

FIRST REGULAR SESSION

# HOUSE BILL NO. 252

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES FRASER (Sponsor), MYERS, WOOD, YAEGER, LOW (39),  
ROORDA, BIVINS, BAKER (25), HARRIS (110), SANDER,  
CHAPPELLE-NADAL AND OXFORD (Co-sponsors).

Read 1<sup>st</sup> time January 18, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0637L.011

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### AN ACT

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

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

Section A. Section 453.121, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 453.121, to read as follows: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] **eighteen** years of age or over;

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

(3) "Adult sibling", any brother or sister of the whole or half blood who is [twenty-one] **eighteen** 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.

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.

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 or adopted adult upon written request therefor.

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

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

- 48           (1) The nature of the identifying information to which the agency has access;  
49           (2) The nature of any nonidentifying information requested;  
50           (3) The date of the request of the adopted adult;

51 (4) The right of the biological parent to file an affidavit with the court stating that the  
52 identifying information should be disclosed;

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

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

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

67 (1) Is unknown;

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

69 (3) Is deceased; or

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

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

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

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

87 in this section. Identifying information pertaining exclusively to the adult sibling, whether part  
88 of the permanent record of a file in the court or in an agency, shall be released only upon consent  
89 of that adult sibling.

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

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