

HOUSE BILL REPORT

ESSB 5118

As Reported by House Committee On:
Judiciary

Appropriations Subcommittee on Health & Human Services

Title: An act relating to access to original birth certificates after adoption finalization.

Brief Description: Addressing access to original birth certificates after adoption finalization.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Benton, Darneille, Bailey, Roach and Honeyford).

Brief History:

Committee Activity:

Judiciary: 3/26/13, 4/2/13 [DP];

Appropriations Subcommittee on Health & Human Services: 4/4/13 [DP].

Brief Summary of Engrossed Substitute Bill

- Establishes standards under which an adopted person over the age of 18 may obtain an uncertified copy of the original birth certificate.
- Requires the Department of Health to develop a contact preference form for birth parents to indicate their preferences regarding contact with the adopted person, and a birth parent medical history form that will be released to an adult adopted person upon request.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Jinkins, Kirby, Klippert, Nealey, Orwall, Roberts and Shea.

Staff: Edie Adams (786-7180).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Generally, all records of court proceedings relating to adoptions are sealed, and all files relating to adoptions are confidential and may not be disclosed, except by court order or through a confidential intermediary process.

The confidential intermediary process allows a birth parent or an adoptee who is at least 21 years of age to petition for the appointment of a confidential intermediary to search for and make contact with the other party. An adopted person over the age of 18 may file a certified statement with the Department of Health (DOH) indicating his or her consent or refusal to the release of identifying information, or his or her consent or refusal to be contacted by a biological parent or a confidential intermediary.

Reasonably available non-identifying information of a birth parent, adoptive parent, or adoptee may be disclosed without a court order upon the request of the birth parent, adoptive parent, or adoptee. "Non-identifying information" includes a nonexclusive list of information, such as age, heritage, education, general physical appearance, religion, occupation, other children of the birth parents, and medical and genetic history.

The DOH must release the noncertified copy of the original birth certificate without a court order under some circumstances. The DOH must provide a noncertified copy of the original birth certificate to the child's birth parent's upon request. In addition, for adoptions finalized after October 1, 1993, the DOH must provide a noncertified copy of the original birth certificate to an adult adoptee unless the birth parent has filed an affidavit of nondisclosure.

Summary of Bill:

A birth parent may at any time complete a contact preference form, which must include the following options: (1) I would like to be contacted; (2) I would like to be contacted only through a confidential intermediary; and (3) I prefer not to be contacted and have completed the birth parent updated medical history form. If the birth parent indicates a preference not to be contacted, personally identifying information on the form must be kept confidential.

For adoptions finalized after October 1, 1993, the DOH must provide a noncertified copy of the original birth certificate to an adopted person age 18 or older upon request, unless the birth parent has filed a valid affidavit of nondisclosure before the effective date of the act, or has filed a valid contact preference form that indicates the birth parent prefers not to be contacted.

For adoptions finalized on or before October 1, 1993, the DOH may not make available a copy of the original birth certificate until after June 30, 2014. After June 30, 2014, the DOH must provide a noncertified copy of the original birth certificate to an adopted person age 18 or older upon request, unless the birth parent has filed a valid contact preference form that indicates the birth parent prefers not to be contacted.

The DOH may charge a fee of up to \$20 for providing a noncertified copy of the original birth certificate to an adopted person. Both the affidavit of nondisclosure and the contact preference form expire upon the death of the birth parent.

If the DOH provides a noncertified copy of the original birth certificate to an adopted person, the DOH must also provide the adopted person with any contact preference form filed by the birth parent. If a contact preference form is filed within six months of the first time an adopted person requests a copy of the original birth certificate, the DOH must forward the contact preference form to the adoptee.

A birth parent who files a contact preference form must also file a medical history form. The DOH must provide the birth parent's medical history form to an adopted person upon request.

A completed contact preference form and updated medical history form are confidential and must be placed in a secure file until a match with the adopted person's file is made. Once a match is made, the forms must be placed in the adopted person's sealed file.

The DOH must create the contact preference form, which must provide a means to ensure the confidentiality of identifying information, and the medical history form, which may not require the birth parent to disclose identifying information.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill balances the rights of adoptees and birth parents. The bill has come a long way and undergone a number of changes to reach agreement. Adoptees should have the ability to access their original birth certificates. The bill represents changing attitudes about adoption practices and policies. Eight states have provided adoptees with access to birth certificates and many national organizations support unlimited access. We need to take action this year and not leave this important issue in limbo any longer. It is not a perfect bill, but we must not let perfection be the enemy of the good.

(In support without veto provision) It is a basic human and civil right for persons to have access to their original birth certificates so that they know about their heritage, background, and medical history. This information is important not only to the adoptee, but also so that other generations will know their history. Restricting access maintains the grief and loss experienced by adoptees and their mothers. Experience has shown that when birth mothers are finally identified, their mental health and well-being improves. It can be emotional when a birth parent and adoptee are reunited, but it is often the right thing to do for all parties.

Under Oregon's landmark adoption law, over 11,000 birth certificates have been provided to adoptees. There have been no repercussions in the states that have opened up access to birth records. If the birth parent does not want a relationship with the adoptee, that wish can be

honored. The contact preference form allows a birth parent to veto access to the birth record. This is very demeaning to mothers; it gives them the right to hide from their children. The requirement to seal records was established not to protect birth mothers' privacy, but to protect the integrity of the adoptive family.

(Other) Adoptees need access to their birth records because that is the first step in learning who they really are as a person. This mystery is the one thing that adoptees want to solve in their lifetimes, and the difficulty of the search takes a toll. There is a lot of information that adoptees are not being given. One piece of paper is often all that adoptees know about their families, and often much of this information is wrong. The birth certificate is not the biological mother's piece of paper; it is the adoptee's piece of paper. No birth mother has the right to make this decision for an adoptee. We need to allow the parties to talk and find out if they want to be together, or if they want to go their separate ways.

(Opposed) This bill is discriminatory because it does not treat adopted people equally. It creates two classes of adoptees: one class that has access to the original birth certificate, and one that does not. The only bill that should be supported is one with unrestricted access. Every single adoptee has the right to know. Adoptees did not ask to be adopted, and they should not be discriminated against for that reason. Only four affidavits have ever been filed since their creation in 1993. In contrast, thousands of adoptees could benefit from having access to their birth certificates. If protecting birth parents' privacy is a goal, allow access to the birth certificate, but allow the birth parent to indicate he or she does not want to be contacted. Do not treat adoptees as if they are a dirty secret.

Persons Testifying: (In support) Senator Rivers; Linda Rivers; Cindy Wakefield; and Laurie Lippold, Partners for Our Children;

(In support without veto provision) Delores Teller; Jane Edwards; Stephanie Alphier and Judy Kennett, Washington Care; Diane Harman-Hoog; and Colleen Florio-Montgomery.

(Other) Michelle Meeker, Rich Funk, and Marlene Funk, Washington Adoption Reunion Movement; and Nancy Retynski.

(Opposed) Jodi Hansen, Penni Johnson, and Deborah Meyer, Washington Care; Anne Blair; Lori Jeske, Bastard Nation Adoptee Rights Organization; and Beth Tribwell.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: Do pass. Signed by 10 members: Representatives Morrell, Chair; Harris, Ranking Minority Member; Cody, Green, Jinkins, Kagi, Ormsby, Pike, Ross and Schmick.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Subcommittee on Health & Human Services Compared to Recommendation of Committee On Judiciary:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Today is not the first time this committee has dealt with the issue of access to birth certificates. The hope is to allow the Department of Health to charge a fee that would offset the cost to the state of providing adult adoptees with birth certificate information. The policy is self-supporting through fees.

(Opposed) None.

Persons Testifying: Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying: None.