

FIRST REGULAR SESSION

HOUSE BILL NO. 847

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRASER (Sponsor) AND MYERS.

Read 1st time February 21, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2059L.011

AN ACT

To repeal section 453.121, RSMo 2000, relating to adoption records, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 453.121, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 453.121, to read as follows:

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

(1) "Adopted adult", any adopted person who is twenty-one years of age or over;

(2) "Adopted child", any adopted person who is less than twenty-one years of age;

(3) "Adult sibling", any brother or sister of the whole or half blood who is twenty-one years of age or over;

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

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

2. All papers, records, and information pertaining to an adoption whether part of any permanent record or file may be disclosed only in accordance with this section.

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

4. An adopted adult may make a written request to the circuit court having original

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

17 jurisdiction of such adoption to secure and disclose information identifying the adopted adult's
18 biological parents. **If the biological parents have consented to the release of identifying**
19 **information pursuant to subsection 10 of this section, the court shall disclose such**
20 **identifying information to the adopted adult. If the biological parents have not consented**
21 **to the release of identifying information pursuant to subsection 10 of this section,** the court
22 shall, within ten days of receipt of the request, notify in writing the adoptive parents of such
23 petitioner and the child-placing agency or juvenile court personnel having access to the
24 information requested of the request by the adopted adult.

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

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

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

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

65 (1) Is unknown;

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

67 (3) Is deceased; or

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

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

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

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

88 10. The central office of the division of family services of the department of social

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

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