

SECOND REGULAR SESSION

# HOUSE BILL NO. 1237

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), ALLEN AND ROORDA (Co-sponsors).

3386L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 193.125, 193.255, 453.120, and 453.121, RSMo, and to enact in lieu thereof four new sections relating to adoption records, with a penalty provision.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 193.125, 193.255, 453.120, and 453.121, RSMo, are repealed and  
2 four new sections enacted in lieu thereof, to be known as sections 193.125, 193.255, 453.120,  
3 and 453.121, to read as follows:

193.125. 1. This section shall be known and may be cited as the "Debbi Daniel Law".

2 2. Except as otherwise provided in subsection 3 of this section, for each adoption  
3 decreed by a court of competent jurisdiction in this state, the court shall require the preparation  
4 of a certificate of decree of adoption on a form as prescribed or approved by the state registrar.  
5 The certificate of decree of adoption shall include such facts as are necessary to locate and  
6 identify the certificate of birth of the person adopted, and shall provide information necessary  
7 to establish a new certificate of birth of the person adopted and shall identify the court and  
8 county of the adoption and be certified by the clerk of the court. The state registrar shall file the  
9 original certificate of birth with the certificate of decree of adoption and such file may be opened  
10 by the state registrar only upon receipt of a certified copy of an order as decreed by the court of  
11 adoption **under subsection 3 of this section.**

12 3. **Upon receipt of a written application to the state registrar, any adopted person**  
13 **twenty-one years of age or older who is a Missouri-born resident of this state shall be**  
14 **issued a certified copy of his or her unaltered, original, and unamended certificate of birth**  
15 **in the custody of the state registrar, with procedures, filing fees, and waiting periods**  
16 **identical to those imposed upon nonadopted citizens of the state of Missouri. All copies**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **issued under this subsection shall be stamped with the following: "NOT USABLE FOR**  
18 **IDENTIFICATION PURPOSES". Nothing in this subsection shall be construed as**  
19 **violating the provisions of section 453.121.**

20 **4.** No new certificate of birth shall be established following an adoption by a stepparent  
21 if so requested by the adoptive parent or the adoptive stepparent of the child.

22 [4.] **5.** Information necessary to prepare the report of adoption shall be furnished by each  
23 petitioner for adoption or the petitioner's attorney. The social welfare agency or any person  
24 having knowledge of the facts shall supply the court with such additional information as may be  
25 necessary to complete the report. The provision of such information shall be prerequisite to the  
26 issuance of a final decree in the matter by the court.

27 [5.] **6.** Whenever an adoption decree is amended or annulled, the clerk of the court shall  
28 prepare a report thereof, which shall include such facts as are necessary to identify the original  
29 adoption report and the facts amended in the adoption decree as shall be necessary to properly  
30 amend the birth record.

31 [6.] **7.** Not later than the fifteenth day of each calendar month or more frequently as  
32 directed by the state registrar the clerk of the court shall forward to the state registrar reports of  
33 decrees of adoption, annulment of adoption and amendments of decrees of adoption which were  
34 entered in the preceding month, together with such related reports as the state registrar shall  
35 require.

36 [7.] **8.** When the state registrar shall receive a report of adoption, annulment of adoption,  
37 or amendment of a decree of adoption for a person born outside this state, he or she shall forward  
38 such report to the state registrar in the state of birth.

39 [8.] **9.** In a case of adoption in this state of a person not born in any state, territory or  
40 possession of the United States or country not covered by interchange agreements, the state  
41 registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in  
42 the name of the adopted person, as decreed by the court. The state registrar shall file the  
43 certificate of the decree of adoption, and such documents may be opened by the state registrar  
44 only by an order of court **or written application to the state registrar by any adopted person**  
45 **twenty-one years of age or older as provided in subsection 3 of this section.** The birth  
46 certificate prepared under this subsection shall have the same legal weight as evidence as a  
47 delayed or altered birth certificate as provided in section 193.235.

48 [9.] **10.** The department, upon receipt of proof that a person has been adopted by a  
49 Missouri resident pursuant to laws of countries other than the United States, shall prepare a birth  
50 certificate in the name of the adopted person as decreed by the court of such country. If such  
51 proof contains the surname of either adoptive parent, the department of health and senior services  
52 shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of

53 the name of the adopted person shall be made by a court of competent jurisdiction. The proof  
54 of adoption required by the department shall include a copy of the original birth certificate and  
55 adoption decree, an English translation of such birth certificate and adoption decree, and a copy  
56 of the approval of the immigration of the adopted person by the Immigration and Naturalization  
57 Service of the United States government which shows the child lawfully entered the United  
58 States. The authenticity of the translation of the birth certificate and adoption decree required  
59 by this subsection shall be sworn to by the translator in a notarized document. The state registrar  
60 shall file such documents received by the department relating to such adoption and such  
61 documents may be opened by the state registrar only by an order of a court **or written**  
62 **application to the state registrar by any adopted person twenty-one years of age or older**  
63 **as provided in subsection 3 of this section.** A birth certificate pursuant to this subsection shall  
64 be issued upon request of one of the adoptive parents of such adopted person or upon request of  
65 the adopted person if of legal age. The birth certificate prepared pursuant to the provisions of  
66 this subsection shall have the same legal weight as evidence as a delayed or altered birth  
67 certificate as provided in sections 193.005 to 193.325.

68 [10.] **11.** If no certificate of birth is on file for the person under twelve years of age who  
69 has been adopted, a belated certificate of birth shall be filed with the state registrar as provided  
70 in sections 193.005 to 193.325 before a new birth record is to be established as result of  
71 adoption. A new certificate is to be established on the basis of the adoption under this section  
72 and shall be prepared on a certificate of live birth form.

73 [11.] **12.** If no certificate of birth has been filed for a person twelve years of age or older  
74 who has been adopted, a new birth certificate is to be established under this section upon receipt  
75 of proof of adoption as required by the department. A new certificate shall be prepared in the  
76 name of the adopted person as decreed by the court, registering adopted parents' names. The new  
77 certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed  
78 in a sealed file and shall not be subject to inspection except upon an order of the court.

193.255. 1. The state registrar and other custodians of vital records authorized by the  
2 state registrar to issue certified copies of vital records upon receipt of application shall issue a  
3 certified copy of any vital record in [his] **the registrar's** custody or a part thereof to any  
4 applicant having a direct and tangible interest in the vital record, **including an adopted person**  
5 **twenty-one years of age or older as provided for in section 193.125.** Each copy issued shall  
6 show the date of registration, and copies issued from records marked "Delayed" or "Amended"  
7 shall be similarly marked and show the effective date. The documentary evidence used to  
8 establish a delayed certificate shall be shown on all copies issued. All forms and procedures  
9 used in the issuance of certified copies of vital records in the state shall be provided or approved  
10 by the state registrar.

11           2. A certified copy of a vital record or any part thereof, issued in accordance with  
12 subsection 1 of this section, shall be considered for all purposes the same as the original and shall  
13 be prima facie evidence of the facts stated therein, provided that the evidentiary value of a  
14 certificate or record filed more than one year after the event, or a record which has been  
15 amended, shall be determined by the judicial or administrative body or official before whom the  
16 certificate is offered as evidence.

17           3. The federal agency responsible for national vital statistics may be furnished such  
18 copies or data from the system of vital statistics as it may require for national statistics, provided  
19 such federal agency share in the cost of collecting, processing, and transmitting such data, and  
20 provided further that such data shall not be used for other than statistical purposes by the federal  
21 agency unless so authorized by the state registrar.

22           4. Federal, state, local and other public or private agencies may, upon request, be  
23 furnished copies or data of any other vital statistics not obtainable under subsection 1 of this  
24 section for statistical or administrative purposes upon such terms or conditions as may be  
25 prescribed by regulation, provided that such copies or data shall not be used for purposes other  
26 than those for which they were requested unless so authorized by the state registrar.

27           5. The state registrar may, by agreement, transmit copies of records and other reports  
28 required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such  
29 records or other reports relate to residents of those jurisdictions or persons born in those  
30 jurisdictions. This agreement shall require that the copies be used for statistical and  
31 administrative purposes only, and the agreement shall further provide for the retention and  
32 disposition of such copies. Copies received by the department from offices of vital statistics in  
33 other states shall be handled in the same manner as prescribed in this section.

34           6. No person shall prepare or issue any certificate which purports to be an original,  
35 certified copy, or copy of a vital record except as authorized herein or by regulations adopted  
36 hereunder.

37           7. Upon application from either parent, or if both parents are deceased, the sibling of the  
38 stillborn child, pursuant to subsection 7 of section 193.165, the state registrar or other custodians  
39 of vital records shall issue to such applicant a certificate of birth resulting in stillbirth. The  
40 certificate shall be based upon the information available from the spontaneous fetal death report  
41 filed pursuant to section 193.165. Any certificate of birth resulting in stillbirth issued shall  
42 conspicuously include, in no smaller than twelve-point type, the statement "This is not proof of  
43 a live birth.". No certificate of birth resulting in stillbirth shall be issued to any person other than  
44 a parent, or if both parents are deceased, the sibling of the stillborn child who files an application  
45 pursuant to section 193.165. The state registrar or other custodians of vital records are

46 authorized to charge a minimal fee to such applicant to cover the actual costs of providing the  
47 certificate pursuant to this section.

48 8. Any parent, or if both parents are deceased, any sibling of the stillborn child may file  
49 an application for a certificate of birth resulting in stillbirth for a birth that resulted in stillbirth  
50 prior to August 28, 2004.

453.120. 1. The files and records of the court in adoption proceedings shall not be open  
2 to inspection or copy by any person or persons, except upon an order of the court expressly  
3 permitting the same issued in accordance with the provisions of section 453.121. **The**  
4 **provisions of this section shall not apply to the provision of an original birth certificate of**  
5 **an adopted adult who is twenty-one years of age or older under section 193.125.**

6 2. Any person who permits such inspection or copy [without an order of the court as  
7 provided in this section shall be] **in violation of this section is** guilty of a class C misdemeanor.

453.121. 1. As used in this section, unless the context clearly indicates otherwise, the  
2 following terms mean:

3 (1) "Adopted adult", any adopted person who is eighteen years of age or over;

4 (2) "Adopted child", any adopted person who is less than eighteen years of age;

5 (3) "Adult sibling", any brother or sister of the whole or half blood who is eighteen years  
6 of age or over;

7 (4) "Identifying information", information which includes the name, date of birth, place  
8 of birth and last known address of the biological parent;

9 (5) "Nonidentifying information", information concerning the physical description,  
10 nationality, religious background and medical history of the biological parent or sibling.

11 2. All papers, records, and information pertaining to an adoption whether part of any  
12 permanent record or file may be disclosed only in accordance with this section **or, in the case**  
13 **of an original birth certificate, to an adopted adult who is twenty-one years of age or older.**

14 3. Nonidentifying information, if known, concerning undisclosed biological parents or  
15 siblings shall be furnished by the child-placing agency or the juvenile court to the adoptive  
16 parents, legal guardians or adopted adult upon written request therefor.

17 4. An adopted adult may make a written request to the circuit court having original  
18 jurisdiction of such adoption to secure and disclose information identifying the adopted adult's  
19 biological parents. If the biological parents have consented to the release of identifying  
20 information under subsection [11] **9** of this section, the court shall disclose such identifying  
21 information to the adopted adult. If the biological parents have not consented to the release of  
22 identifying information under subsection [11] **9** of this section, the court shall, within ten days  
23 of receipt of the request, notify in writing the adoptive parents of such petitioner and the

24 child-placing agency or juvenile court personnel having access to the information requested of  
25 the request by the adopted adult.

26         5. Within three months after receiving notice of the request of the adopted adult, the  
27 child-placing agency or juvenile court personnel shall notify the adoptive parents, if such  
28 adoptive parents are living and shall not make any attempt to notify the biological parents  
29 without prior written consent of such adoptive parents for adoptions instituted or completed prior  
30 to August 13, 1986, but may proceed if there is proof that the adoptive parents are deceased or  
31 incapacitated, as such term is defined in chapter 475, RSMo. If the adoptive parents are living  
32 but are unwilling to give such written consent, the child-placing agency or the juvenile court  
33 personnel shall make a written report to the court stating that they were unable to notify the  
34 biological parent. If the adoptive parents are deceased or give written consent, the child-placing  
35 agency or the juvenile court personnel shall make reasonable efforts to notify the biological  
36 parents of the request of the adopted adult. The child-placing agency or juvenile court personnel  
37 may charge actual costs to the adopted adult for the cost of making such search. All  
38 communications under this subsection are confidential. For purposes of this subsection, "notify"  
39 means a personal and confidential contact with the biological parent of the adopted adult, which  
40 initial contact shall not be made by mail and shall be made by an employee of the child-placing  
41 agency which processed the adoption, juvenile court personnel or some other licensed  
42 child-placing agency designated by the child-placing agency or juvenile court. Nothing in this  
43 section shall be construed to permit the disclosure of communications privileged pursuant to  
44 section 491.060, RSMo. At the end of three months, the child-placing agency or juvenile court  
45 personnel shall file a report with the court stating [that each biological parent that was located  
46 was given] the following information:

47         (1) The nature of the identifying information to which the agency has access;

48         (2) The nature of any nonidentifying information requested;

49         (3) The date of the request of the adopted adult;

50         (4) The right of the biological parent to file an affidavit with the court stating that the  
51 identifying information should be disclosed;

52         (5) The effect of a failure of the biological parent to file an affidavit stating that the  
53 identifying information should be disclosed.

54         6. [If the child-placing agency or juvenile court personnel reports to the court that it has  
55 been unable to notify the biological parent within three months, the identifying information shall  
56 not be disclosed to the adopted adult. Additional requests for the same or substantially the same  
57 information may not be made to the court within one year from the end of the three-month period  
58 during which the attempted notification was made, unless good cause is shown and leave of court  
59 is granted.

60 7.] If, within three months, the child-placing agency or juvenile court personnel reports  
61 to the court that it has notified the biological parent pursuant to subsection 5 of this section, the  
62 court shall receive the identifying information from the child-placing agency. If an affidavit duly  
63 executed by a biological parent authorizing the release of information is filed with the court **or**  
64 **fails to file an affidavit with the court**, the court shall disclose the identifying information as  
65 to that biological parent to the adopted adult, provided that the other biological parent either:

66 (1) Is unknown;

67 (2) Is known but cannot be found and notified pursuant to section 5 of this act;

68 (3) Is deceased; or

69 (4) Has filed with the court an affidavit authorizing release of identifying information  
70 **or fails to file an affidavit with the court**. If the biological parent [fails or refuses to file] **files**  
71 an affidavit with the court [authorizing] **refusing to authorize** the release of identifying  
72 information, then the identifying information shall not be released to the adopted adult. No  
73 additional request for the same or substantially the same information may be made within three  
74 years of the time the biological parent fails or refuses to file an affidavit authorizing the release  
75 of identifying information.

76 [8.] 7. If the biological parent is deceased [but previously had filed an affidavit with the  
77 court stating that identifying information shall be disclosed], the information shall be forwarded  
78 to and released by the court to the adopted adult. [If the biological parent is deceased and, at any  
79 time prior to his death, the biological parent did not file an affidavit with the court stating that  
80 the identifying information shall be disclosed, the adopted adult may petition the court for an  
81 order releasing the identifying information. the court shall grant the petition upon a finding that  
82 disclosure of the information is necessary for health-related purposes.

83 9.] 8. Any adopted adult whose adoption was finalized in this state or whose biological  
84 parents had their parental rights terminated in this state may request the court to secure and  
85 disclose identifying information concerning an adult sibling [and upon a finding by the court that  
86 such information is necessary for urgent health-related purposes in the same manner as provided  
87 in this section]. Identifying information pertaining exclusively to the adult sibling, whether part  
88 of the permanent record of a file in the court or in an agency, shall be released [only upon  
89 consent of that adult sibling].

90 [10.] 9. The central office of the children's division within the department of social  
91 services shall maintain a registry by which biological parents, adult siblings, and adoptive adults  
92 may indicate their desire to be contacted by each other. The division may request such  
93 identification for the registry as a party may possess to assure positive identifications. At the  
94 time of registry, a biological parent or adult sibling may consent in writing to the release of  
95 identifying information to an adopted adult. If such a consent has not been executed and the

96 division believes that a match has occurred on the registry between biological parents or adult  
97 siblings and an adopted adult, [an employee of] the division shall [make the confidential contact  
98 provided in] **comply with the provisions of** subsection 5 of this section [with the biological  
99 parents or adult siblings and with the adopted adult]. If the division believes that a match has  
100 occurred on the registry between one biological parent or adult sibling and an adopted adult, [an  
101 employee of] the division shall [make the confidential contact provided by] **comply with the**  
102 **provisions of** subsection 5 of this section [with the biological parent or adult sibling]. [The  
103 division shall then attempt to make such confidential contact with the other biological parent,  
104 and shall proceed thereafter to make such confidential contact with the adopted adult only if the  
105 division determines that the other biological parent meets one of the conditions specified in  
106 subsection 7 of this section. The biological parent, adult sibling, or adopted adult may refuse to  
107 go forward with any further contact between the parties when contacted by the division.

108       11.] **10.** The provisions of this section, except as provided in subsection 5 of this section  
109 governing the release of identifying and nonidentifying adoptive information apply to adoptions  
110 completed before and after August 13, 1986.

111       **11. Nothing in this section shall be construed as an assurance of anonymity to any**  
112 **biological parent or a requirement that no contact be made to a biological parent.**

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