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Indicates New Matter

COMMITTEE REPORT

March 29, 2017

**H. 3898**

Introduced by Reps. Knight, Henegan, Spires, King, Douglas, Robinson‑Simpson, Felder, Hosey, Clyburn, Mack, Kirby, Alexander, Bennett, Whipper, Collins, Arrington, Loftis, Pitts and Elliott

S. Printed 3/29/17--H.

Read the first time March 7, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3898) to amend Section 63‑9‑780, Code of Laws of South Carolina, 1976, relating to access to and disclosure of nonidentifying and identifying information about adoptees, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 63‑9‑780, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ACCESS TO AND DISCLOSURE OF NONIDENTIFYING AND IDENTIFYING INFORMATION ABOUT ADOPTEES, BIOLOGICAL PARENTS, AND BIOLOGICAL SIBLINGS, SO AS TO APPLY ALSO TO BIOLOGICAL GRANDPARENTS, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 63‑9‑780(D) and (E) of the 1976 Code is amended to read:

“(D) The provisions of this section must not be construed to prevent any adoption agency from furnishing to adoptive parents, biological parents, biological grandparents, biological siblings, or adoptees nonidentifying information when in the sole discretion of the chief executive officer of the agency the information would serve the best interests of the persons concerned either during the period of placement or at a subsequent time nor must the provisions of this article and Article 7 be construed to prevent giving nonidentifying information to any other person, party, or agency who in the discretion of the chief executive officer of the agency has established a sufficient reason justifying the release of that nonidentifying information. As used in this subsection ‘nonidentifying information’ includes but is not limited to the following:

(1) the health and medical histories of the biological parents, biological grandparents, or biological siblings;

(2) the health and medical history of the adoptee;

(3) the adoptee’s general family background without name references or geographical designations; and

(4) the length of time the adoptee has been in the care and custody of the adoptive parent.

(E)(1) The public adoption ~~agencies~~ agency responsible for the placement shall furnish to an adoptee the identity of the adoptee’s biological parents, biological grandparents, and biological siblings and to the biological parents, biological grandparents, and biological siblings the identity of the adoptee under the following conditions:

(a) for an adoptee applying for identifying information about a biological parent or biological grandparent:

(i) the adoptee must be twenty‑one years of age or older, and ~~the applicants shall~~ must apply in writing to the adoption agency for the information; and

~~(b)~~(ii) the adoption agency must have a current file containing affidavits from the adoptee and the biological ~~parents and siblings that they are willing to have their identities revealed~~ parent or biological grandparent, as applicable, agreeing to the disclosure of their identity to each other. The affidavit also must include a statement releasing the agency from any liability due to the disclosure. It is the responsibility of the person furnishing the affidavit to advise the agency of a change in his status, name, and address;

(b) for an adoptee applying for identifying information about a biological sibling:

(i) the adoptee and the biological sibling must be twenty‑one years of age or older, and the adoptee must apply in writing to the adoption agency for the information; and

(ii) the adoption agency must have a current file containing affidavits from the adoptee and the biological sibling agreeing to the disclosure of their identity to each other. The affidavit also must include a statement releasing the agency from any liability due to the disclosure. It is the responsibility of the person furnishing the affidavit to advise the agency of a change in his status, name, and address;

(c) for a biological parent or biological grandparent applying for identifying information about an adoptee:

(i) the adoptee must be twenty‑one years of age or older, and the biological parent or biological grandparent must apply in writing to the adoption agency for the information; and

(ii) the adoption agency must have a current file containing affidavits from the adoptee and the biological parent or biological grandparent, as applicable, agreeing to the disclosure of their identity to each other. The affidavit also must include a statement releasing the agency from any liability due to the disclosure. It is the responsibility of the person furnishing the affidavit to advise the agency of a change in his status, name, and address; and

(d) for a biological sibling applying for identifying information about an adoptee:

(i) the biological sibling and adoptee must be twenty‑one years of age or older, and the biological sibling must apply in writing to the adoption agency for the information; and

(ii) the adoption agency must have a current file containing affidavits from the adoptee and the biological sibling, agreeing to the disclosure of their identity to each other. The affidavit also must include a statement releasing the agency from any liability due to the disclosure. It is the responsibility of the person furnishing the affidavit to advise the agency of a change in his status, name, and address.

~~(c)~~(2) The adoption agency shall establish and maintain a confidential register containing the names and addresses of the adoptees and the biological parents, biological grandparents, and biological siblings who have filed affidavits. It is the responsibility of a person whose name and address are in the register to provide the agency with his current name and address~~;~~. The adoption agency shall release the identifying information requested pursuant to this subsection of only those adoptees, biological parents, biological grandparents, and biological siblings who have provided an affidavit pursuant to item (1).

~~(d)~~(3) The adoptee and ~~his biological parents and siblings~~ the biological parent, biological grandparent, or biological sibling, as applicable, shall undergo counseling by the adoption agency concerning the effects of the disclosure. The adoption agency may charge a fee for the services, but services must not be denied because of inability to pay.

~~(2)~~(4) No disclosure may be made within thirty days after compliance with these conditions. The director of the adoption agency may waive the thirty‑day period in extreme circumstances.

~~(3)~~(5) The adoption agency may delay disclosure for twenty days from the expiration of the thirty‑day period to allow time to apply to a court of competent jurisdiction to enjoin the disclosure for good cause shown.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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