

By: Berman

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A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to birth records of children born in this state; creating  
3 an offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 192.002, Health and Safety Code, is  
6 amended by adding Subsection (e) to read as follows:

7                   (e) The form must include a space for recording the  
8 citizenship status of the mother and father.

9 SECTION 2. Subchapter A, Chapter 192, Health and Safety  
10 Code, is amended by adding Sections 192.0023 and 192.0024 to read as  
11 follows:

12        Sec. 192.0023. BIRTH CERTIFICATES ISSUED FOR CITIZENS. (a)  
13    In this section, "alien" means a person who is not a citizen or  
14    national of the United States.

15                   (b) A birth certificate may be issued for a child born in  
16 this state only if the child is a citizen of the United States. If a  
17 birth certificate form filed with the local registrar indicates  
18 that the child is not a citizen of the United States, the local  
19 registrar may issue a temporary report of alien birth under  
20 Subchapter C.

21           (c) A child born in this state is a citizen of the United  
22 States if the child is subject to the jurisdiction of the United  
23 States. A child is subject to the jurisdiction of the United States  
24 if at least one of the child's parents is:

1                   (1) a United States citizen;  
2                   (2) a national of the United States; or  
3                   (3) an alien who is lawfully admitted for permanent  
4 residence to and maintains the person's residence in the United  
5 States.

6                   (d) A child is not subject to the jurisdiction of the United  
7 States if neither parent of the child is a United States citizen and  
8 the child is born in the United States because a parent of the child  
9 is:

10                  (1) an ambassador, public minister, career diplomatic  
11 or consular officer, or other diplomatic official or employee, who  
12 has been accredited by a foreign government and accepted by the  
13 president of the United States or the United States secretary of  
14 state;

15                  (2) an alien admitted to the United States as an  
16 attendant, servant, personal employee, or family member of a person  
17 described by Subdivision (1);

18                  (3) an alien in immediate and continuous transit  
19 through the United States, or entitled to pass in transit to and  
20 from the United Nations headquarters district and foreign  
21 countries;

22                  (4) an alien crewman on a vessel or aircraft that lands  
23 temporarily in the United States;

24                  (5) an accredited representative of a foreign  
25 government that is a member of an international organization  
26 entitled to enjoy privileges, exemptions, and immunities under 22  
27 U.S.C. Section 288 et seq. (the International Organizations

1    Immunities Act), or an alien who is an officer or employee of the  
2    organization;

3            (6) an alien admitted to the United States as an  
4    attendant, servant, personal employee, or family member of a person  
5    described by Subdivision (5);

6            (7) an alien who has a residence in a foreign country  
7    and does not intend to abandon the residence and is visiting the  
8    United States temporarily for business or pleasure;

9            (8) an alien who is a member on active duty of the  
10   armed forces or intelligence service of a foreign state; or  
11            (9) an alien who is not eligible to receive a visa and  
12   who is not admissible to the United States under 8 U.S.C. Section  
13   1182.

14            (e) If the birth certificate form indicates that a parent of  
15   the child is a permanent resident alien, the local registrar shall  
16   verify that status with the United States Department of Homeland  
17   Security.

18            Sec. 192.0024. ENFORCEMENT. (a) If the state or a local  
19   registrar refuses to issue a birth certificate for a child, the  
20   child's parent or guardian may bring an action for declaratory  
21   judgment in a district court.

22            (b) A temporary report of alien birth may be renewed for  
23   periods of one year during the pendency of action under this  
24   section.

25            (c) A declaratory judgment action must be commenced not  
26   later than the 21st birthday of the child who is the subject of the  
27   birth record.

1           (d) The attorney general shall represent the state and a  
2 local registrar in an action under this section.

3           SECTION 3. Sections 192.003(a), (b), (d), and (e), Health  
4 and Safety Code, are amended to read as follows:

5           (a) The physician, midwife, or person acting as a midwife in  
6 attendance at a birth shall file the birth certificate form with the  
7 local registrar of the registration district in which the birth  
8 occurs.

9           (b) If a birth occurs in a hospital or birthing center, the  
10 hospital administrator, the birthing center administrator, or a  
11 designee of the appropriate administrator may file the birth  
12 certificate form in lieu of a person listed by Subsection (a).

13           (d) Except as provided by Subsection (e), a person required  
14 to file a birth certificate form or report a birth shall file the  
15 birth certificate form or make the report not later than the fifth  
16 day after the date of the birth.

17           (e) Based on a parent's religious beliefs, a parent may  
18 request that a person required to file a birth certificate form or  
19 report a birth delay filing the birth certificate form or making the  
20 report until the parent contacts the person with the child's name.  
21 If a parent does not name the child before the fifth day after the  
22 date of the birth due to the parent's religious beliefs, the parent  
23 must contact the person required to file the birth certificate form  
24 or report the birth with the name of the child as soon as the child  
25 is named. A person required to file the birth certificate form or  
26 report the birth who delays filing the birth certificate form or  
27 making the report in accordance with the parent's request shall

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1 file the birth certificate form or make the report not later than  
2 the 15th day after the date of the child's birth.

3 SECTION 4. Section 192.025(a), Health and Safety Code, is  
4 amended to read as follows:

5 (a) The state registrar shall accept an application under  
6 Section 192.024 if the applicant's statement of date and place of  
7 birth, and parentage, and United States citizenship of at least  
8 one parent is established to the state registrar's satisfaction by  
9 the evidence required by this section.

10 SECTION 5. Chapter 192, Health and Safety Code, is amended  
11 by adding Subchapter C to read as follows:

12 SUBCHAPTER C. BIRTH RECORDS OF PERSONS NOT SUBJECT TO THE  
13 JURISDICTION OF THE UNITED STATES

14 Sec. 192.031. ISSUANCE OF TEMPORARY REPORT OF ALIEN BIRTH.  
15 (a) A local registrar shall issue a temporary report of alien birth  
16 if neither parent is:

17 (1) a United States citizen;  
18 (2) a national of the United States; or  
19 (3) an alien who is lawfully admitted for permanent  
20 residence to and maintains the person's residence in the United  
21 States.

22 (b) A temporary report of alien birth is valid for 180 days  
23 after the date the report is issued.

24 (c) A temporary report of alien birth must include a  
25 biometric identifier such as a fingerprint of both the mother and  
26 the child.

27 (d) A local registrar shall provide a certified copy of the

1 temporary report of alien birth to the state registrar.

2 Sec. 192.032. DUTIES OF STATE REGISTRAR. The state  
3 registrar shall:

4           (1) establish a fee to be charged by the local  
5 registrar to prepare a temporary report of alien birth;

6           (2) provide a copy of a temporary report of alien birth  
7 to a foreign consulate or the United States Department of State at  
8 the parent's request;

9           (3) establish and operate a service center to:

10           (A) assist parents and local authorities with  
11 contacting the appropriate foreign consulate;

12           (B) maintain information on foreign consular  
13 requirements for reporting births in this state; and

14           (C) serve as the designated state agency  
15 responsible for liaison with the United States Department of State  
16 and the United States Department of Homeland Security on all  
17 matters related to births of aliens in this state; and

18           (4) provide a copy of each temporary report of alien  
19 birth issued in this state to the United States Immigration and  
20 Customs Enforcement Bureau within five business days of receipt  
21 from a local registrar.

22           Sec. 192.033. PERMANENT CERTIFICATE OF ALIEN BIRTH. (a)  
23 The state registrar shall issue a permanent certificate of alien  
24 birth upon:

25           (1) receipt of confirmation from either parent's  
26 consulate or from the United States Department of State of the  
27 citizenship status of the parent and child; and

1                   (2) surrender by the parent or guardian of the  
2 temporary report of alien birth.

3                   (b) The state registrar shall provide notice of the denial  
4 of a permanent certificate of alien birth and shall provide an  
5 opportunity for an administrative appeal of a denial.

6                   Sec. 192.034. AMENDMENT OF BIRTH RECORDS. Upon  
7 presentation of a certificate of naturalization by a holder of a  
8 permanent certificate of alien birth, a state registrar shall:

9                   (1) declare the petitioner subject to the jurisdiction  
10 of the United States;

11                   (2) issue an amended birth certificate to the  
12 petitioner; and

13                   (3) amend the state birth records.

14                   SECTION 6. Chapter 195, Health and Safety Code, is amended  
15 by adding Section 195.006 to read as follows:

16                   Sec. 195.006. MISUSE OF TEMPORARY REPORT OF ALIEN BIRTH.  
17                   (a) A person commits an offense if the person uses or attempts to  
18 use a temporary report of alien birth as evidence to support a claim  
19 of United States citizenship or legal residence in this state for a  
20 child or parent named on the temporary report of alien birth.

21                   (b) An offense under this section is a felony of the third  
22 degree.

23                   SECTION 7. Section 552.115(a), Government Code, is amended  
24 to read as follows:

25                   (u) A birth or death record maintained by the bureau of  
26 vital statistics of the [Texas] Department of State Health Services  
27 or a local registration official is excepted from the requirements

1 of Section 552.021, except that:

2 (1) a birth record is public information and available  
3 to the public on and after the 75th anniversary of the date of birth  
4 as shown on the record filed with the bureau of vital statistics or  
5 local registration official;

6 (2) a death record is public information and available  
7 to the public on and after the 25th anniversary of the date of death  
8 as shown on the record filed with the bureau of vital statistics or  
9 local registration official;

10 (3) a general birth index or a general death index  
11 established or maintained by the bureau of vital statistics or a  
12 local registration official is public information and available to  
13 the public to the extent the index relates to a birth record or  
14 death record that is public information and available to the public  
15 under Subdivision (1) or (2);

16 (4) a summary birth index or a summary death index  
17 prepared or maintained by the bureau of vital statistics or a local  
18 registration official is public information and available to the  
19 public; ~~[and]~~

20 (5) a temporary report of alien birth is public  
21 information and available to the public on and after the date of  
22 expiration as shown on the record filed with the bureau of vital  
23 statistics or local registration official, unless the report is the  
24 subject of an action under Section 192.0024; and

25 (6) [+5] a birth or death record is available to the  
26 chief executive officer of a home-rule municipality or the  
27 officer's designee if:

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1 (A) the record is used only to identify a  
2 property owner or other person to whom the municipality is required  
3 to give notice when enforcing a state statute or an ordinance;

4 (B) the municipality has exercised due diligence  
5 in the manner described by Section 54.035(e), Local Government  
6 Code, to identify the person; and

7 (C) the officer or designee signs a  
8 confidentiality agreement that requires that:

9 (i) the information not be disclosed  
10 outside the office of the officer or designee, or within the office  
11 for a purpose other than the purpose described by Paragraph (A);

12 (ii) the information be labeled as  
13 confidential;

14 (iii) the information be kept securely; and  
15 (iv) the number of copies made of the  
16 information or the notes taken from the information that implicate  
17 the confidential nature of the information be controlled, with all  
18 copies or notes that are not destroyed or returned remaining  
19 confidential and subject to the confidentiality agreement.

20 SECTION 8. This Act takes effect September 1, 2011.