

SENATE BILL REPORT

ESSB 5118

As Passed Senate, March 11, 2013

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: Human Services & Corrections: 1/28/13, 2/11/13 [DPS-WM, DNP].
Passed Senate: 3/11/13, 42-5.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5118 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carrell, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Baumgartner and Harper.

Minority Report: Do not pass.

Signed by Senators Hargrove and Padden.

Staff: Joan Miller (786-7784)

Background: Generally, adoption records are sealed and may not be released except upon a court order for good cause or by using a confidential intermediary.

An adopted person over the age of 21, an adopted person under 21 with the permission of the adoptive parent, or a member of the birth parent's family after the adoptee has reached 21 may petition the court to appoint a confidential intermediary. If appointed by the court, the intermediary will search for and discreetly contact the birth parent or adopted person. If the birth parent or adopted person are not alive or cannot be contacted within one year, the intermediary may attempt to locate family members of the birth parent or adopted person. If the person being sought is located, the intermediary must make a discreet and confidential inquiry as to whether the person will consent to having his or her identity disclosed to the petitioner. If the person being sought refuses disclosure, then the intermediary must report the refusal to the court and refrain from further inquiry without judicial approval.

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.

Upon written request from the adoptive parent, the adoptee, or the birth parent, nonidentifying information contained in adoption records held by the Department of Social and Health Services, an adoption agency, or maintained in court files, may be disclosed. Nonidentifying information includes, but is not limited to, the following information about the birth parents, adoptive parents, and the adoptee: age at the time of adoption; heritage; education; general physical appearance; religion; occupation; medical and genetic history; first names; and the name of the agency or individual who facilitated the adoption.

For adoptions finalized after October 1, 1993, the Department of Health (DOH) must make available a noncertified copy of the original birth certificate to the adoptee after the adoptee's 18th birthday, unless the birth parent has filed an affidavit of nondisclosure.

Summary of Engrossed Substitute Bill: For adoptions finalized after October 1, 1993, 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 this legislation or has filed a valid contact preference form that indicates the birth parent does not want to be contacted.

For adoptions finalized on or before October 1, 1993, DOH may not make available a copy of the original birth certificate until after June 30, 2014. After June 30, 2014, all adopted persons, regardless of when the adoption was finalized, will be able to access noncertified copies of their original birth certificates unless the birth parent has filed a valid affidavit of nondisclosure before the effective date of this legislation or has filed a valid contact preference form that indicates the birth parent does not want to be contacted.

Both the affidavit of nondisclosure and the contact preference form expire upon the death of the birth parent.

Regardless of when an adoption was finalized or whether an affidavit of nondisclosure has already been filed, a birth parent may at any time complete a contact preference form that includes 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 medical history form. If a birth parent files a contact preference form, the birth parent must also complete a medical history form. Both the contact preference form and the medical history form, if applicable, must accompany a birth certificate issued to an adopted person.

DOH must create the contact preference and medical history forms. DOH may charge a fee not to exceed \$20.00 for providing a noncertified copy of a birth certificate to an adopted person.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: If this bill existed 30 years ago, adoptees would have some information about their medical history and hereditary conditions. Time and money can be saved by knowing medical information sooner rather than later. The issue goes beyond the privacy of a birth parent – a single individual. Passing this bill would affect a lot of adoptees for the better. We must balance the interests of birth parents and adoptees, and this bill is a good first step because it takes into account their potentially competing interests. The confidential intermediary process would remain in place, but every individual is different, and accessing an original birth certificate would be one more option for an adoptee to pursue. Since 1993, very few, if any, nondisclosure affidavits have been filed. Public opinion regarding adoption has changed; we need to move forward.

Persons Testifying: PRO: Laurie Lippold, Partners for Our Children; Chris Moore, citizen.