

## LEGISLATIVE BILL 952

Approved by the Governor April 19, 2002

Introduced by Burling, 33; Jensen, 20; Quandahl, 31; Schimek, 27; Erdman, 47

AN ACT relating to adoption; to amend sections 43-143 and 43-146.01, Reissue Revised Statutes of Nebraska, and section 43-104, Revised Statutes Supplement, 2000; to provide access to adoption records by heirs as prescribed; to change provisions relating to relinquishments; to eliminate prospective adoptive parent nonconsent forms as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Notwithstanding sections 43-119 to 43-146.16, an heir twenty-one years of age or older of an adopted person shall have access to all information on file at the Department of Health and Human Services Finance and Support related to such adopted person, including information contained in the original birth certificate of the adopted person, if (1) (a) the adopted person is deceased, (b) both biological parents of the adopted person are deceased or, if only one biological parent is known, such parent is deceased, and (c) each spouse of the biological parent or parents of the adopted person, if any, is deceased, if such spouse is not a biological parent, or (2) at least one hundred years has passed since the birth of the adopted person. The department shall provide a form for requesting such information. The department may charge a reasonable fee in an amount established by rules and regulations of the department to recover expenses in carrying out this section. The department may waive the fee if the requesting party shows that the fee would work an undue financial hardship on the party. When any information is provided to an heir of an adopted person under this section, the department shall record in the records of the adopted person the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure. For purposes of this section, an heir of an adopted person means a direct biological descendent of such adopted person.

The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 2. Section 43-104, Revised Statutes Supplement, 2000, is amended to read:

43-104. Except as otherwise provided in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless written consents thereto are filed in the court of the county in which the person or persons desiring to adopt reside and the written consents are executed by (1) the minor child, if over fourteen years of age, or the adult child, (2) any district court, county court, or separate juvenile court in the State of Nebraska having jurisdiction of the custody of a minor child by virtue of divorce proceedings had in any district court, county court, or separate juvenile court in the State of Nebraska or by virtue of section 43-1203, and (3) both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24, except that consent shall not be required of any parent who (a) has relinquished the child for adoption by a written instrument, (b) has abandoned the child for at least six months next preceding the filing of the adoption petition, (c) has been deprived of his or her parental rights to such child by the order of any court of competent jurisdiction, or (d) is incapable of consenting. On and after the effective date of this act, a written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child.

Sec. 3. Section 43-143, Reissue Revised Statutes of Nebraska, is amended to read:

43-143. For adoptions in which the relinquishment or consent for adoption was given prior to the effective date of this act: An adoptive parent or parents may at any time, if they desire, file a notice of nonconsent with the Department of Health and Human Services Finance and Support stating that at no time prior to his or her death or the death of both parents if each signed the form may any information on the adopted person's original birth certificate be released to such adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 4. Section 43-146.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.01. (1) Sections 43-106.02, 43-121, 43-123.01, and 43-146.02 to 43-146.16 shall provide the procedures for gaining access to information concerning an adopted person when a relinquishment or consent for an adoption is given on or after September 1, 1988.

(2) Sections 43-119 to 43-142 shall remain in effect for a relinquishment or consent for an adoption which is given prior to September 1, 1988.

(3) Except as otherwise provided in subsection (2) of section 43-107, ~~and~~ subdivisions (1)(b) and (1)(c) of section 43-109, and subsection (4) of this section: Sections ~~sections~~ 43-101 to 43-118, 43-143 to 43-146, 71-626, 71-626.01, and 71-627.02 and section 1 of this act shall apply to all adoptions.

(4) Sections 43-143 to 43-146 shall not apply to adopted persons for whom a relinquishment or consent for adoption was given on and after the effective date of this act.

Sec. 5. Original sections 43-143 and 43-146.01, Reissue Revised Statutes of Nebraska, and section 43-104, Revised Statutes Supplement, 2000, are repealed.