

February 21, 2018

Barbara Klein
Interim General Counsel
Texas Vital Statistics
Department of State Health Services
1100 W. 49th Street
Austin, TX 78756

RE: Unlawful Interpretation of Texas Health and Safety Code § 192.008(f)

Dear Ms. Klein:

I am an attorney and the founder of Adoptee Rights Law Center, PLLC, which advocates exclusively for adult adoptees on various issues, including the right of adoptees to obtain their own original birth certificates (OBCs) upon request.

I recently learned that the Vital Statistics Unit of the Texas Department of State and Health Services (“the Department”) has interpreted Texas law to limit an adult adoptee to a single lifetime copy of the original birth certificate, despite the adoptee being a qualified applicant to receive the OBC upon request. Shawna Hodgson, a Texas-born adult adoptee, recently sought a noncertified copy of her original birth certificate pursuant to Texas Health and Safety Code § 192.008(f). That section provides:

(f) An adult adoptee who is applying for access to the person's original birth certificate and who knows the identity of each parent named on the original birth certificate is entitled to a noncertified copy of the original birth certificate without obtaining a court order.

Ms. Hodgson knows the identity of each parent named on her OBC and had obtained a copy of her Texas OBC earlier under section 192.008(f). She recently applied for another copy and paid the required \$10.00 to obtain it. Nevertheless, the Department denied that request, stating that “[u]nfortunately, as the statute states, only one non-certified copy

can be given.” See attached email of Kaci Saenz, Administrative Assistant IV, Department of State Health Services | Vital Statistics Section, dated January 29, 2018. The Department then quoted section 192.008(f) as support for this position.

Understandably confused, Ms. Hodgson followed up with the Department and also made a Texas Public Information Act request to obtain all records that interpret or support the Department’s understanding of section 192.008(f). She received an answer this week, and the Department’s representative again indicated that section 192.008(f) mandates that an adult adoptee may only obtain a single lifetime copy of his or her own OBC. Indeed, the document produced in support of this interpretation is merely a form letter that is sent, presumably, to similarly denied applicants. I have attached that correspondence. The letter again takes the unsupported position that the clear and unambiguous phrase “a copy” means instead “one single copy forever.”

I am not aware of a case or regulation in Texas that operates to limit the phrase “a copy” to a single lifetime copy and no more, whether it is a copy of the original birth certificate under 192.008(f), a copy of a government document, or a copy of a vital record to which a person is entitled. If this interpretation is upheld, it would render many of Texas’s laws on government data and records meaningless. It would also limit everyone to a single certified copy of their own birth certificate—forever. See, e.g., Texas Health and Safety Code § 191.051, (“the state registrar shall supply to a properly qualified applicant, on request, **a certified copy of a record**, or part of a record, of a birth, death, or fetal death registered under this title.”)(emphasis supplied). Such an interpretation is absurd.

Please look into this and inform me in writing that the Department has rescinded this interpretation of section 192.008(f). I further request that your office determine how many Texas adult adoptees, similar to Ms. Hodgson, have been denied a copy of their OBCs under this statute, for the sole reason that it is a second, third, or even a fifth copy requested. For those who have been denied and can be identified, the Department should, at a minimum:

- 1) provide the individuals with the requested copy; and
- 2) refund the fee the Department collected and retained before unlawfully denying a valid request for a copy of the OBC under section 192.008(f);

Please note that I do not represent Ms. Hodgson or any other adoptee on this matter. Rather, I am writing on my own behalf—and on behalf of all adoptees generally. I seek information about your Department's interpretation of Texas law and do so as a national advocate on legal issues affecting us all.

I look forward to your reply.

Best regards,

ADOPTEE RIGHTS LAW CENTER PLLC



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