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S. 3321

To promote permanent families for children, privacy and safety for unwed mothers, responsible fatherhood, and security for adoptive parents by establishing a National Responsible Father Registry and encouraging States to enter into agreements to contribute the information contained in the State's Responsible Father Registry to the National Responsible Father Registry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2012

Ms. LANDRIEU (for herself and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To promote permanent families for children, privacy and safety for unwed mothers, responsible fatherhood, and security for adoptive parents by establishing a National Responsible Father Registry and encouraging States to enter into agreements to contribute the information contained in the State's Responsible Father Registry to the National Responsible Father Registry, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Adoption and Promoting Responsible Fatherhood Act of 2012''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Responsible father registries, also known as possible father registries or putative father registries, exist in as many as 34 States.

(2) The Supreme Court of the United States in Lehr v. Robertson (463 U.S. 248) (1983), found responsible father registries to be constitutional.

(3) Responsible father registries help to speed up the stable placement of children by providing a mechanism to determine whether there are any possible fathers who may have an interest in participating in the placement decisions of the child so that the possible father can timely assert his rights or so that the father's rights can be waived, surrendered, or terminated and the child made available for adoption or placement.

(4) Responsible father registries protect the privacy and safety of unwed mothers by removing the burden from the mother to provide information about any possible fathers, disclosure of which would be an invasion of her privacy and may cause harm

to the mother, particularly in the case of rape or domestic violence.

(5) Responsible father registries serve to protect the rights of men who wish to be involved in the placement decisions of a child they believe they may have fathered by creating a mechanism for such men to undertake responsibility and to protect their rights without having to rely upon others to protect their rights, and to indicate their desire to be notified in a timely manner of certain legal proceedings related to the child, including proceedings related to termination of rights, adoption, and the placement of the child into State custody.

(6) Responsible father registries protect the privacy of possible fathers by providing a mechanism for men to submit identifying information to a database with restricted access.

(7) Responsible father registries protect the interests of adoptive parents and increase the security of adoptions by reducing the risk that possible fathers cannot be located in a timely manner. One of the biggest risks to the finalization of an adoption is the inability of the parties to an adoption proceeding to timely locate the possible fathers. When possible fathers are not provided with timely notice

of an adoption proceeding related to a child they may have fathered and discover such proceeding later, the adoption proceeding often is delayed or disrupted. In addition to causing emotional stress and significant costs associated with this problem, such cases, particularly when they attract media attention, create a chilling effect on adoption in that prospective adoptive parents may decide not to pursue the option of adoption for fear that they will be involved in such a case.

(8) Interstate travel of mothers and the filing of legal actions relating to a child in a State other than the State in which a possible father may have registered may circumvent and eliminate the protections such unwed mothers and possible fathers are provided by the individual State Responsible Father Registries, because there are no agreements or mechanisms between the States to identify or to provide notice to possible fathers who have registered in another State.

(9) The inability of States to coordinate and cross-check their responsible father registries may jeopardize or delay the placement of the child in a permanent home and undermines the benefits to unwed mothers, protections intended for registered

possible fathers, and security for adoptive parents that State registries are intended to afford.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for a national database that would accept possible father registrations from participating State Responsible Father Registries and directly from possible fathers, and would transmit the results of specific searches of such registrations to authorized parties involved in any State's proceedings, whether the State participates in the national registry or not, for adoption, the placement of a child in State custody, or the termination of a father's rights;

(2) to enable children to find a permanent home more quickly by providing identifying information on possible fathers thereby enabling the fathers' rights to be addressed in a more timely manner;

(3) to remove the burden from the mother of having to identify potential fathers, to protect her privacy and safety, especially in cases of rape or domestic violence;

(4) to empower men to take responsibility for the protection of their rights by enabling them to register in a participating State or directly with the national registry, increasing the likelihood of men re-

ceiving notice of a proceeding in another State and reducing the opportunity for the mother to deprive a possible father of the ability to assert his rights by withholding accurate information concerning the possible father, by moving, or by traveling to another State; and

(5) to reduce the risk to prospective adoptive parents of delayed or disrupted placements resulting from challenges to adoptions due to a possible father's untimely receipt of notice of such proceedings.

SEC. 3. REGISTRIES TO FACILITATE ADOPTIONS.

Part B of title IV of the Social Security Act (42 U.S.C. 620 et seq.) is amended by adding at the end the following:

"Subpart 3—National and State Responsible Father Registries to Facilitate Adoptions

"SEC. 440. DEFINITIONS.

''In this subpart:

''(1) BUSINESS DAY.—The term 'business day' means a day on which Federal or State offices, as applicable, are open for regular business.

''(2) ELIGIBLE PARTY.—The term 'eligible party' means—

''(A) public and licensed private adoption or child placement agencies gathering informa-

tion for a planned or pending adoption or the termination of rights of one or more possible fathers;

"(B) licensed attorneys representing a party in a planned or pending adoption or in the termination of rights of one or more possible fathers;

"(C) State agencies or entities responsible for the placement of children; and

"(D) State courts.

"(3) NATIONAL RESPONSIBLE FATHER REGISTRY.—The term 'National Responsible Father Registry' means the registry established and maintained under section 441.

"(4) NOTICE.—The term 'notice' means notice to all possible fathers of a proceeding sufficient to satisfy the notice requirements of the law of the State in which the proceeding is pending.

"(5) PENDING ADOPTION.—The term 'pending adoption' means any adoption in which an adoption petition has been filed and is still pending with a court pursuant to State law.

"(6) PLANNED ADOPTION.—The term 'planned adoption' means any plan for the adoption of a child or children in which the birth mother has contacted

an attorney or a public or licensed private adoption agency about placing her child for adoption, or in which a public or licensed private adoption agency is working to place a child for adoption.

"(7) PROCEEDING.—The term 'proceeding' means a proceeding relating to a child that a possible father has or may have fathered regarding a planned or pending adoption of the child, the entry of the child into State custody, or the termination of a possible father's rights to the child.

"(8) POSSIBLE FATHER.—The term 'possible father' or 'putative father' means a man who has had sexual relations with a woman to whom he is not married and is therefore presumed to know that such woman may be pregnant as a result of such relations.

"(9) SEARCH.—The term 'search' means a request for information regarding the existence of all possible fathers related to a child that is the subject of a proceeding.

"(10) STATE RESPONSIBLE FATHER REGISTRY.—The term 'State Responsible Father Registry' means, with respect to a State, the registry established or modified and maintained under section 443 for that State.

"(11) PARTICIPATING STATE.—The term 'participating State' means a State that has entered into an agreement with the Secretary under section 442.

"SEC. 441. NATIONAL RESPONSIBLE FATHER REGISTRY.

"(a) ESTABLISHMENT AND MAINTENANCE.—

"(1) IN GENERAL.—Not later than the date that is 180 days after the date of enactment of this subpart, the Secretary shall establish and maintain an automated National Responsible Father Registry that contains the information described in section 443(c) and that provides a mechanism for men to register such information directly with the National Responsible Father Registry.

"(2) DATA ENTRY AND DELETION REQUIREMENTS.—

"(A) DATA ENTRY.—Information transmitted by a State or a possible father under section 443(d)(2) shall be entered into the National Responsible Father Registry not later than the date that is 2 business days after the date on which such information is received.

"(B) RESPONSIBLE FATHER REGISTRATION.—The Secretary shall establish procedures under which a possible father may submit the information described in section 443(c) directly

to the Secretary for the purpose of including such information in the National Responsible Father Registry. Such procedures shall—

"(i) require the possible father to verify by submission of a sworn statement or such other means as the Secretary determines appropriate that the information submitted is his own personal information and that it is true and correct to the best of his knowledge;

"(ii) provide that no fee shall be charged to the possible father for registering in the National Responsible Father Registry; and

"(iii) allow possible fathers to submit registrations by mail or electronic means.

"(C) APPLICATION OF FEDERAL PENALTIES FOR SUBMISSION OF FALSE INFORMATION.—Any person who knowingly submits false information to the National Responsible Father Registry directly or indirectly through transmission of information submitted to a State Responsible Father Registry shall be subject to penalties in accordance with the provi-

sions of section 1001 of title 18, United States Code.

"(D) DELETION OF DATA.—Information entered into the National Responsible Father Registry shall remain in the registry for not less than 20 years from the date of entry.

"(3) ACCESS TO INFORMATION IN THE NATIONAL RESPONSIBLE FATHER REGISTRY.—

"(A) IN GENERAL.—Subject to subparagraph (B), access to the information contained in the National Responsible Father Registry is limited to an eligible party.

"(B) LIMITED ACCESS FOR REGISTRANTS.—Each possible father who registers in the National Responsible Father Registry may file a search request with the Secretary for the limited purpose of confirming that the information he provided is contained in the National Registry.

"(4) SEARCH REQUESTS.—

"(A) BY AN ELIGIBLE PARTY.—The Secretary shall accept a request from an eligible party to search the National Responsible Father Registry only if the request has been verified for authenticity.

"(B) BY A REGISTRANT.—The Secretary shall accept a request from a possible father who has registered in the National Responsible Father Registry to search the National Responsible Father Registry only if the request has been verified for authenticity.

"(C) FEE.—The Secretary is authorized to charge a reasonable fee for a search conducted under this section.

"(5) LIMITATION ON DISCLOSURE OF INFORMATION.—No information contained in the National Responsible Father Registry shall be disclosed to any person if the disclosure of the information would contravene a national security interest of the United States or if the disclosure would compromise the confidentiality of census data.

"(6) METHODS FOR REQUESTING A SEARCH OF THE NATIONAL DATABASE.—An eligible party may request a search under this section either electronically or through the mail.

"(7) CERTIFICATE OF SEARCH.—

"(A) ISSUANCE.—Within 2 business days of receipt of a search request, the Secretary shall issue by mail or electronic means a certifi-

cate of search to the person who requested the search.

"(B) CONTENTS OF ELIGIBLE PARTY SEARCH.—The certificate of search on behalf of an eligible party shall contain—

"(i) the names and most recent contact information for all possible fathers who are registered in the National Responsible Father Registry or registered in any participating State Responsible Father Registry;

"(ii) the latest date through which data in the National Responsible Father Registry has been updated; and

"(iii) the list of the State Responsible Father Registries whose data is included in the search database and the date through which the data from each participating State was last updated.

"(C) CONTENTS OF REGISTRANT SEARCH.—The certificate of search on behalf of a possible father who has registered in the National Responsible Father Registry shall only contain the information provided to the Secretary by the registrant himself or provided by

the registrant to a participating State registry and transmitted by that State registry to the Secretary.

"(D) EFFECT OF CERTIFICATE.—A certificate of search issued under subparagraph (B) shall serve as evidence of efforts by the eligible party who requested the search to locate a possible father in order to provide those possible fathers identified in the certificate with notice of a proceeding.

"(b) NATIONAL EDUCATIONAL CAMPAIGN.—The Secretary shall establish a nationwide responsible fatherhood and responsible father registry educational campaign that is designed to inform possible fathers, unwed mothers, possible adoptive parents, and eligible parties of the existence of the National Responsible Father Registry, the advantages of possible fathers registering either in the National Responsible Father Registry or a State Responsible Father Registry, or both, the rights and responsibilities of possible fathers, unwed mothers, possible adoptive parents, and eligible parties with regard to a proceeding, and the role of the National Responsible Father Registry and a State Responsible Father Registry in a proceeding.

"SEC. 442. AGREEMENTS WITH STATES TO PROMOTE RESPONSIBLE FATHERHOOD.

"(a) IN GENERAL.—The Secretary shall use all reasonable efforts to encourage States to enter into an agreement with the Secretary to become a participating State under this subpart. Such agreements shall—

"(1) require that the State comply with the requirements for State Responsible Father Registries under section 443;

"(2) require that the State provide for a process under which a registered possible father will receive notice of a proceeding at the most recent address he provided to the registry, within State determined guidelines and time limits;

"(3) require the State to provide annual reviews and reports to the Secretary on the State Responsible Father Registry, including such information as may be necessary to measure compliance with the requirements under this subpart;

"(4) require the State to, in accordance with standards prescribed by the Secretary, cooperate with other States and the Federal Government to assist individuals and governments in their efforts to locate and provide notice to possible fathers;

"(5) encourage the State to establish or designate a single organizational unit within the State

that meets such staffing and organizational requirements as the Secretary may prescribe to administer the State Responsible Father Registry;

"(6) encourage the State to enter into cooperative agreements between the State and appropriate entities, such as those specified in section 443(e)(2), to assist the organizational unit established or designated to administer the State Responsible Father Registry;

"(7) encourage the State to amend its long-arm jurisdictional statute to ensure that personal jurisdiction is established in a proceeding for a father registered in the National Responsible Father Registry;

"(8) encourage States to develop, establish, and operate programs that are designed—

"(A) to improve the protection of the rights of possible fathers in a proceeding;

"(B) to assist mothers in making responsible plans for their children's future; and

"(C) to protect the privacy and safety of possible fathers and of birth mothers, including those who have been the victims of violence, by, among other things, enabling birth mothers to proceed with an adoption or placement plan

without being required to disclose her sexual partners; and

"(9) encourage States to enact laws and regulations to address the pre-birth abandonment of a child by the biological father and abandonment of a child by the biological father subsequent to birth.

"(b) GRANTS TO PROMOTE RESPONSIBLE FATHERHOOD.—An agreement with a State that meets the requirements of subsection (a) may include a grant to the State as provided for under section 444.

"SEC. 443. STATE RESPONSIBLE FATHER REGISTRIES.

"(a) ESTABLISHMENT AND MAINTENANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), each State that is a participating State under this subpart shall provide assurances to the Secretary that the State has, or will establish, and will maintain an automated responsible father registry that meets the requirements of this section.

"(2) EXISTING STATE RESPONSIBLE FATHER REGISTRIES.—A State that has a responsible father registry in existence on the date of enactment of this subpart and desires to enter into an agreement with the Secretary under section 442 shall provide assurances to the Secretary that the State will, not later than 180 days from the last day of the first regular

session of the State legislature that begins after the date of enactment of this subpart, modify the registry to the extent necessary for the registry to meet the requirements of this section with respect to responsible fathers who register with the State on or after that day. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate, regular session of the State legislature.

''(b) REGISTRATION WITH THE STATE RESPONSIBLE FATHER REGISTRY.—

''(1) SUBMISSION OF INFORMATION.—The State shall establish procedures under which the possible father of a child may submit the information described in subsection (c) to the State for the purpose of including the information in the State Responsible Father Registry. Such procedures shall provide that, in order for the possible father to be entitled to notice of any proceeding, the possible father must submit information for inclusion in the State Responsible Father Registry within State-determined time limits.

''(2) VERIFICATION.—The procedures established under paragraph (1) shall require the possible

father to verify by submission of a sworn statement or such other means as the State, in consultation with the Secretary, determines appropriate that the information submitted is his own personal information and that it is true and correct to the best of his knowledge.

''(c) CONTENTS.—With respect to a child, the State Responsible Father Registry shall contain information sufficient to identify the possible father, which may include (but is not limited to)—

''(1) the name of the possible father (including any other names by which he may be known);

''(2) the date of birth of the possible father;

''(3) the Social Security number of the possible father, if any;

''(4) the State of issue and driver's license number of the possible father, if any;

''(5) the address provided by the possible father at which he requests notice;

''(6) all known telephone numbers for the possible father;

''(7) the name and address of the employer of the possible father, if any;

''(8) the name of the mother (including any other names by which she may be known);

"(9) the most recent address of the mother, if known;

"(10) the date of birth of the mother, if known;

"(11) the Social Security number of the mother, if known;

"(12) the State of issue and driver's license number of the mother, if known;

"(13) the city and State where possible conception took place;

"(14) the date or estimated date (or range of dates) of possible conception;

"(15) the birth date of the child or the approximate delivery date, if known; and

"(16) the name and gender of the child, if known.

"(d) COLLECTION OF STATE INFORMATION AND TRANSMISSION TO THE NATIONAL RESPONSIBLE FATHER REGISTRY.—

"(1) COLLECTION.—The State shall collect the information described in subsection (c) submitted by the possible father and enter such information into the State Responsible Father Registry.

"(2) TRANSMISSION.—Not later than the date that is 3 business days after the date on which any information described in subsection (c) is entered

into the State Responsible Father Registry, the State shall furnish such information to the Secretary, in an electronic format designated by the Secretary, for purposes of including the information in the National Responsible Father Registry.

"(3) REQUIREMENT.—The procedures established under subsection (b)(1) shall include a means by which a possible father is informed that the registry may be used to establish an obligation to support a child or children. Except as provided in subsection (g), registration shall not constitute an admission of guilt to any crime under Federal or State law.

"(e) ESTABLISHMENT OF REGISTRATION CENTERS.—

"(1) IN GENERAL.—The State shall establish centers in various locations throughout the State so that registration forms for the State Responsible Father Registry are easily accessible to possible fathers.

"(2) SITES.—The sites of the centers described in paragraph (1) may include (but are not limited to) the following:

"(A) State and local hospitals.

"(B) Courthouses in which family courts are located.

"(C) State departments of motor vehicles.

"(D) State welfare agencies.

"(E) State health department offices.

"(F) State vital records offices.

"(G) State probate courts.

"(H) State-operated or -sponsored websites for each center established in accordance with this subsection.

"(f) METHOD OF SUBMITTING REGISTRATION.—The State shall permit a possible father to submit information to the State Responsible Father Registry electronically, in person, or by mail. The State shall not charge a fee for registering in the State Responsible Father Registry.

"(g) PENALTIES FOR SUBMISSION OF FALSE INFORMATION.—A State shall have in effect a law that provides that any person who knowingly submits false information to a State Responsible Father Registry shall be guilty of the highest class of misdemeanor under State law.

"(h) ACCURACY OF DATA.—A possible father is solely responsible for the accuracy of the information contained in his registration and he shall be responsible for updating the information, if needed to keep it accurate. The information contained in the registration is presumed accurate.

Notice regarding a proceeding shall be deemed received by the possible father if sent or delivered to him at the most recent address he provided in subsection (c)(5).

"(i) PRIVACY SAFEGUARDS.—The State shall establish procedures to ensure that the information maintained in the State Responsible Father Registry is subject to the same privacy safeguards as the privacy safeguards required under section 454(26).

"SEC. 444. GRANTS TO STATES TO PROMOTE RESPONSIBLE FATHERHOOD.

"(a) GRANTS TO STATES.—The Secretary may make a grant to a State that enters into an agreement with the Secretary pursuant to section 442 to become a participating State for purposes of—

"(1) modifying an existing State Responsible Father Registry to the extent necessary for the registry to meet the requirements of section 443; or

"(2) establishing a State Responsible Father Registry that meets the requirements of section 443.

"(b) CONDITION.—As a condition for receiving a grant under this section, a State shall agree to—

"(1) maintain an automated State Responsible Father Registry in accordance with the requirements of section 443; and

"(2) support the nationwide responsible fatherhood and responsible father registry educational campaign established under section 441(b).

"(c) AMOUNT.—A grant made under this section shall be in such an amount as the Secretary determines appropriate.

"(d) USE OF FUNDS.—Funds received under a grant made under this section may be used to reimburse a participating State in whole or in part for costs incurred to modify an existing State Responsible Father Registry or to establish a State Responsible Father Registry, and to reimburse the State in whole or in part for costs incurred to satisfy the conditions specified in subsection (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 2013 and each fiscal year thereafter for purposes of making grants to States under this section.".

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