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## **OLR Bill Analysis**

### **sHB 5144 (as amended by House "A")\***

#### ***AN ACT CONCERNING ACCESS TO BIRTH CERTIFICATES AND PARENTAL HEALTH INFORMATION FOR ADOPTED PERSONS.***

#### **SUMMARY:**

This bill requires the Department of Public Health (DPH) to give adopted individuals at least age 18 whose adoptions were finalized on or after October 1, 1983, or their adult children or grandchildren, uncertified copies of the adoptee's original birth certificate on request. This requirement applies starting July 1, 2015, and regardless of the date parental rights were terminated. Current law (1) bars access to such original birth certificates without a probate court order and (2) otherwise permits access to identifying information about a birth parent only with the parent's consent.

Under the bill, people adopted before October 1, 1983, their adult children or grandchildren, or certain relatives of a deceased adoptee can also obtain the original certificate, through a court order. If the birth parents are alive, the court can only issue such an order with their consent, or in certain circumstances, the consent of a legal representative or guardian ad litem (GAL).

The bill also creates a voluntary procedure for biological parents to complete a Department of Children and Families (DCF) form indicating whether they want to be contacted by their adopted adult children or the adoptees' adult children or grandchildren. When issuing an original birth certificate, DPH must provide a notice stating that these completed forms, as well as the biological parents' completed health history forms provided for by existing law, may be on file with DCF.

The bill requires the DPH and DCF commissioners to each report annually to the Public Health Committee, for six years, on specified

matters relating to the bill's requirements.

It makes conforming changes to the statute on the state's policy regarding adopted individuals' access to information about their background and related matters (§ 6). It also makes other minor, technical, and conforming changes.

\*House Amendment "A" (1) adds the condition that access to the original certificate without a court order applies only to adoptions finalized on or after October 1, 1983 and (2) makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2015, except for the annual reporting provisions, which are effective upon passage.

#### **COPIES OF ADOPTEES' ORIGINAL BIRTH CERTIFICATES**

#### **§§ 2, 5, & 7 — *Requests by Certain Adult Adoptees or their Adult Children or Grandchildren***

Under current law, (1) a probate court order is required to release an adopted person's original birth certificate and (2) DCF or a child-placing agency may not release information identifying a biological parent without the parent's written consent. If parental rights were terminated before October 1, 1995, DCF or the child-placing agency must first attempt to locate the other biological parent to obtain written consent to permit disclosure, and certain requirements apply if the other parent cannot be located or does not consent.

Starting July 1, 2015, the bill creates an exception by allowing adopted individuals whose adoptions were finalized on or after October 1, 1983, or their adult children or grandchildren, to obtain the original birth certificate. If any of these people makes such a request, DPH must issue an uncertified copy of the original. DPH must mark the copy with a notation that the certificate has been superseded by a replacement. This is the same notation required when a copy of a sealed original is issued pursuant to a court order (see below).

Along with the certificate, DPH must provide a notice stating that information regarding the birth parents' contact preferences and

medical health history forms may be on file with DCF (see below). The notice must be printed on the certificate or attached to it.

The bill establishes a \$65 fee for uncertified copies of an adoptee's original birth certificate. Under existing law, the fee for a birth certificate issued by a town registrar is \$15 or \$20 for a short-form and long-form certificate, respectively. The fee for birth certificates issued by DPH is \$30 (§ 5).

**§§ 2 & 10-11 — Court Orders to Release Original Certificate**

Under current law, an adoptee or certain other individuals can request a court order for access to the adoptee's original birth certificate. The bill allows such requests from adoptees whose adoptions were finalized before October 1, 1983, or their adult children or grandchildren. It otherwise allows court orders for the release of an adoptee's original birth certificate only if the adoptee is deceased. For a deceased adoptee, only the person's adult descendants, biological parents, or adult biological siblings can request a court order to obtain the certificate.

The bill allows these petitions to be filed in the Superior Court, not just probate court as under current law. The applicant can file the petition in the court where the adoption was finalized. He or she can also file it in the court that appointed a GAL, as is required if the birth parent cannot be located or appears incompetent.

The bill removes the current limitation that the court can grant such an order only if it determines that allowing access to or releasing the original certificate would not be detrimental to the public interest or to the welfare of the adopted person, adoptive parents, or biological parents. The bill instead requires the court to order DPH to issue the original certificate if each birth parent named on the certificate (1) consents to the release of his or her identifying information or (2) is deceased.

Under the bill, if the court has appointed a GAL as specified above, his or her consent is required to release the certificate. If a birth parent

has been declared incompetent, the legal representative's consent is required to release it.

The bill specifies that if the court issues such an order, only DPH may issue the certificate, which must be an uncertified copy. Under current law, either DPH or the appropriate town registrar may issue certified copies following a court order.

The bill eliminates the court's option of allowing someone to examine the certificate as distinct from obtaining a copy of it.

It repeals provisions allowing an adoptee or other authorized applicant to file a court petition seeking access to identifying information on someone when (1) the person cannot be located or is incompetent or (2) DCF or the child-placing agency has not found him or her within 60 days of the request. Among other things, these provisions:

1. require the court to order DCF or the child-placing agency to report whether release of the information would be seriously disruptive to, or endanger the physical or emotional health of, the applicant or person whose information is being sought; and
2. require the court, after a hearing, to order the information released unless (a) the GAL for the person whose identity is being sought did not consent or (b) release would be seriously disruptive or dangerous as specified above.

### **§ 3 — CONTACT PREFERENCE AND HEALTH HISTORY FORMS**

Under the bill, DCF must make a contact preference form available to any birth parent who requests it, to indicate the parent's preference regarding contact by (1) his or her birth child who was later adopted, if the child is at least age 18, or (2) such a child's adult child or grandchild. When receiving a request for a contact preference form, DCF must also provide the parent with a form to fill out his or her health history information (see BACKGROUND).

On the contact preference form, the parent must indicate whether he

or she:

1. would like to be contacted;
2. would like to be contacted, but only through an intermediary he or she designates; or
3. does not want to be contacted.

The bill requires DCF to maintain birth parents' completed contact preference forms and health history forms in a confidential file. The department can give copies of the completed forms only to the adult adopted person or his or her adult child or grandchild, upon request. The bill exempts completed contact preference forms from disclosure under the Freedom of Information Act (FOIA). Existing law already exempts completed health history forms from disclosure under FOIA (CGS § 1-210(b)(14)).

#### **§ 4 — REPORTING REQUIREMENT**

The bill requires the DPH and DCF commissioners to each report annually to the Public Health Committee for six years, with the first reports due by January 1, 2016, and the final reports due January 1, 2021.

The DPH commissioner's report must include the annual number of original birth certificates the department issued to adopted adults whose adoptions were finalized on or after October 1, 1983, or their adult children or grandchildren.

The DCF commissioner's report must include the annual number of contact preference forms and health history forms filed with the department. It also must indicate the number of birth parents choosing each of the three options on the contact preference form (contact, contact only through intermediary, or no contact).

#### **BACKGROUND**

##### ***Sealed Birth Certificates***

In most cases, DPH seals the original birth certificate when a

probate court notifies it that a child born in Connecticut has been adopted. It prepares a new certificate substituting the adoptive parents' names for those appearing on the original certificate (CGS § 7-53).

**Health History Forms**

By law, DCF and child-placing agencies must make reasonable efforts to compile nonidentifying information about the biological parents of a child who is placed or available for adoption. This information is disclosable to adopting parents and adult adoptees, among others, and may include a health history of the child's parents and blood relatives (CGS § 45a-746).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 24 Nay 1 (03/25/2014)

Judiciary Committee

Joint Favorable

Yea 19 Nay 11 (04/17/2014)