
SECOND SUBSTITUTE HOUSE BILL 2211

State of Washington

62nd Legislature

2012 Regular Session

By House Health & Human Services Appropriations & Oversight
(originally sponsored by Representatives Orwall, Ormsby, Upthegrove,
and Hunt)

READ FIRST TIME 02/06/12.

1 AN ACT Relating to adoptees' access to information, including
2 original birth certificates; amending RCW 26.33.330, 26.33.340,
3 26.33.345, and 26.33.020; and adding a new section to chapter 26.33
4 RCW.

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

6 **Sec. 1.** RCW 26.33.330 and 1996 c 243 s 3 are each amended to read
7 as follows:

8 (1) All records of any proceeding under this chapter shall be
9 sealed and shall not be thereafter open to inspection by any person
10 except upon order of the court for good cause shown, or except by using
11 the procedure described in RCW 26.33.343 or 26.33.345. In determining
12 whether good cause exists, the court shall consider any certified
13 statement on file with the department of health as provided in RCW
14 26.33.347.

15 (2) The state registrar of vital statistics may charge a reasonable
16 fee for the review of any of its sealed records.

17 **Sec. 2.** RCW 26.33.340 and 1993 c 81 s 2 are each amended to read
18 as follows:

1 Department, agency, and court files regarding an adoption shall be
2 confidential except as provided for in RCW 26.33.345 and except that
3 reasonably available nonidentifying information (~~may~~) shall be
4 disclosed upon the written request for the information from the
5 adoptive parent, the adoptee, or the birth parent. If the adoption
6 facilitator refuses to disclose nonidentifying information, the
7 individual may petition the superior court. Identifying information
8 may also be disclosed through the procedure described in RCW 26.33.343
9 and 26.33.345.

10 **Sec. 3.** RCW 26.33.345 and 1993 c 81 s 3 are each amended to read
11 as follows:

12 (1) The department of social and health services, adoption
13 agencies, and independent adoption facilitators shall release the name
14 and location of the court where a relinquishment of parental rights or
15 finalization of an adoption took place to an adult adoptee, a birth
16 parent of an adult adoptee, an adoptive parent, a birth or adoptive
17 grandparent of an adult adoptee, or an adult sibling of an adult
18 adoptee, or the legal guardian of any of these.

19 (2) The department of health shall make available a noncertified
20 copy of the original birth certificate of a child to the child's birth
21 parents upon request.

22 (3) (~~For adoptions finalized after October 1, 1993,~~) After
23 receiving a request from an adoptee who is eighteen years of age or
24 older, the department of health shall (~~make available~~) provide the
25 adoptee with a noncertified copy of the adoptee's original birth
26 certificate (~~to the adoptee after the adoptee's eighteenth birthday~~)
27 unless the birth parent has filed (~~an~~) a valid affidavit of
28 nondisclosure pursuant to this section.

29 (4)(a) Regardless of when the adoption was finalized, a birth
30 parent may file with the department of health an affidavit of
31 nondisclosure pursuant to this section.

32 (b) An affidavit of nondisclosure filed by a birth parent for an
33 adoption finalized prior to October 1, 1993, is valid for ten years
34 from the date the affidavit is filed.

35 (c) An affidavit of nondisclosure filed by a birth parent for an
36 adoption finalized on or after October 1, 1993, is valid for five years
37 from the date the affidavit is filed, unless the affidavit was filed

1 before the effective date of this section. An affidavit of
2 nondisclosure filed before the effective date of this section for an
3 adoption finalized on or after October 1, 1993, is valid until July 1,
4 2017.

5 (5)(a) A birth parent may renew his or her affidavit of
6 nondisclosure by filing a new affidavit with the department of health
7 before the expiration of the previously filed affidavit. A birth
8 parent may continue to renew his or her affidavit of nondisclosure or
9 file a new affidavit of nondisclosure if a previously filed affidavit
10 has expired.

11 (b) If a birth parent does not renew his or her affidavit of
12 nondisclosure before the expiration date, the affidavit of
13 nondisclosure is deemed expired and is no longer valid. An affidavit
14 of nondisclosure is deemed expired and no longer valid upon the death
15 of the birth parent. A personal representative or agent of a deceased
16 birth parent may not file an affidavit of nondisclosure on the deceased
17 birth parent's behalf.

18 (6) Regardless of whether a birth parent has filed an affidavit of
19 nondisclosure, a birth parent may file with the department of health a
20 contact preference form. The contact preference form must indicate
21 whether the birth parent desires or does not desire contact with the
22 adoptee. Nothing in this section precludes a birth parent from
23 subsequently filing another contact preference form to rescind the
24 previous contact preference form and state a different preference.

25 (7) If a birth parent files an affidavit of nondisclosure or a
26 contact preference form, the birth parent must also file a medical
27 history form with the department of health.

28 (8)(a) If the department of health provides a noncertified copy of
29 the original birth certificate to an adoptee under this section, the
30 department of health must also provide the adoptee with a copy of any
31 contact preference form and the medical history form filed by the
32 adoptee's birth parent. If the department of health does not provide
33 a noncertified copy of the original birth certificate because a valid
34 affidavit of nondisclosure has been filed, the department of health
35 must still provide the adoptee with the medical history form filed by
36 the adoptee's birth parent.

37 (b) If the department of health does not provide an adoptee with a
38 noncertified copy of the adoptee's original birth certificate because

1 a valid affidavit of nondisclosure has been filed, the adoptee may
2 request, no more than once per year, that the department of health
3 attempt to determine if the birth parent is deceased. Upon request of
4 the adoptee, the department of health must make a reasonable effort to
5 search public records that are accessible and already available to the
6 department of health to determine if the birth parent is deceased. The
7 department of health may charge the adoptee a reasonable fee to cover
8 the cost of conducting a search.

9 (c) The department of health may charge a fee not to exceed twenty
10 dollars for providing a noncertified copy of a birth certificate to an
11 adoptee.

12 (9) The department of health must create the contact preference
13 form and medical history form. The medical history form may not
14 require the birth parent to disclose any identifying information about
15 the birth parent. The department of health must modify the affidavit
16 of nondisclosure form to include the birth parent's social security
17 number.

18 **Sec. 4.** RCW 26.33.020 and 1993 c 81 s 1 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (1) "Alleged father" means a person whose parent-child relationship
23 has not been terminated, who is not a presumed father under chapter
24 26.26 RCW, and who alleges himself or whom a party alleges to be the
25 father of the child. It includes a person whose marriage to the mother
26 was terminated more than three hundred days before the birth of the
27 child or who was separated from the mother more than three hundred days
28 before the birth of the child.

29 (2) "Child" means a person under eighteen years of age.

30 (3) "Adoptee" means a person who is to be adopted or who has been
31 adopted.

32 (4) "Adoptive parent" means the person or persons who seek to adopt
33 or have adopted an adoptee.

34 (5) "Court" means the superior court.

35 (6) "Department" means the department of social and health
36 services.

1 (7) "Agency" means any public or private association, corporation,
2 or individual licensed or certified by the department as a child
3 placing agency under chapter 74.15 RCW or as an adoption agency.

4 (8) "Parent" means the natural or adoptive mother or father of a
5 child, including a presumed father under chapter 26.26 RCW. It does
6 not include any person whose parent-child relationship has been
7 terminated by a court of competent jurisdiction.

8 (9) "Legal guardian" means the department, an agency, or a person,
9 other than a parent or stepparent, appointed by the court to promote
10 the child's general welfare, with the authority and duty to make
11 decisions affecting the child's development.

12 (10) "Guardian ad litem" means a person, not related to a party to
13 the action, appointed by the court to represent the best interests of
14 a party who is under a legal disability.

15 (11) "Relinquish or relinquishment" means the voluntary surrender
16 of custody of a child to the department, an agency, or prospective
17 adoptive parents.

18 (12) "Individual approved by the court" or "qualified salaried
19 court employee" means a person who has a master's degree in social work
20 or a related field and one year of experience in social work, or a
21 bachelor's degree and two years of experience in social work, and
22 includes a person not having such qualifications only if the court
23 makes specific findings of fact that are entered of record establishing
24 that the person has reasonably equivalent experience.

25 (13) "Birth parent" means the biological mother or biological or
26 alleged father of a child, including a presumed father under chapter
27 26.26 RCW, whether or not any such person's parent-child relationship
28 has been terminated by a court of competent jurisdiction. "Birth
29 parent" does not include a biological mother or biological or alleged
30 father, including a presumed father under chapter 26.26 RCW, if the
31 parent-child relationship was terminated because of an act for which
32 the person was found guilty under chapter 9A.42 or 9A.44 RCW.

33 (14) "Nonidentifying information" (~~includes~~) shall include if it
34 is available, but is not limited to, the following information about
35 the birth parents, adoptive parents, and adoptee:

36 (a) Age in years at the time of adoption;

37 (b) Heritage, including nationality, ethnic background, and race;

- 1 (c) Education, including number of years of school completed at the
2 time of adoption, but not name or location of school;
- 3 (d) General physical appearance, including height, weight, color of
4 hair, eyes, and skin, or other information of a similar nature;
- 5 (e) Religion;
- 6 (f) Occupation, but not specific titles or places of employment;
- 7 (g) Talents, hobbies, and special interests;
- 8 (h) Circumstances leading to the adoption;
- 9 (i) Medical and genetic history of birth parents;
- 10 (j) First names;
- 11 (k) Other children of birth parents by age, sex, and medical
12 history;
- 13 (l) Extended family of birth parents by age, sex, and medical
14 history;
- 15 (m) The fact of the death, and age and cause, if known;
- 16 (n) Photographs;
- 17 (o) Name of agency or individual that facilitated the adoption.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 26.33 RCW
19 to read as follows:

20 Nothing contained in chapter . . . , Laws of 2012 (this act) shall
21 be construed to alter or affect a person's rights under the state
22 Indian child welfare act, chapter 13.38 RCW, or the federal Indian
23 child welfare act, 25 U.S.C. Sec. 1901, et seq.

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