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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 1445

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to adoption; providing access to certain adoption records by certain
1.3 persons; changing classification of certain data; amending Minnesota Statutes
1.4 2006, sections 144.218, subdivision 1; 259.83, subdivision 3, by adding a
1.5 subdivision; 259.89.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2006, section 144.218, subdivision 1, is amended to read:

1.8 Subdivision 1. Adoption. Upon receipt of a certified copy of an order, decree, or
1.9 certificate of adoption, the state registrar shall register a replacement vital record in the
1.10 new name of the adopted person. The original record of birth is confidential pursuant to
1.11 private data on individuals as defined in section 13.02, subdivision 3 12, and shall not be
1.12 disclosed except pursuant to court order or section 144.2252. The information contained
1.13 on the original birth record, except for the registration number, shall be provided on
1.14 request to: (1) a parent who is named on the original birth record; and (2) the adopted
1.15 person who is the subject of the vital record if that person is at least 19 years of age. Upon
1.16 the receipt of a certified copy of a court order of annulment of adoption the state registrar
1.17 shall restore the original vital record to its original place in the file.

1.18 Sec. 2. Minnesota Statutes 2006, section 259.83, subdivision 3, is amended to read:

1.19 Subd. 3. Identifying Birth record information from agency. In adoptive
1.20 placements made on and after August 1, 1982, and before January 1, 2008, the agency
1.21 responsible for or supervising the placement shall obtain from the birth parents named on
1.22 the original birth record an affidavit attesting to the following:

1.23 (a) That the birth parent has been informed of the right of the adopted person at the
1.24 age specified in section 259.89 to request from the agency the name, last known address,

2.1 birthdate and birthplace of the birth parents named on the adopted person's original birth  
2.2 record;

2.3 (b) That each birth parent may file in the agency record an affidavit objecting to the  
2.4 release of any or all of the information listed in clause (a) about that birth parent, and that  
2.5 parent only, to the adopted person;

2.6 (c) That if the birth parent does not file an affidavit objecting to release of  
2.7 information before the adopted person reaches the age specified in section 259.89, the  
2.8 agency will provide the adopted person with the information upon request;

2.9 (d) That notwithstanding the filing of an affidavit, the adopted person may petition  
2.10 the court according to section 259.61 for release of identifying information about a birth  
2.11 parent;

2.12 (e) That the birth parent shall then have the opportunity to present evidence to the  
2.13 court that nondisclosure of identifying information is of greater benefit to the birth parent  
2.14 than disclosure to the adopted person; and

2.15 (f) That any objection filed by the birth parent shall become invalid when withdrawn  
2.16 by the birth parent or when the birth parent dies. Upon receipt of a death record for the  
2.17 birth parent, the agency shall release the identifying information to the adopted person if  
2.18 requested.

2.19 Sec. 3. Minnesota Statutes 2006, section 259.83, is amended by adding a subdivision  
2.20 to read:

2.21 Subd. 3a. **Birth record from Department of Health.** In adoptive placements made  
2.22 on and after January 1, 2008, the agency responsible for or supervising the placement shall  
2.23 obtain from the birth parents named on the original birth record an affidavit attesting that  
2.24 the birth parent has been informed of the following:

2.25 (1) the right of the adopted person at the age specified in section 259.89 to receive a  
2.26 copy of the person's original birth record from the Department of Health and to receive  
2.27 from the agency the name, last known address, birth date, and birth place of each birth  
2.28 parent named on the person's original birth certificate and all available medical and social  
2.29 information under section 259.43;

2.30 (2) that each birth parent may state that parent's contact preference subject to the  
2.31 adopted person's rights under clause (1). Contact preference may be direct contact, use  
2.32 of an intermediary for contact, or no contact at all. The birth parent may submit a new  
2.33 contact preference statement and updated medical and social information any time prior to  
2.34 the birth parent's death. The contact preference statement shall be filed with the agency;  
2.35 the agency shall send a copy to the Department of Health, Office of the State Registrar;

3.1 (3) that a birth parent who files a preference under clause (2) for no contact  
 3.2 understands that the Department of Health will release the information in clause (1).  
 3.3 Indicating no contact does not preclude the adopted person from contacting the birth  
 3.4 parent; and

3.5 (4) that if the birth parent does not file a preference under clause (2) for no contact  
 3.6 before the adopted person reaches the age specified in section 259.89, the agency will  
 3.7 provide the adopted person with the information upon request.

3.8 Sec. 4. Minnesota Statutes 2006, section 259.89, is amended to read:

3.9 **259.89 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.**

3.10 Subdivision 1. **Request.** In all adoptions granted before August 1, 1982, an adopted  
 3.11 person who is 19 years of age or over may request the commissioner of health to disclose  
 3.12 the information on the adopted person's original birth record. The commissioner of health  
 3.13 shall disclose the information contained on the original birth record unless there is an  
 3.14 unrevoked affidavit of nondisclosure on file with the Department of Health. If only one  
 3.15 parent has filed an unrevoked affidavit of nondisclosure, the commissioner of health  
 3.16 shall disclose to the adopted person original birth record information on the other parent.  
 3.17 If there is an unrevoked affidavit of nondisclosure, the commissioner of health shall,  
 3.18 within five days of receipt of the request, notify the ~~commissioner of human services in~~  
 3.19 ~~writing of the request by the adopted person~~ petitioner in writing of the date of filing  
 3.20 of the affidavit of nondisclosure.

3.21 Subd. 2. **Search.** (a) Upon receipt of the commissioner of health's notice of the date  
 3.22 of filing the affidavit of nondisclosure, the adopted person may request the assistance of  
 3.23 the commissioner of human services in contacting the birth parent, notifying the birth  
 3.24 parent of the adopted person's request for birth record information, and inquiring if the  
 3.25 birth parent desires to revoke the affidavit of nondisclosure. Within six months after  
 3.26 receiving notice of the request of the adopted person, the commissioner of human services  
 3.27 shall make complete and reasonable efforts to notify each parent identified on the original  
 3.28 birth record of the adopted person. The commissioner, the commissioner's agents, and  
 3.29 licensed child-placing agencies may charge a reasonable fee to the adopted person for the  
 3.30 cost of making a search pursuant to this subdivision. Every licensed child-placing agency  
 3.31 in the state shall cooperate with the commissioner of human services in efforts to notify an  
 3.32 identified parent. All communications under this subdivision are confidential pursuant  
 3.33 to section 13.02, subdivision 3.

3.34 (b) For purposes of this subdivision, "notify" means a personal and confidential  
 3.35 contact with the birth parents named on the original birth record of the adopted person.

4.1 The contact shall not be by mail and shall be by an employee or agent of the licensed  
4.2 child-placing agency which processed the pertinent adoption or some other licensed  
4.3 child-placing agency designated by the commissioner of human services. The contact  
4.4 shall be evidenced by ~~filing with the commissioner of health an affidavit of notification~~  
4.5 ~~executed by the person who notified each parent certifying that each parent was given~~  
4.6 notifying the adopted person of the following information:

4.7 ~~(a) The nature of the information requested by the adopted person;~~

4.8 ~~(b) The date of the request of the adopted person;~~

4.9 ~~(c) The right of the parent to file, within 30 days of receipt of the notice, an affidavit~~  
4.10 ~~with the commissioner of health stating that the information on the original birth record~~  
4.11 ~~should not be disclosed;~~

4.12 ~~(d) The right of the parent to file a consent to disclosure with the commissioner~~  
4.13 ~~of health at any time; and~~

4.14 ~~(e) The effect of a failure of the parent to file either a consent to disclosure or an~~  
4.15 ~~affidavit stating that the information on the original birth record should not be disclosed:~~

4.16 ~~(1) the date the birth parent was contacted; and~~

4.17 ~~(2) the birth parent's response.~~

4.18 ~~(c) If the birth parent decided to revoke the affidavit of nondisclosure, a copy of a~~  
4.19 ~~signed and dated affidavit of disclosure must be filed with the Department of Health,~~  
4.20 ~~Office of the State Registrar. Upon receipt of the affidavit of disclosure and a notarized~~  
4.21 ~~request from the adopted person, the commissioner of health shall release the original~~  
4.22 ~~birth record to the adopted person.~~

4.23 ~~(d) If the birth parent does not revoke the affidavit of nondisclosure, the birth parent~~  
4.24 ~~must be advised of the right to file a consent to disclosure with the commissioner of~~  
4.25 ~~health at any time. The agency shall send a copy of the contact to the Department of~~  
4.26 ~~Health, Office of the State Registrar.~~

4.27 Subd. 3. **Failure to notify parent.** If the commissioner of human services certifies  
4.28 to the commissioner of health an inability to notify a parent ~~identified on the original~~  
4.29 ~~birth record within six months, and if neither identified parent has at any time filed an~~  
4.30 ~~unrevoked consent to disclosure with the commissioner of health, the information may~~  
4.31 ~~be disclosed as follows:~~

4.32 ~~(a) If the person was adopted prior to August 1, 1977, the person may petition the~~  
4.33 ~~appropriate court for disclosure of the original birth record pursuant to section 259.61,~~  
4.34 ~~and the court shall grant the petition if, after consideration of the interests of all known~~  
4.35 ~~persons involved, the court determines that disclosure of the information would be of~~  
4.36 ~~greater benefit than nondisclosure.~~

5.1 (b) ~~If the person was adopted on or after August 1, 1977, the commissioner of health~~  
5.2 ~~shall release the requested information to the adopted person:~~

5.3 ~~If either parent identified on the birth record has at any time filed with the~~  
5.4 ~~commissioner of health an unrevoked affidavit stating that the information on the original~~  
5.5 ~~birth record should not be disclosed, the commissioner of health shall not disclose the~~  
5.6 ~~information to the adopted person until the affidavit is revoked by the filing of a consent~~  
5.7 ~~to disclosure by that parent who had filed an affidavit of nondisclosure or certifies the~~  
5.8 ~~parent is deceased, the commissioner of health shall release the original birth record to~~  
5.9 ~~the adopted person.~~

5.10 **Subd. 4. Release of information after notice; adoptions on or after January**  
5.11 **1, 2008.** ~~If, within six months, the commissioner of human services certifies to the~~  
5.12 ~~commissioner of health notification of each parent identified on the original birth record~~  
5.13 ~~pursuant to subdivision 2, the commissioner of health shall disclose the information~~  
5.14 ~~requested by the adopted person 31 days after the date of the latest notice to either parent.~~  
5.15 ~~This disclosure will occur if, at any time during the 31 days both of the parents identified on~~  
5.16 ~~the original birth record have filed a consent to disclosure with the commissioner of health~~  
5.17 ~~and neither consent to disclosure has been revoked by the subsequent filing by a parent of~~  
5.18 ~~an affidavit stating that the information should not be disclosed. If only one parent has filed~~  
5.19 ~~a consent to disclosure and the consent has not been revoked, the commissioner of health~~  
5.20 ~~shall disclose, to the adopted person, original birth record information on the consenting~~  
5.21 ~~parent only.~~ For all adoptions granted on or after January 1, 2008, the commissioner of  
5.22 health shall, upon request of an adopted person who is at least 19 years of age, release a  
5.23 copy of the original birth record pursuant to section 259.83, subdivision 3a.

5.24 **Subd. 5. Death of parent.** ~~Notwithstanding the provisions of subdivisions 3 and 4,~~  
5.25 ~~if a parent named on the original birth record of an adopted person has died, and at any~~  
5.26 ~~time prior to the death the parent has filed an unrevoked affidavit with the commissioner of~~  
5.27 ~~health stating that the information on the original birth record should not be disclosed, the~~  
5.28 ~~adopted person may petition the court of original jurisdiction of the adoption proceeding~~  
5.29 ~~for disclosure of the original birth record pursuant to section 259.61. The court shall~~  
5.30 ~~grant the petition if, after consideration of the interests of all known persons involved,~~  
5.31 ~~the court determines that disclosure of the information would be of greater benefit than~~  
5.32 ~~nondisclosure:~~

5.33 **Subd. 6. Determination of eligibility for enrollment or membership in a**  
5.34 **federally recognized American Indian tribe.** The state registrar shall provide a copy  
5.35 of an adopted person's original birth record to an authorized representative of a federally

6.1 recognized American Indian tribe for the sole purpose of determining the adopted person's  
6.2 eligibility for enrollment or membership in the tribe.

6.3 Sec. 5. **EFFECTIVE DATE.**

6.4 Sections 1 to 4 are effective January 1, 2008.