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2 91st General Assembly
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4

A Bill

HOUSE BILL 1636

5 By: Representatives Richey, D. Ferguson, Brown
6

For An Act To Be Entitled

8 AN ACT TO PROVIDE BIRTH PARENTS WITH THE OPTION TO
9 REDACT THEIR NAMES FROM CERTAIN ADOPTION RECORDS
10 DISCLOSED TO ADOPTEES AND THEIR RELATIVES; TO PROVIDE
11 ADOPTEES AND THEIR RELATIVES WITH ACCESS TO CERTAIN
12 ADOPTION RECORDS; AND FOR OTHER PURPOSES.
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Subtitle

15 TO PROVIDE BIRTH PARENTS WITH THE OPTION
16 TO REDACT THEIR NAMES FROM CERTAIN
17 ADOPTION RECORDS DISCLOSED TO ADOPTEES
18 AND THEIR RELATIVES; AND TO PROVIDE
19 ADOPTEES AND THEIR RELATIVES WITH ACCESS
20 TO CERTAIN ADOPTION RECORDS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 9, Chapter 9, is amended to add an
27 additional subchapter to read as follows:

Subchapter 8 – Adoption Records

9-9-801. Definitions.

As used in this subchapter:

31 (1) "Adoption file" means a file maintained by the Department of
32 Health that contains an original birth certificate and adoption decree of an
33 adoptee;

34 (2) "Genetic and social history" has the same meaning as
35 provided under § 9-9-501; and

36 (3) "Requester" means a person twenty-one (21) years of age or



1 older who requests an adoption file under § 9-9-803 and is:

2 (A) The adoptee to whom the adoption file requested
3 pertains; or

4 (B) The child, surviving spouse, or guardian of any child
5 of a deceased adoptee to whom the adoption file requested pertains.

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7 9-9-802. Birth parent redaction request and contact preference forms.

8 (a)(1)(A) The Department of Health shall create and make available on
9 its website:

10 (i) A form that a birth parent may use to have his
11 or her name redacted from the copy of an adoption file that a requester
12 receives under § 9-9-803; and

13 (ii) A form that a birth parent may use to specify
14 if a requester may contact the birth parent and the preferred manner by which
15 a requester may contact the birth parent.

16 (B) The department shall make hard copies of the forms
17 required under subdivision (a)(1) of this section available to the public.

18 (2) The form required under subdivision (a)(1)(A)(i) of this
19 section shall include the following:

20 (A) Information about the procedures and requirements for
21 a birth parent to have the form:

22 (i) Placed in the adoption file of the birth
23 parent's offspring so that the birth parent's name is redacted from the copy
24 of the adoption file that a requester receives under section § 9-9-803; and

25 (ii) Removed from the adoption file of the birth
26 parent's offspring so that the birth parent's name is included in the copy of
27 the adoption file that a requester receives under section § 9-9-803;

28 (B) The information needed by the department to identify
29 the adoption file of the adoptee named on a form submitted under subdivisions
30 (a)(2)(A)(i) and (ii) of this section;

31 (C) An attestation by the birth parent that he or she is
32 the birth parent of the adoptee named on the form submitted under
33 subdivisions (a)(2)(A)(i) and (ii) of this section; and

34 (D) Any other information required by the department.

35 (3) The form required under subdivision (a)(1)(A)(ii) of this
36 section shall include the following:

1 (A) Information about the procedures and requirements for
2 a birth parent to have the form:

3 (i) Placed in the adoption file of the birth
4 parent's offspring; and

5 (ii) Removed from the adoption file of the birth
6 parent's offspring and replaced with an updated form;

7 (B) A section in which a birth parent may indicate whether
8 a requester may:

9 (i) Directly contact the birth parent;

10 (ii) Contact the birth parent through an
11 intermediary specified by the birth parent; or

12 (iii) Not contact the birth parent directly or
13 through an intermediary;

14 (C) The information needed by the department to identify
15 the adoption file of the adoptee named on the form submitted under
16 subdivisions (a)(3)(A)(i) and (ii) of this section;

17 (D) Notification that a form submitted under subdivisions
18 (a)(3)(A)(i) and (ii) of this section is advisory and unenforceable;

19 (E) An attestation by the birth parent that he or she is
20 the birth parent of the adoptee named on a form submitted under subdivisions
21 (a)(3)(A)(i) and (ii) of this section; and

22 (F) Any other information required by the department.

23 (b) The department shall accept a form submitted under this section
24 if:

25 (1) The form is notarized;

26 (2) The birth parent submits satisfactory proof of his or her
27 identity as determined by the rules of the department;

28 (3)(A) The birth parent completes, corrects, or expands his or
29 her genetic or social history.

30 (B) A completed, corrected, or expanded genetic or social
31 history under subdivision (b)(3)(A) of this section is required if the birth
32 parent's genetic or social history:

33 (i) Was not previously compiled; or

34 (ii) Was compiled but needs to be corrected or
35 expanded; and

36 (4) A completed form submitted under this section at least

1 substantially complies with the requirements of this section.

2 (c) The department shall not accept a form provided under this section
3 that is completed and submitted by a birth parent for another birth parent.

4 (d) The department shall place a form submitted under this section in
5 the adoption file of the adoptee named on the form if:

6 (1) The requirements of subsection (b) of this section are
7 substantially met; and

8 (2) The adoption file concerns the adoptee named on the form.

9 (e)(1) Upon accepting a form submitted under subdivision (a)(2)(A)(ii)
10 of this section, the department shall remove a form submitted under
11 subdivision (a)(2)(A)(i) of this section from the adoption file of the
12 adoptee named on the form.

13 (2) Upon accepting an updated form submitted under subdivision
14 (a)(3)(A)(ii) of this section, the department shall remove a form submitted
15 under subdivision (a)(3)(A)(i) of this section from the adoption file and
16 place the updated form in the adoption file.

17 (f) The department shall maintain an electronic copy and destroy the
18 hard copy of a form removed from an adoption file under subsection (d) of
19 this section.

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21 9-9-803. Access to adoption file.

22 (a) Beginning one (1) year after the effective date of this act, a
23 requester may submit a written request for a copy of an adoption file from
24 the Department of Health.

25 (b)(1) A request submitted under this section shall include the
26 requester's address and notarized signature and satisfactory proof of the
27 requester's identity as determined by the department.

28 (2) If the requester is the child, widow or widower, or guardian
29 of any child of the deceased adoptee to whom the adoption file pertains, the
30 requester shall also provide notarized documentation evidencing the
31 requester's relationship to the adoptee.

32 (c)(1) Upon receipt of a request made under subsection (a) of this
33 section, the department shall mail the adoption file to the requester at the
34 address provided in the request.

35 (2) If an adoption file contains a form submitted under § 9-9-
36 802(a)(2)(A)(i), the department shall redact the birth parent's name from the

1 copy of the adoption file before it is mailed to the requester.

2 (3) If a form under § 9-9-802(a)(2)(A)(ii) is submitted after a
3 copy of the adoption file is mailed to the requester, the department shall
4 mail the requester another copy of the adoption file with the birth parent's
5 name included in the adoption file within thirty (30) days of the date the
6 form was removed.

7 (4) Before mailing a requester an adoption file under
8 subdivision (c)(1) of this section, the department shall mark the certified
9 copy of the original birth certificate contained in the adoption file as not
10 intended for official use or similar.

11 (d) The department shall mail a requester an adoption file by
12 certified mail, return receipt requested.

13 (e)(1) If an adoption file contains a form submitted under § 9-9-
14 802(a)(3)(A)(i) and (ii), the department shall include the form in the
15 adoption file mailed to a requester.

16 (2) A form included in the adoption file under this subsection
17 shall be redacted in accordance with subdivision (c)(2) of this section.

18 (f) The department may set a fee that a requester shall be charged for
19 the department's provision of the adoption file requested.

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21 9-9-804. Immunity.

22 An officer or employee of the Department of Health who releases any
23 information contained in an adoption file or provides a copy of an adoption
24 file to a requester is not criminally liable or civilly liable in damages to
25 any person for injury, death, or loss allegedly arising from the release of
26 the information or copy if the officer or employee releases the information
27 or copy in accordance with § 9-9-803.

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29 SECTION 2. Arkansas Code § 20-18-305(1), concerning the issuance of
30 certified copies and data from systems of vital statistics, is amended to
31 read as follows:

32 (1)(A) The State Registrar of Vital Records and other custodians
33 of vital records designated by the state registrar under § 20-18-203(b)(2)
34 shall upon receipt of written application issue a certified copy of a vital
35 record in his or her custody or a part thereof to the registrant, his or her
36 spouse, child, parent, or guardian or his or her respective authorized

1 designated representative.

2 (B) A requester as defined in § 9-9-801 is authorized to
 3 obtain a certified copy of an adoptee's original certificate of birth.

4 (C) Others may be authorized to obtain certified copies
 5 when they demonstrate that the vital record is needed for the determination
 6 or protection of his or her personal or property rights.

7 (D) The State Board of Health may adopt regulations to
 8 further define those who may obtain copies of vital records filed under this
 9 chapter;

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 11 SECTION 3. Arkansas Code § 20-18-406(b), concerning new certificates
 12 of birth for persons born in Arkansas, is amended to read as follows:

13 (b) When a new certificate of birth is established, the actual city or
 14 county, or both, and date of birth shall be shown. The new certificate shall
 15 be substituted for the original certificate of birth. Thereafter, the
 16 original certificate and the evidence of adoption, paternity determination,
 17 or legitimation shall not be subject to inspection except upon order of an
 18 Arkansas court of competent jurisdiction or as provided by ~~regulation~~ rule or
 19 under § 9-9-803.