to the release of identifying information under subsection
26 [8] 9 of this section, the court shall, within ten days of receipt of the request, notify in writing the
27 child-placing agency or juvenile court personnel having access to the information requested of
28 the request by the adopted adult or the adopted adult's lineal descendants.

29 5. Within three months after receiving notice of the request of the adopted adult, or the
30 adopted adult's lineal descendants, the child-placing agency or the juvenile court personnel shall
31 make reasonable efforts to notify the biological parents of the request of the adopted adult or the
32 adopted adult's lineal descendants. The child-placing agency or juvenile court personnel may
33 charge actual costs to the adopted adult or the adopted adult's lineal descendants for the cost of
34 making such search. All communications under this subsection are confidential. For purposes
35 of this subsection, "notify" means a personal and confidential contact with the biological parent
36 of the adopted adult, which initial contact shall be made by an employee of the child-placing
37 agency which processed the adoption, juvenile court personnel or some other licensed
38 child-placing agency designated by the child-placing agency or juvenile court. Nothing in this
39 section shall be construed to permit the disclosure of communications privileged pursuant to
40 section 491.060. At the end of three months, the child-placing agency or juvenile court
41 personnel shall file a report with the court stating that each biological parent that was located was
42 given the following information:

- 43 (1) The nature of the identifying information to which the agency has access;
- 44 (2) The nature of any nonidentifying information requested;
- 45 (3) The date of the request of the adopted adult or the adopted adult's lineal descendants;
- 46 (4) The right of the biological parent to file an affidavit with the court stating that the
47 identifying information should be disclosed;
- 48 (5) The effect of a failure of the biological parent to file an affidavit stating that the
49 identifying information should be disclosed.

50 6. If the child-placing agency or juvenile court personnel reports to the court that it has
51 been unable to notify the biological parent within three months, the identifying information shall
52 not be disclosed to the adopted adult or the adopted adult's lineal descendants. Additional
53 requests for the same or substantially the same information may not be made to the court within

54 one year from the end of the three-month period during which the attempted notification was
55 made, unless good cause is shown and leave of court is granted.

56 7. If, within three months, the child-placing agency or juvenile court personnel reports
57 to the court that it has notified the biological parent pursuant to subsection 5 of this section, the
58 court shall receive the identifying information from the child-placing agency. If an affidavit duly
59 executed by a biological parent authorizing the release of information is filed with the court or
60 if a biological parent is found to be deceased, the court shall disclose the identifying information
61 as to that biological parent to the adopted adult or the adopted adult's lineal descendants if the
62 adopted adult is deceased, provided that the other biological parent either:

63 (1) Is unknown;

64 (2) Is known but cannot be found and notified pursuant to [section] **subsection 5** of this
65 [act] **section**;

66 (3) Is deceased; or

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

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

73 **8. If the court discloses identifying information under subsection 7 of this section,**
74 **the court shall also order release of copies of the following records of the adoption to the**
75 **adopted adult or the adopted adult's lineal descendants if the adopted adult is deceased:**

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

77 **(2) The consent to termination of parental rights;**

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

79 **(4) The adoption decree; and**

80 **(5) The petition for temporary custody and adoption.**

81

82 **If identifying information is withheld under subsection 7 of this section due to a lack of**
83 **consent or a failure to locate a biological parent, the court shall order redaction of any**
84 **withheld identifying information contained in the above listed documents. Only those**
85 **documents in the possession of the court or other state agencies shall be subject to release**
86 **under this subsection.**

87 **9.** Any adopted adult whose adoption was finalized in this state or whose biological
88 parents had their parental rights terminated in this state may request the court to secure and
89 disclose identifying information concerning an adult sibling. Identifying information pertaining

90 exclusively to the adult sibling, whether part of the permanent record of a file in the court or in
91 an agency, shall be released only upon consent of that adult sibling **and a finding that the**
92 **provisions of subsection 7 of this section have been met.**

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

111 [10.] 11. The provisions of this section, except as provided in subsection 5 of this section
112 governing the release of identifying and nonidentifying adoptive information apply to adoptions
113 completed before and after August 13, 1986.

✓