

AN ACT relating to adoptee rights.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) An adult adopted person born in the Commonwealth may apply in writing to the state registrar for a copy of his or her original unaltered certificate of birth.

(2) Upon receipt of the written application and proof of identification, the state registrar shall issue a noncertified copy of the unaltered original certificate of birth to the applicant. If a contact preference or medical history form has been completed and submitted, the state registrar shall provide that information.

(3) The state registrar may require a waiting period and impose a fee for the noncertified copy provided pursuant to subsection (2) of this section. The fees and waiting period shall be identical to the fees and waiting period for any person seeking his or her own certificate of birth.

(4) The state registrar shall, by administrative regulation, establish a form application for an adopted person's original unaltered certificate of birth.

➔Section 2. KRS 199.570 is amended to read as follows:

- (1) (a) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to the proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection.
- (b) Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights

provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

- (c) No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records to any person or other entity that does not meet the requirements of KRS 199.572, except upon order of the court which entered the judgment of adoption.
- (2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for Health and Family Services of Kentucky full information as called for on forms furnished by the Cabinet for Health and Family Services, necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for Health and Family Services shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."
- (3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents, and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for Health and Family Services in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth

certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for Health and Family Services shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for Health and Family Services shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

- (4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of the child's birth, or upon receipt of an application pursuant to Section 1 of this Act.
- (5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for Health and Family Services of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

➔Section 3. KRS 199.572 is amended to read as follows:

- (1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records, to

personal contact by the child, or to both when the child~~he~~ becomes an adult. If consent is then given, it can later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the Circuit Court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet to state a preference regarding contact by the child if the child files an application pursuant to Section 1 of this Act. The statement of preference shall be made available to the adult adopted person when the copy of the original certificate of birth is issued.

(3) When any adult adopted person applies in person or in writing to the Circuit Court for authorization to inspect all papers and records pertaining to the adoption proceedings of that adult adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to personal contact, the court may, if satisfied as to the identity of the adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(4)~~(3)~~ The Circuit Court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that the person has applied to the court for information identifying the biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may

charge a reasonable fee not to exceed two hundred fifty dollars (\$250) to the adult adopted person for making this search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify these biological parents.

~~(5)~~~~(4)~~ If the cabinet utilizes the services of another person or entity to perform a search under subsection ~~(4)~~~~(3)~~ of this section, the cabinet shall enter into a formal contract with that person or entity. A person or entity contracted to perform a search shall be licensed under the provisions of KRS Chapter 329A.

~~(6)~~~~(5)~~ The notification of the biological parents shall not be by mail and shall be by personal and confidential contact by the cabinet. The notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the Circuit Court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

- (a) The nature of the information requested by the adult adopted person;
- (b) The date of the request of the adult adopted person;
- (c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the Circuit Court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;
- (d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and
- (e) The right of a biological parent to file an affidavit with the Circuit Court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

~~(7)~~~~(6)~~ The adult adopted person shall not be authorized to inspect the papers and records pertaining to his or her adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to that inspection.

~~(8)~~~~(7)~~ If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the Circuit Court, upon motion of the adult adopted person, may order that all papers and records of the Cabinet for Health and Family Services and those of the Circuit Court pertaining to the adoption shall be open for inspection to the adult adopted person. In any case, the court shall order that only identifying information about the biological parents be shared with the adult adopted person.

➔Section 4. KRS 213.071 is amended to read as follows:

- (1) The state registrar shall establish a new certificate of birth for a person born in the Commonwealth when the state registrar receives the following:
  - (a) A report of adoption as provided in KRS 213.066 or a report of adoption prepared and filed in accordance with the laws of another state or foreign country or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or
  - (b) A request that a new certificate be established as prescribed by administrative regulation and the evidence as required by administrative regulation proving that the person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of the person in which case the surname of the child shall be changed in accordance with KRS 213.046.
- (2) If paternity is determined in a court action, the clerk shall report the findings of the court to the state registrar on forms prescribed and furnished for that purpose. The

reports shall be made no later than the fifteenth of the month following the date of the order.

- (3) If a new certificate is established, the actual place and date of birth shall be shown except in the case of adoption. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate, when issued, shall not contain the place of birth, hospital, or name of the doctor or midwife. This information shall be given only by an order of the court in which the child was adopted. If the child was born in the Commonwealth, the new birth certificate shall show the residence of the adoptive parents as the birthplace of the child, and this shall be deemed for all legal purposes to be the birthplace of the child.
- (4) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, paternity determination, or paternity acknowledgment shall not be subject to inspection except upon order of a court of competent jurisdiction *or, for the original certificate of birth, upon receipt of an application pursuant to Section 1 of this Act.*
- (5) If any judgment under this section is reversed, amended, modified, or vacated in any particular, the clerk of the court shall notify the state registrar of the reversal or modification, and the state registrar shall make the changes, if any, in the records as may be necessary by the reversal or modification, or if the voluntary acknowledgment of paternity pursuant to KRS 213.046(4) is rescinded, the state registrar shall make the changes, if any, in the records as may be necessary by the reversal, modification, or rescission of the voluntary acknowledgment of paternity.
- (6) If a new certificate of birth is established by the state registrar, all copies of the original certificate of birth on file in the local health department shall be sealed and

forwarded to the state registrar as the state registrar shall direct.

- (7) If no birth certificate is on file for an adopted child born in Kentucky, the state registrar shall prepare a certificate of birth in accordance with information furnished by the clerk of the Circuit Court which issued the adoption order. The state registrar shall furnish the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section.