

AMENDED IN SENATE APRIL 1, 2024

SENATE BILL

No. 1274

Introduced by Senator Eggman
(Principal coauthor: Senator Wahab)

February 15, 2024

An act to amend Section ~~102645~~ of, to repeal Section ~~102675~~ of, and to repeal and add Section ~~102705~~ of, 1798.24 of the Civil Code, and to amend Sections 102645, 102680, and 102705 of, to add Sections 102620, 102706, and 102707 to, and to repeal Section 102675 of, the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1274, as amended, Eggman. Vital records: adoptees' birth certificates.

Existing law prohibits an agency from disclosing personal information that would link the information to the individual unless, among other things, the information is provided to a governmental entity by law, or the disclosure is to the individual to whom the information pertains.

This bill would authorize disclosure of an original birth certificate, as defined, to an adopted person, or child or grandchild of an adopted person.

Existing law requires the clerk of the court to report the decree to the State Registrar within 5 days after a decree of adoption. Existing law requires the State Registrar to generate a new birth certificate when the State Registrar receives a report of adoption from a specified court or when the State Registrar receives a specified court order.

Existing law requires the new birth certificate to bear certain information and be identical to the certificate issued to the natural parents, except, when requested by the adopting parents, the certificate

is required to omit the facility of birth and the race and color of the parents.

This bill would remove the adopted parents exception described above that required the certificate to omit the facility of birth and the race and color of the parents.

Existing law authorizes the adopting parents to request an amended certificate that omits, among other things, the city and county of birth, or the color and race of the parents.

This bill would repeal that authorization.

Existing law ~~provides that~~ *makes* vital records related to adoptions, other than a newly issued birth certificate, ~~shall be~~ available only upon the order of the superior court of the county of residence of the adopted child or of the county granting the order of adoption. ~~Under existing law, the court is prohibited~~ *Existing law prohibits the court* from granting the records order unless a verified petition setting forth facts showing the necessity of the order has been presented to the court and good and compelling cause is shown for granting the order.

~~This bill would repeal those provisions and instead require the State Registrar to provide a copy of the adopted person's original birth certificate and evidence of adoption to the adult adopted person born in this state, or a direct line descendant of a deceased adopted person. Similarly prohibit the court from granting a records order releasing an original birth certificate. The bill would also require the State Registrar to create and make available to a birth parent a contact preference form containing certain elections that would be available for release when a request for an original birth certificate is made.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 1798.24 of the Civil Code is amended to*
- 2 *read:*
- 3 1798.24. An agency shall not disclose ~~any~~ personal information
- 4 in a manner that would link the information disclosed to the
- 5 individual to whom it pertains unless the information is disclosed,
- 6 as follows:
- 7 (a) To the individual to whom the information pertains.
- 8 (b) With the prior written voluntary consent of the individual
- 9 to whom the information pertains, but only if that consent has been

1 obtained not more than 30 days before the disclosure, or in the
2 time limit agreed to by the individual in the written consent.

3 (c) To the duly appointed guardian or conservator of the
4 individual or a person representing the individual if it can be proven
5 with reasonable certainty through the possession of agency forms,
6 documents, or correspondence that this person is the authorized
7 representative of the individual to whom the information pertains.

8 (d) To those officers, employees, attorneys, agents, or volunteers
9 of the agency that have custody of the information if the disclosure
10 is relevant and necessary in the ordinary course of the performance
11 of their official duties and is related to the purpose for which the
12 information was acquired.

13 (e) To a person, or to another agency if the transfer is necessary
14 for the transferee agency to perform its constitutional or statutory
15 duties, and the use is compatible with a purpose for which the
16 information was collected and the use or transfer is in accordance
17 with Section 1798.25. With respect to information transferred from
18 a law enforcement or regulatory agency, or information transferred
19 to another law enforcement or regulatory agency, a use is
20 compatible if the use of the information requested is needed in an
21 investigation of unlawful activity under the jurisdiction of the
22 requesting agency or for licensing, certification, or regulatory
23 purposes by that agency.

24 (f) To a governmental entity if required by state or federal law.

25 (g) Pursuant to the California Public Records Act (Division 10
26 (commencing with Section 7920.000) of Title 1 of the Government
27 Code).

28 (h) To a person who has provided the agency with advance,
29 adequate written assurance that the information will be used solely
30 for statistical research or reporting purposes, but only if the
31 information to be disclosed is in a form that will not identify ~~any~~
32 *an* individual.

33 (i) Pursuant to a determination by the agency that maintains
34 information that compelling circumstances exist that affect the
35 health or safety of an individual, if upon the disclosure notification
36 is transmitted to the individual to whom the information pertains
37 at the individual's last known address. Disclosure shall not be
38 made if it is in conflict with other state or federal laws.

39 (j) To the State Archives as a record that has sufficient historical
40 or other value to warrant its continued preservation by the

- 1 California state government, or for evaluation by the Director of
 2 General Services or the director’s designee to determine whether
 3 the record has further administrative, legal, or fiscal value.
- 4 (k) To ~~any~~ a person pursuant to a subpoena, court order, or other
 5 compulsory legal process if, before the disclosure, the agency
 6 reasonably attempts to notify the individual to whom the record
 7 pertains, and if the notification is not prohibited by law.
- 8 (l) To ~~any~~ a person pursuant to a search warrant.
- 9 (m) Pursuant to Article 3 (commencing with Section 1800) of
 10 Chapter 1 of Division 2 of the Vehicle Code.
- 11 (n) For the sole purpose of verifying and paying government
 12 health care service claims made pursuant to Division 9
 13 (commencing with Section 10000) of the Welfare and Institutions
 14 Code.
- 15 (o) To a law enforcement or regulatory agency when required
 16 for an investigation of unlawful activity or for licensing,
 17 certification, or regulatory purposes, unless the disclosure is
 18 otherwise prohibited by law.
- 19 (p) To another person or governmental organization to the extent
 20 necessary to obtain information from the person or governmental
 21 organization for an investigation by the agency of a failure to
 22 comply with a specific state law that the agency is responsible for
 23 enforcing.
- 24 (q) To an adopted person and disclosure is limited to general
 25 background information pertaining to the adopted person’s
 26 biological parents, if the information does not include or reveal
 27 the identity of the biological parents.
- 28 (r) *To an adopted person, or child or grandchild of an adopted*
 29 *person, limited to the adopted person’s original birth certificate*
 30 *retrieved as prescribed in Section 102705 of the Health and Safety*
 31 *Code.*
- 32 (†)
- 33 (s) To a child or a grandchild of an adopted person and
 34 disclosure is limited to medically necessary information pertaining
 35 to the adopted person’s biological parents. However, the
 36 information, or the process for obtaining the information, shall not
 37 include or reveal the identity of the biological parents. The State
 38 Department of Social Services shall adopt regulations governing
 39 the release of information pursuant to this subdivision. The
 40 regulations shall require licensed adoption agencies to provide the

1 same services provided by the department as established by this
2 subdivision.

3 ~~(s)~~

4 (t) To a committee of the Legislature or to a Member of the
5 Legislature, or the member's staff if authorized in writing by the
6 member, if the member has permission to obtain the information
7 from the individual to whom it pertains or if the member provides
8 reasonable assurance that the member is acting on behalf of the
9 individual.

10 ~~(t)~~

11 (u) (1) To the University of California, a nonprofit educational
12 institution, an established nonprofit research institution performing
13 health or social services research, the Cradle-to-Career Data
14 System, for purposes consistent with the creation and execution
15 of the Cradle-to-Career Data System Act pursuant to Article 2
16 (commencing with Section 10860) of Chapter 8.5 of Part 7 of
17 Division 1 of Title 1 of the Education Code, or, in the case of
18 education-related data, another nonprofit entity, conducting
19 scientific research, if the request for information is approved by
20 the Committee for the Protection of Human Subjects (CPHS) for
21 the California Health and Human Services Agency (CHHSA) or
22 an institutional review board, as authorized in paragraphs (5) and
23 (6). The approval shall include a review and determination that all
24 the following criteria have been satisfied:

25 (A) The researcher has provided a plan sufficient to protect
26 personal information from improper use and disclosures, including
27 sufficient administrative, physical, and technical safeguards to
28 protect personal information from reasonable anticipated threats
29 to the security or confidentiality of the information.

30 (B) The researcher has provided a sufficient plan to destroy or
31 return all personal information as soon as it is no longer needed
32 for the research project, unless the researcher has demonstrated
33 an ongoing need for the personal information for the research
34 project and has provided a long-term plan sufficient to protect the
35 confidentiality of that information.

36 (C) The researcher has provided sufficient written assurances
37 that the personal information will not be reused or disclosed to
38 any other person or entity, or used in any manner, not approved
39 in the research protocol, except as required by law or for authorized
40 oversight of the research project.

1 (2) The CPHS shall enter into a written agreement with the
2 Office of Cradle-to-Career Data, as defined in Section 10862 of
3 the Education Code, to assist the managing entity of that office in
4 its role as the institutional review board for the Cradle-to-Career
5 Data System.

6 (3) The CPHS or institutional review board shall, at a minimum,
7 accomplish all of the following as part of its review and approval
8 of the research project for the purpose of protecting personal
9 information held in agency databases:

10 (A) Determine whether the requested personal information is
11 needed to conduct the research.

12 (B) Permit access to personal information only if it is needed
13 for the research project.

14 (C) Permit access only to the minimum necessary personal
15 information needed for the research project.

16 (D) Require the assignment of unique subject codes that are not
17 derived from personal information in lieu of social security
18 numbers if the research can still be conducted without social
19 security numbers.

20 (E) If feasible, and if cost, time, and technical expertise permit,
21 require the agency to conduct a portion of the data processing for
22 the researcher to minimize the release of personal information.

23 (4) Reasonable costs to the agency associated with the agency's
24 process of protecting personal information under the conditions
25 of CPHS approval may be billed to the researcher, including, but
26 not limited to, the agency's costs for conducting a portion of the
27 data processing for the researcher, removing personal information,
28 encrypting or otherwise securing personal information, or assigning
29 subject codes.

30 (5) The CPHS may enter into written agreements to enable other
31 institutional review boards to provide the data security approvals
32 required by this subdivision, if the data security requirements set
33 forth in this subdivision are satisfied.

34 (6) Pursuant to paragraph (5), the CPHS shall enter into a written
35 agreement with the institutional review board established pursuant
36 to former Section 49079.6 of the Education Code. The agreement
37 shall authorize, commencing July 1, 2010, or the date upon which
38 the written agreement is executed, whichever is later, that board
39 to provide the data security approvals required by this subdivision,
40 if the data security requirements set forth in this subdivision and

1 the act specified in subdivision (a) of Section 49079.5 of the
2 Education Code are satisfied.

3 ~~(t)~~

4 (v) To an insurer if authorized by Chapter 5 (commencing with
5 Section 10900) of Division 4 of the Vehicle Code.

6 ~~(v)~~

7 (w) Pursuant to Section 450, 452, 8009, or 18396 of the
8 Financial Code.

9 ~~(w)~~

10 (x) For the sole purpose of participation in interstate data sharing
11 of prescription drug monitoring program information pursuant to
12 the California Uniform Controlled Substances Act (Division 10
13 (commencing with Section 11000) of the Health and Safety Code),
14 if disclosure is limited to prescription drug monitoring program
15 information.

16 This article does not require the disclosure of personal
17 information to the individual to whom the information pertains if
18 that information may otherwise be withheld as set forth in Section
19 1798.40.

20 *SEC. 2. Section 102620 is added to the Health and Safety Code,*
21 *to read:*

22 *102620. For the purposes of this article, "original birth*
23 *certificate" means the certificate issued at a live birth of an*
24 *adopted person pursuant to Section 102100 that has been sealed*
25 *pursuant to Section 102685 or supplanted pursuant to Section*
26 *102680.*

27 **SECTION 1.**

28 *SEC. 3.* Section 102645 of the Health and Safety Code is
29 amended to read:

30 102645. The new birth certificate shall bear the name of the
31 ~~child~~ *adopted person* as shown in the report of adoption, the names
32 and ages of ~~his or her~~ *their* adopting parents, *and* the date and
33 actual place of birth, and no reference shall be made in the new
34 birth certificate to the adoption of the ~~child~~ *adopted person*. The
35 new certificate shall be identical with a birth certificate registered
36 for the birth of a child of natural parents.

37 ~~SEC. 2.~~

38 *SEC. 4.* Section 102675 of the Health and Safety Code is
39 repealed.

1 SEC. 5. Section 102680 of the Health and Safety Code is
2 amended to read:

3 102680. (a) The new birth certificate shall supplant any birth
4 certificate previously registered for the child and shall be the only
5 birth certificate open to public inspection.

6 (b) Nothing in this section precludes an adopted person from
7 retrieving their original birth certificate pursuant to Section
8 102706.

9 ~~SEC. 3. Section 102705 of the Health and Safety Code is~~
10 ~~repealed.~~

11 ~~SEC. 4. Section 102705 is added to the Health and Safety Code,~~
12 ~~to read:~~

13 ~~102705. Notwithstanding any other provision of law, the State~~
14 ~~Registrar shall provide to an adopted person who is 18 years of~~
15 ~~age or older and who was born in this state, or to a direct line~~
16 ~~descendant of a deceased adopted person, a copy of the adopted~~
17 ~~person's original birth certificate and any evidence of the adoption~~
18 ~~previously filed with the State Registrar.~~

19 SEC. 6. Section 102705 of the Health and Safety Code is
20 amended to read:

21 102705. (a) All records and information specified in this
22 article, other than the newly issued birth certificate, and the original
23 birth certificate as defined in Section 102620, shall be available
24 only upon the order of the superior court of the county of residence
25 of the adopted child or the superior court of the county granting
26 the order of adoption.

27 ~~No such order shall be granted by the superior court~~

28 (b) The superior court shall not grant an order unless a verified
29 petition setting forth facts showing the necessity of the order has
30 been presented to the court and good and compelling cause is
31 shown for the granting of the order. The clerk of the superior court
32 shall send a copy of the petition to the State Department of Social
33 Services and the department shall send a copy of all records and
34 information it has concerning the adopted person with the name
35 and address of the natural parents removed to the court. The court
36 must review these records before making an order and the order
37 should so state. If the petition is by or on behalf of an adopted
38 child who has attained majority, these facts shall be given great
39 weight, but the granting of any a petition is solely within the sound
40 discretion of the court.

1 The

2 (c) *The name and address of the natural parents shall be given*
3 *to the petitioner only if ~~he or she~~ they can demonstrate that the*
4 *name and address, or either of them, are necessary to assist ~~him~~*
5 *or her them in establishing a legal right.*

6 SEC. 7. *Section 102706 is added to the Health and Safety Code,*
7 *to read:*

8 102706. (a) *Notwithstanding any other provision of law, the*
9 *State Registrar shall provide to an adopted person who is 18 years*
10 *of age or older and who was born in this state, or to a direct line*
11 *descendant of a deceased adopted person, a copy of the adopted*
12 *person’s original birth certificate, as defined in Section 102620,*
13 *previously filed with the State Registrar.*

14 (b) *To receive a copy of an original birth certificate pursuant*
15 *to this section, the adopted person, or a direct line descendant of*
16 *a deceased adopted person, shall make the request to either the*
17 *county or State Registrar. A copy of the original birth certificate*
18 *shall clearly indicate that it may not be used for identification*
19 *purposes.*

20 (c) *All procedures, fees, and waiting periods pursuant to Section*
21 *103525 to 103590, inclusive, and applicable to a nonadopted*
22 *person’s request for a copy of a birth certificate, shall apply to*
23 *requests made pursuant to this section.*

24 (d) *If a contact preference form is attached to an original birth*
25 *certificate as provided in Section 102707, the State Registrar shall*
26 *provide a copy of the contact preference form at the time the*
27 *original birth certificate is produced to the adopted person.*

28 SEC. 8. *Section 102707 is added to the Health and Safety Code,*
29 *to read:*

30 102707. (a) *The State Registrar shall make available to the*
31 *public, a contact preference form as described in this section. The*
32 *contact preference form shall include the following selections to*
33 *be completed at the option of the birth parent:*

34 (1) *“I would like to be contacted.”*

35 (2) *“I would prefer to be contacted only through an*
36 *intermediary.”*

37 (3) *“I would prefer not to be contacted at this time. If I decide*
38 *at a later time that I would like to be contacted, I will submit an*
39 *updated contact preference form to the State Department of Public*
40 *Health.”*

1 ***(b) If a birth parent of an adopted person submits a completed***
2 ***contact preference form to the State Registrar, the State Registrar***
3 ***shall do the following:***
4 ***(1) Match the contact preference form to the adopted person’s***
5 ***original birth certificate.***
6 ***(2) Attach the contact preference form to the original birth***
7 ***certificate.***
8 ***(c) A contact preference form submitted to the State Registrar***
9 ***pursuant to this section is a confidential communication between***
10 ***the birth parent and the adopted person or direct line descendant***
11 ***of a deceased adopted person and, notwithstanding any other law,***
12 ***may only be released as provided in Section 102706.***

O