

The House Committee on Juvenile Justice offers the following substitute to HB 524:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 19 and Code Section 31-10-14 of the Official Code of Georgia
2 Annotated, relating to adoption and issuance of a new birth certificate following adoption,
3 legitimation, or paternity determination, respectively, so as to change provisions relating to
4 examination and obtaining copies of adoption records and information; to provide for a
5 signed contact preference form to indicate a birth parent's desire or lack of desire to be
6 contacted; to provide for the collection of statistical information; to provide for related
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, is
11 amended by revising Code Section 19-8-23, relating to where records of adoption are kept,
12 examination by parties and attorneys, and use of information by agency and the department,
13 as follows:

14 "19-8-23.

15 (a) The original petition, all amendments and exhibits thereto, all motions, documents,
16 affidavits, records, and testimony filed in connection therewith, and all decrees or orders
17 of any kind whatsoever, except the original investigation report and background
18 information referred to in Code Section 19-8-20, shall be recorded in a book kept for that
19 purpose and properly indexed; and the book shall be part of the records of the court in each
20 county which has jurisdiction over matters of adoption in that county. ~~All~~ Except as
21 otherwise provided in subsection (f) of this Code section, all of the records, including the
22 docket book, of the court granting the adoption, of the department, and of the child-placing
23 agency that relate in any manner to the adoption shall be kept sealed and locked. The
24 records may be examined by the parties at interest in the adoption and their attorneys when,
25 after written petition has been presented to the court having jurisdiction and after the
26 department and the appropriate child-placing agency have received at least 30 days' prior

27 written notice of the filing of such petition, the matter has come on before the court in
 28 chambers and, good cause having been shown to the court, the court has entered an order
 29 permitting such examination. Notwithstanding the foregoing, if the adoptee who is the
 30 subject of the records sought to be examined is less than 18 years of age at the time the
 31 petition is filed and the petitioner is someone other than one of the adoptive parents of the
 32 adoptee, then the department shall provide written notice of such proceedings to the
 33 adoptive parents by certified mail or statutory overnight delivery, return receipt requested,
 34 at the last address the department has for such adoptive parents and the court shall continue
 35 any hearing on the petition until not less than 60 days after the date the notice was sent.
 36 Each such adoptive parent shall have the right to appear in person or through counsel and
 37 show cause why such records should not be examined. Adoptive parents may provide the
 38 department with their current address for purposes of receiving notice under this subsection
 39 by mailing that address to:

40 Office of Adoptions
 41 Department of Human Services
 42 Atlanta, Georgia

43 (b) The department or the child-placing agency may, in its sole discretion, make use of any
 44 information contained in the records of the respective department or agency relating to the
 45 adoptive parents in connection with a subsequent adoption matter involving the same
 46 adoptive parents or to provide notice when required by subsection (a) of this Code section.

47 (c) The department or the child-placing agency may, in its sole discretion, make use of any
 48 information contained in its records on a child when an adoption disrupts after finalization
 49 and when such records are required for the permanent placement of such child, or when the
 50 information is required by federal law.

51 (d)(1) Upon the request of a party at interest in the adoption, a child, legal guardian, or
 52 health care agent of an adopted person or a provider of medical services to such a party,
 53 child, legal guardian, or health care agent when certain information would assist in the
 54 provision of medical care, a medical emergency, or medical diagnosis or treatment, the
 55 department or child-placing agency shall access its own records on finalized adoptions
 56 for the purpose of adding subsequently obtained medical information or releasing
 57 nonidentifying medical and health history information contained in its records pertaining
 58 to an adopted person or the biological parents or relatives of the biological parents of the
 59 adopted person. For purposes of this paragraph, the term 'health care agent' has the
 60 meaning provided by Code Section 31-32-2.

61 (2) Upon receipt by the State Adoption Unit of the Division of Family and Children
 62 Services of the department or by a child-placing agency of documented medical
 63 information relevant to an adoptee, the office or child-placing agency shall use reasonable

64 efforts to contact the adoptive parents of the adoptee if the adoptee is under 18 years of
 65 age or the adoptee if he or she is 18 years of age or older and provide such documented
 66 medical information to the adoptive parents or the adoptee. The office or child-placing
 67 agency shall be entitled to reimbursement of reasonable costs for postage and
 68 photocopying incurred in the delivery of such documented medical information to the
 69 adoptive parents or adoptee.

70 (e) Records relating in any manner to adoption shall not be open to the general public for
 71 inspection.

72 (f)(1) Notwithstanding Code Section 19-8-1, for purposes of this subsection, the term:

73 (A) 'Biological parent' means the biological mother or biological father who
 74 surrendered that person's rights or had such rights terminated by court order giving rise
 75 to the adoption of the child.

76 (B) 'Commissioner' means the commissioner of human services or that person's
 77 designee.

78 (C) 'Department' means the Department of Human Services or, when the Department
 79 of Human Services so designates, the county department of family and children services
 80 which placed for adoption the person seeking, or on whose behalf is sought,
 81 information under this subsection.

82 (D) 'Placement agency' means the child-placing agency, as defined in paragraph (3) of
 83 Code Section 19-8-1, which placed for adoption the person seeking or on whose behalf
 84 is sought information under this subsection.

85 (2) The department, the Department of Public Health, or a placement agency, upon the
 86 written request of an adopted person who has reached 18 years of age or upon the written
 87 request of an adoptive parent on behalf of that parent's adopted child, shall release to such
 88 adopted person or to the adoptive parent on the child's behalf nonidentifying information
 89 regarding such adopted person's biological parents and information regarding such
 90 adopted person's birth. Such information may include the date and place of birth of the
 91 adopted person, ~~and~~ the genetic, social, and health history of the biological parents, and
 92 an uncertified copy of the adopted person's birth certificate which has been redacted. No
 93 information released pursuant to this paragraph shall include the name or address of
 94 either biological parent, any identifying information of either biological parent, or the
 95 name or address of any relative by birth or marriage of either biological parent.

96 (3)(A) The department, the Department of Public Health, or a placement agency upon
 97 written request of an adopted person who has reached ~~21~~ 18 years of age shall release
 98 to such adopted person the name of such person's biological parent if:

99 (i) The biological parent whose name is to be released has submitted ~~unrevoked~~
 100 ~~written permission~~ a signed contact preference form to the department or the

101 placement agency ~~for the release of that parent's name to~~ indicating a desire to be
 102 contacted by the adopted person or, prior to July 1, 2014, has submitted an unrevoked
 103 written permission to the department or the placement agency for the release of such
 104 parent's name to the adopted person; and

105 (ii) ~~The identity of the biological parent submitting permission for the release of that~~
 106 ~~parent's name has been verified by the department or the placement agency; and~~

107 ~~(iii) The department or the placement agency has records pertaining to the finalized~~
 108 ~~adoption and to the identity of the biological parent whose name is to be released.~~

109 (B) If the adopted person is deceased and leaves a child, such child, upon reaching ~~21~~
 110 18 years of age, may seek the name and other identifying information, including an
 111 uncertified copy of the adopted person's birth certificate, concerning his or her
 112 grandparents in the same manner as the deceased adopted person and subject to the
 113 same procedures contained in this Code section.

114 (4)(A) If a biological parent has not filed ~~written unrevoked permission for the release~~
 115 ~~of that parent's name to the~~ a signed contact preference form indicating such parent's
 116 desire for contact by the adopted child or, prior to July 1, 2014, has not submitted an
 117 unrevoked written permission to the department or the placement agency for the release
 118 of such parent's name to the adopted person, the department or the placement agency,
 119 within six months of receipt of the written request of the adopted person who has
 120 reached ~~21~~ 18 years of age, shall make diligent effort to notify each biological parent
 121 identified in the original adoption proceedings or in other records of the department or
 122 the placement agency relative to the adopted person. For purposes of this
 123 subparagraph, 'notify' means a personal and confidential ~~contact~~ communication with
 124 each biological parent of the adopted person. The ~~contact~~ communication shall be by
 125 an employee or agent of the placement agency which processed the pertinent adoption
 126 or by other agents or employees of the department. The ~~contact~~ communication shall
 127 be evidenced by the person who notified each parent certifying to the department that
 128 each parent was given the following information:

129 (i) The nature of the information requested by the adopted person;

130 (ii) The date of the request of the adopted person;

131 (iii) The right of each biological parent to file ~~an affidavit with the placement agency~~
 132 ~~or the department stating that such parent's identity should not be disclosed~~ a signed
 133 contact preference form with the department or placement agency indicating that
 134 parent's desire for contact with the adopted person; and

135 (iv) ~~The right of each biological parent to file a consent to disclosure with the~~
 136 ~~placement agency or the department; and~~

137 (v) The effect of a failure of each biological parent to file ~~either a consent to~~
 138 ~~disclosure or an affidavit stating that the information in the sealed adoption file should~~
 139 ~~not be disclosed~~ a signed contact preference form.

140 (B) If a biological parent files ~~an unrevoked consent to the disclosure of that parent's~~
 141 ~~identity, such parent's name shall be released to the adopted person who has requested~~
 142 ~~such information as authorized by this paragraph~~ a signed contact preference form
 143 ~~indicating such parent's desire to be contacted by the adopted person or, prior to July~~
 144 ~~1, 2014, has submitted an unrevoked written permission to the department or the~~
 145 ~~placement agency for the release of such parent's name to the adopted person, then~~
 146 ~~records pertaining to the birth and adoption, including an uncertified copy of the~~
 147 ~~adopted person's birth certificate, shall be released to the adopted person; provided,~~
 148 ~~however, that such records shall not include the name or identifying information of a~~
 149 ~~biological parent who has not filed a signed contact preference form or has filed a~~
 150 ~~signed contact preference form indicating such parent's desire not to be contacted by~~
 151 ~~the adopted person.~~

152 (C) If, within 60 days of being notified by the department or the placement agency
 153 pursuant to subparagraph (A) of this paragraph, a biological parent has filed with the
 154 department or placement agency a signed contact preference form indicating such
 155 ~~parent's desire not to be contacted by the adopted person or~~ an affidavit objecting to
 156 such release, information regarding that biological parent shall not be released.

157 (D)(i) If six months after receipt of the adopted person's written request the
 158 placement agency or the department has either been unable to notify a biological
 159 parent identified in the original adoption record₂ or has been able to notify a biological
 160 parent identified in the original adoption record but has not obtained a ~~consent to~~
 161 ~~disclosure~~ signed contact preference form from the notified biological parent
 162 ~~indicating such parent's desire to be contacted by the adopted person,~~ then the identity
 163 of a biological parent may only be disclosed as provided in division (ii) or (iii) of this
 164 subparagraph.

165 (ii) The adopted person who has reached ~~21~~ 18 years of age may petition the Superior
 166 Court of Fulton County to seek the release of records pertaining to such person's
 167 ~~adoption, including~~ the identity of each of that person's biological parents from the
 168 department, ~~the Department of Public Health,~~ or placement agency. The court shall
 169 grant the petition if the court finds that the department or placement agency has made
 170 diligent efforts to locate each biological parent pursuant to this subparagraph either
 171 without success₂ or upon locating a biological parent has not obtained a ~~consent to~~
 172 ~~disclosure~~ from the notified biological parent a signed contact preference form
 173 ~~indicating that person's desire to be contacted by the adopted person,~~ and that failure

174 to release the identity of each biological parent would have an adverse impact upon
175 the physical, mental, or emotional health of the adopted person.

176 (iii) If it is verified that a biological parent of the adopted person is deceased, the
177 department, the Department of Public Health, or placement agency shall be authorized
178 to disclose the name and place of burial of the deceased biological parent, if known,
179 to the adopted person seeking such information without the necessity of obtaining a
180 court order.

181 (5)(A) Upon written request of an adopted person who has reached ~~21~~ 18 years of age
182 or a person who has reached ~~21~~ 18 years of age and who is the sibling of an adopted
183 person, the department or a placement agency shall attempt to identify and notify the
184 siblings of the requesting party, if such siblings are at least 18 years of age. Upon
185 locating the requesting party's sibling, the department or the placement agency shall
186 notify the sibling of the inquiry. Upon the written consent of a sibling so notified, the
187 department or the placement agency shall forward the requesting party's name and
188 address to the sibling and, upon further written consent of the sibling, shall divulge to
189 the requesting party the present name and address of the sibling. If a sibling cannot be
190 identified or located, the department or placement agency shall notify the requesting
191 party of such circumstances but shall not disclose any names or other information
192 which would tend to identify the sibling. If a sibling is deceased, the department or
193 placement agency shall be authorized to disclose the name and place of burial of the
194 deceased sibling, if known, to the requesting party without the necessity of obtaining
195 a court order.

196 (B)(i) If six months after receipt of the written request from an adopted person who
197 has reached ~~21~~ 18 years of age or a person who has reached ~~21~~ 18 years of age and
198 who is the sibling of an adopted person, the placement agency or the department has
199 either been unable to notify one or more of the siblings of the requesting party or has
200 been able to notify a sibling of the requesting party but has not obtained a consent to
201 disclosure from the notified sibling, then the identity of the siblings may only be
202 disclosed as provided in division (ii) of this subparagraph.

203 (ii) The adopted person who has reached ~~21~~ 18 years of age or a person who has
204 reached ~~21~~ 18 years of age and who is the sibling of an adopted person may petition
205 the Superior Court of Fulton County to seek the release of the last known name and
206 address of each of the siblings of the petitioning sibling, that are at least 18 years of
207 age, from the department, the Department of Public Health, or placement agency.
208 The court shall grant the petition if the court finds that the department or placement
209 agency has made diligent efforts to locate such siblings pursuant to subparagraph (A)
210 of this paragraph either without success or upon locating one or more of the siblings

211 has not obtained a consent to disclosure from all the notified siblings and that failure
212 to release the identity and last known address of said siblings would have an adverse
213 impact upon the physical, mental, or emotional health of the petitioning sibling.

214 (C) If the adopted person is deceased and leaves a child, such child, upon reaching ~~21~~
215 18 years of age, may obtain the name and other identifying information concerning the
216 siblings of his or her deceased parent in the same manner that the deceased adopted
217 person would be entitled to obtain such information pursuant to the procedures
218 contained in this Code section.

219 (6)(A) Upon written request of a biological parent of an adopted person who has
220 reached ~~21~~ 18 years of age, the department or a placement agency shall attempt to
221 identify and notify the adopted person. Upon locating the adopted person, the
222 department or the placement agency shall notify the adopted person of the inquiry.
223 Upon the written consent of the adopted person so notified, the department or the
224 placement agency shall forward the biological parent's name and address to the adopted
225 person and, upon further written consent of the adopted person, shall divulge to the
226 requesting biological parent the present name and address of the adopted person. If the
227 adopted person is deceased, the department, the Department or Public Health, or
228 placement agency shall be authorized to disclose the name and place of burial of the
229 deceased adopted person, if known, to the requesting biological parent without the
230 necessity of obtaining a court order.

231 (B)(i) If six months after receipt of the written request from a biological parent of an
232 adopted person who has reached ~~21~~ 18 years of age the placement agency or the
233 department has either been unable to notify the adopted person or has been able to
234 notify the adopted person but has not obtained a consent to disclosure from the
235 notified adopted person, then the identity of the adopted person may only be disclosed
236 as provided in division (ii) of this subparagraph.

237 (ii) The biological parent of an adopted person who has reached ~~21~~ 18 years of age
238 may petition the Superior Court of Fulton County to seek the release of the last known
239 name and address of the adopted person from the department, the Department of
240 Public Health, or placement agency. The court shall grant the petition if the court
241 finds that the department or placement agency has made diligent efforts to locate such
242 adopted person pursuant to subparagraph (A) of this paragraph either without success
243 or upon locating the adopted person has not obtained a consent to disclosure from the
244 adopted person and that failure to release the identity and last known address of said
245 adopted person would have an adverse impact upon the physical, mental, or emotional
246 health of the petitioning biological parent.

247 (C) If the biological parent is deceased, a parent or sibling of the deceased biological
 248 parent, or both, may obtain the name and other identifying information concerning the
 249 adopted person in the same manner that the deceased biological parent would be
 250 entitled to obtain such information pursuant to the procedures contained in this Code
 251 section.

252 (7) If an adoptive parent or the sibling of an adopted person notifies the department or
 253 placement agency of the death of an adopted person, the department, the Department of
 254 Public Health, or placement agency shall add information regarding the date and
 255 circumstances of the death to its records so as to enable it them to share such information
 256 with a biological parent or sibling of the adopted person if they make an inquiry pursuant
 257 to the provisions of this Code section.

258 (8) If a biological parent or parent or sibling of a biological parent notifies the
 259 department or placement agency of the death of a biological parent or a sibling of an
 260 adopted person, the department, Department of Public Health, or placement agency shall
 261 add information regarding the date and circumstances of the death to its records so as to
 262 enable it them to share such information with an adopted person or sibling of the adopted
 263 person if he or she makes an inquiry pursuant to the provisions of this Code section.

264 (9)(A) The Office of Adoptions within the department shall maintain a registry for the
 265 recording of requests by adopted persons for the name of any biological parent, for the
 266 recording of ~~the written consent or the written objections of any biological parent to the~~
 267 ~~release of that parent's identity to an adopted person upon the adopted person's request~~
 268 ~~of signed contact preference forms executed by a biological parent~~, and for
 269 nonidentifying information regarding any biological parent which may be released
 270 pursuant to paragraph (2) of this subsection. ~~The department and any placement agency~~
 271 ~~which receives such requests, consents, or objections shall file a copy thereof with that~~
 272 ~~office.~~

273 (B) The department shall create and prescribe a form that allows a birth mother or birth
 274 father to state a preference regarding being contacted by his or her biological child.
 275 The form shall be known as a 'contact preference form' and shall allow a birth mother
 276 or birth father to provide his or her current name, contact information, and sufficient
 277 information in order to correlate a birth mother's or birth father's name to an original
 278 birth certificate. Such form shall allow a birth mother or birth father to select one of the
 279 following options:

280 (i) 'I want to be contacted. I understand that I may change this preference by
 281 completing another signed contact preference form and returning it to the Department
 282 of Human Services.';

283 (ii) 'I want to be contacted only through the adoption reunion registry. I understand
 284 that I may change this preference by completing another signed contact preference
 285 form and returning it to the Department of Human Services.'; or

286 (iii) 'I do not want to be contacted at this time. I understand that I may change this
 287 preference by completing another signed contact preference form and returning it to
 288 the Department of Human Services.'

289 (C) Completed signed contact preference forms shall be filed with the department.

290 (D) The department and placement agencies shall make available contact preference
 291 forms to a birth mother or birth father.

292 (E) The department shall maintain the following statistics, which shall be made
 293 available to the general public on an annual basis, or more frequently if possible:

294 (i) The number of adoptions completed on or after July 1, 2014;

295 (ii) The number of signed contact preference forms filed; and

296 (iii) The number of birth mothers or birth fathers who indicated on his or her signed
 297 contact preference form that he or she:

298 (I) Wanted to be contacted;

299 (II) Wanted to be contacted but only through the adoption reunion registry; or

300 (III) Wanted not to be contacted.

301 (10) The department, Department of Public Health, or placement agency may charge a
 302 reasonable fee to be determined by the department for the cost of conducting any search
 303 pursuant to this subsection.

304 (11) Nothing in this subsection shall be construed to require the department, the
 305 Department of Public Health, or placement agency to disclose to any party at interest,
 306 including but not limited to an adopted person who has reached ~~21~~ 18 years of age, any
 307 information which is not kept by the department, the Department of Public Health, or ~~the~~
 308 placement agency in its normal course of operations relating to adoption.

309 (12) Any ~~department employee or~~ employee of the department, the Department of Public
 310 Health, or any placement agency who releases information or makes authorized contacts
 311 in good faith and in compliance with this subsection shall be immune from civil or
 312 criminal liability for such release of information or authorized contacts.

313 (13) Information authorized to be released pursuant to this subsection may be released
 314 under the conditions specified in this subsection notwithstanding any other provisions of
 315 law to the contrary.

316 (14) A placement agency which demonstrates to the department by clear and convincing
 317 evidence that the requirement that such agency search for or notify any biological parent,
 318 sibling, or adopted person under subparagraph (A) of paragraph (4) of this subsection or
 319 subparagraph (A) of paragraph (5) of this subsection or subparagraph (A) of paragraph

320 (6) of this subsection will impose an undue hardship upon that agency shall be relieved
321 from that responsibility, and the department shall assume that responsibility upon such
322 finding by the department of undue hardship. The department's determination under this
323 subsection shall be a contested case within the meaning of Chapter 13 of Title 50, the
324 'Georgia Administrative Procedure Act.'

325 (15) Whenever this subsection authorizes both the department and a placement agency
326 to perform any function or requires the placement agency to perform any function which
327 the department is also required to perform, the department or agency may designate an
328 agent to perform that function and in so performing it the agent shall have the same
329 authority, powers, duties, and immunities as an employee of the department or placement
330 agency has with respect to performing that function."

331 **SECTION 2.**

332 Code Section 31-10-14 of the Official Code of Georgia Annotated, relating to issuance of a
333 new birth certificate following adoption, legitimation, or paternity determination, is amended
334 by revising subsection (f) as follows:

335 "(f) When a new certificate of birth is established by the state registrar, the original birth
336 certificate shall not be subject to inspection except as provided in this Code section and
337 Code Section 19-8-23. All copies of the original certificate of birth in the custody of any
338 other custodian of vital records in this state shall be sealed from inspection and forwarded
339 to the state registrar, as the state registrar shall direct."

340 **SECTION 3.**

341 This Act shall become effective on July 1, 2014.

342 **SECTION 4.**

343 All laws and parts of laws in conflict with this Act are repealed.