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**SUBSTITUTE SENATE BILL 5782**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Sellar and Roach)

Read first time 03/01/95.

1 AN ACT Relating to adoption; and amending RCW 26.33.343; and adding  
2 a new section to chapter 26.33 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.33.343 and 1990 c 145 s 1 are each amended to read  
5 as follows:

6 (1) An adopted person over the age of twenty-one years, or under  
7 twenty-one with the permission of the adoptive parent, or a birth  
8 parent or member of the birth parent's family after the adoptee has  
9 reached the age of twenty-one may petition the court to appoint a  
10 confidential intermediary. The intermediary shall search for and  
11 discreetly contact the birth parent or adopted person, or if they are  
12 not alive or cannot be located within one year, the intermediary may  
13 attempt to locate members of the birth parent or adopted person's  
14 family. These family members shall be limited to the natural  
15 grandparents of the adult adoptee, a brother or sister of a natural  
16 parent, or the child of a natural parent. The court, for good cause  
17 shown, may allow a relative more distant in degree to petition for  
18 disclosure.

1 (2)(a) Confidential intermediaries appointed under this section  
2 shall complete training provided by a licensed adoption service or  
3 another court-approved entity and file an oath of confidentiality and  
4 a certificate of completion of training with the superior court of  
5 every county in which they serve as intermediaries. The court may  
6 dismiss an intermediary if the intermediary engages in conduct which  
7 violates professional or ethical standards.

8 (b) The confidential intermediary shall sign a statement of  
9 confidentiality substantially as follows:

10 I, . . . . ., signing under penalty of contempt of court, state:  
11 "As a condition of appointment as a confidential intermediary, I affirm  
12 that, when adoption records are opened to me:

13 I will not disclose to the petitioner, directly or indirectly, any  
14 identifying information in the records without further order from the  
15 court.

16 I will conduct a diligent search for the person being sought and  
17 make a discreet and confidential inquiry as to whether that person will  
18 consent to being put in contact with the petitioner, and I will report  
19 back to the court the results of my search and inquiry.

20 If the person sought consents to be put in contact with the  
21 petitioner, I will attempt to obtain a dated, written consent from the  
22 person, and attach the original of the consent to my report to the  
23 court. If the person sought does not consent to the disclosure of his  
24 or her identity, I shall report the refusal of consent to the court.

25 I will not make any charge or accept any compensation for my  
26 services except as approved by the court, or as reimbursement from the  
27 petitioner for actual expenses incurred in conducting the search.  
28 These expenses will be listed in my report to the court.

29 I recognize that unauthorized release of confidential information  
30 may subject me to civil liability under state law, and subjects me to  
31 being found in contempt of court."

32 /s/ \_\_\_\_\_ date \_\_\_\_\_

33 (c) The confidential intermediary shall review the court records  
34 before making any contact with an adoptee to determine if a certified  
35 statement has been filed pursuant to section 2 of this act. The  
36 intermediary shall comply with all certified requests filed by an  
37 adoptee under section 2 of this act.

1        (d) The confidential intermediary shall be entitled to  
2 reimbursement from the petitioner for actual expenses in conducting the  
3 search. The court may authorize a reasonable fee in addition to these  
4 expenses.

5        (3) If the confidential intermediary is unable to locate the person  
6 being sought within one year, the confidential intermediary shall make  
7 a recommendation to the court as to whether or not a further search is  
8 warranted, and the reasons for this recommendation.

9        (4)(a) In the case of a petition filed on behalf of a natural  
10 parent or other blood relative of the adoptee, written consent of any  
11 living adoptive parent shall be obtained prior to contact with the  
12 adoptee if the adoptee:

13        ~~((a))~~ (i) Is less than twenty-five years of age and is residing  
14 with the adoptive parent; or

15        ~~((b))~~ (ii) Is less than twenty-five years of age and is a  
16 dependent of the adoptive parent; and

17        (b) In all other cases of a petition filed on behalf of a natural  
18 parent or other blood relative of the adoptee, before attempting to  
19 contact the adoptee, the intermediary shall file an affidavit with the  
20 court certifying that written notification has been provided to each  
21 adoptive parent.

22        (i) The written notification shall read substantially as follows:

23        Please take notice that a natural parent or other blood relative of  
24 your adopted child, . . . . (name) . . . . , is seeking contact with  
25 your adopted child through a court-appointed confidential intermediary.

26        The confidential intermediary process and this notification are  
27 governed by Washington state law, chapter 26.33 RCW.

28        (ii) If one or both of the adoptive parents is deceased or cannot  
29 be located within one year, the intermediary's affidavit shall inform  
30 the court of these circumstances.

31        (5) If the confidential intermediary locates the person being  
32 sought, a discreet and confidential inquiry shall be made as to whether  
33 or not that person will consent to having his or her present identity  
34 disclosed to the petitioner. The identity of the petitioner shall not  
35 be disclosed to the party being sought. If the party being sought  
36 consents to the disclosure of his or her identity, the confidential  
37 intermediary shall obtain the consent in writing and shall include the  
38 original of the consent in the report filed with the court. If the  
39 party being sought refuses disclosure of his or her identity, the

1 confidential intermediary shall report the refusal to the court and  
2 shall refrain from further and subsequent inquiry without judicial  
3 approval.

4 (6)(a) If the confidential intermediary obtains from the person  
5 being sought written consent for disclosure of his or her identity to  
6 the petitioner, the court may then order that the name and other  
7 identifying information of that person be released to the petitioner.

8 (b) If the person being sought is deceased, the court may order  
9 disclosure of the identity of the deceased to the petitioner.

10 (c) If the confidential intermediary is unable to contact the  
11 person being sought within one year, the court may order that the  
12 search be continued for a specified time or be terminated.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.33 RCW  
14 to read as follows:

15 (1) An adopted person over the age of eighteen may file with the  
16 court a certified statement declaring any one or more of the following:

17 (a) The adoption records contained in this court file are  
18 confidential for any purpose other than a medical emergency as  
19 determined by a court of competent jurisdiction;

20 (b) The adoptee refuses to consent to the release of any  
21 identifying information to a biological parent, biological sibling, or  
22 other biological relative and does not wish to be contacted by a  
23 confidential intermediary except in the case of a medical emergency as  
24 determined by a court of competent jurisdiction;

25 (c) The adoptee consents to the release of any identifying  
26 information to a confidential intermediary appointed under RCW  
27 26.33.343, a biological parent, biological sibling, or other biological  
28 relative;

29 (d) The adoptee desires to be contacted by his or her biological  
30 parents, biological siblings, other biological relatives, or a  
31 confidential intermediary appointed under RCW 26.33.343;

32 (e) The current name, address, and telephone number of the adoptee  
33 who desires to be contacted.

34 (2) It is unlawful to release any records or identifying  
35 information from a court file in which a certified statement has been  
36 filed under subsection (1)(a) or (b) of this section, except in the  
37 case of a medical emergency as determined by a court of competent  
38 jurisdiction.

1           (3) The certified statement shall be filed with the court in which  
2 the adoption was finalized, or if the adoption was finalized outside  
3 the state of Washington, with the superior court of the county in which  
4 the adopted person resides. The certified statement shall be placed at  
5 the front of the court file. When the statement includes a request for  
6 confidentiality or a refusal to consent to the disclosure of  
7 identifying information, a prominent notice stating substantially the  
8 following shall also be placed at the front of the court file: "AT THE  
9 REQUEST OF THE ADOPTEE, ALL RECORDS AND INFORMATION RELATING TO THIS  
10 ADOPTION ARE SEALED EXCEPT IN CASES OF MEDICAL EMERGENCY. IT IS  
11 UNLAWFUL TO RELEASE ANY RECORDS OR INFORMATION FROM THIS FILE WITHOUT  
12 A COURT ORDER FINDING THE RELEASE TO BE NECESSARY FOR A MEDICAL  
13 EMERGENCY."

14           (4) An adopted person who files a certified statement under  
15 subsection (1) of this section may subsequently file another certified  
16 statement requesting the court to rescind or amend the prior certified  
17 statement.

18           (5) The court and any confidential intermediary shall comply with  
19 a request properly certified and filed under this section by an  
20 adoptee.

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