

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1037
Committee Substitute Favorable 7/9/93

Short Title: Adoption Records Access.

(Public)

Sponsors:

Referred to:

April 19, 1993

1 A BILL TO BE ENTITLED AN ACT TO AMEND THE ADOPTION LAWS
2 PERTAINING TO ACCESS TO ADOPTION RECORDS.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 48-2 reads as rewritten:

5 **"§ 48-2. Definitions.**

6 In this Chapter, unless the context or subject matter otherwise requires –

7 (1) a., b. Repealed by Session Laws 1985, c. 758, s. 4, effective October 1,
8 1985.

9 (2) 'Adult person' means any person who has attained the age of 18 years.

10 (3) 'Biological relative' means the biological parent or parents or
11 biological siblings of an adoptee.

12 (3a) 'County department' means the county department of social services.

13 (3b) 'Department' means the Department of Human Resources.

14 (4) 'Licensed child-placing agency' means any agency operating under a
15 license to place children for adoption issued by the Department of
16 Human Resources, or in the event that such agency is in another state
17 or territory or in the District of Columbia, operating under a license to
18 place children for adoption issued by a governmental authority of such
19 state, territory, or the District of Columbia, empowered by law to issue
20 such licenses.

21 (5) 'Parent' means the biological or legal mother or father of a child.

22 (6) 'Readoption' means an adoption by any person of a child who has been
23 previously legally adopted.

1 (7) 'Stepchild' means the child of one spouse by a former union, whether
2 or not such child was born in wedlock."

3 Sec. 2. G.S. 48-25 reads as rewritten:

4 **"§ 48-25. Record and information not to be made public; violation a misdemeanor.**

5 (a) Neither the original file of the proceeding in the office of the clerk nor the
6 recording of the proceeding by the Department of Human Resources shall be open for
7 general public inspection.

8 (b) With the exception of the information contained in the final order, it shall be
9 a misdemeanor for any person having charge of the file or record to disclose, except as
10 provided in subsection (d) of this section, G.S. 48-26, and as may be required under ~~the~~
11 ~~provisions of~~ G.S. 48-27, any information concerning the contents of any papers in the
12 proceeding.

13 (c) Except as authorized under G.S. 48-25.1, No ~~no~~ director of social services or
14 any employee of a social services department nor a duly licensed child-placing agency
15 or any of its employees, officers, directors or trustees shall be required to disclose any
16 information, written or verbal, relating to any child or to its biological, legal or adoptive
17 parents, acquired in the contemplation of an adoption of the child, except by order of the
18 clerk of the superior court of original jurisdiction of the adoption, approved by order of
19 a judge of that court, upon motion and after due notice of hearing thereupon given to the
20 director of social services or child-placing agency; provided, however, that every
21 director of social services and child-placing agency shall make to the court all reports
22 required under the provisions of G.S. 48-16 and 48-19.

23 (d) Notwithstanding any other provision of law, certain nonidentifying
24 information, if known, shall be given by the county department of social services or
25 licensed child-placing agency which has such information in writing on a form provided
26 by the Department of Human Resources to the adoptive parent or parents not later than
27 the date of finalization of the adoption proceedings. The information described in this
28 subsection, if known, shall, upon written request of the adoptee, be made available to
29 the adoptee upon ~~his~~ the adoptee's reaching the age of 21. This information or any part
30 thereof may be withheld only if it is of such a nature that it would tend to identify a
31 biological relative of the adoptee. For any adoption completed prior to July 10, 1981,
32 the information described in this subsection, if available, shall be given in writing to the
33 adoptive parent or parents or legal guardian of any minor adoptee or to any adoptee who
34 has reached the age of 21 years upon written request by such person to the agency
35 which has the information. The nonidentifying information, if known, may include only
36 the following:

- 37 (1) Date and time of the birth of the adoptee and ~~his~~ the adoptee's weight
38 at birth;
- 39 (2) Age of biological parents in years, not dates of birth, at birth of the
40 adoptee;
- 41 (3) Heritage of biological parents which shall consist of nationality, ethnic
42 background, and race;
- 43 (4) Education, which shall be the number of years of school completed by
44 the biological parents at the time of birth of the adoptee;

1 (5) General physical appearance of the biological parents at the time of
2 birth of the adoptee in terms of height, weight, color of hair, eyes, skin.

3 (e) The county department of social services or licensed child-placing agency
4 shall give if available a complete health history of biological parents and other relatives
5 to the adoptive parent or parents ~~not later than~~ prior to the date of finalization of the
6 adoption proceedings and subsequent to finalization as provided under G.S. 48-25.1(b),
7 and to the adoptee upon his-the adoptee's written request. The information shall be given
8 on a standardized form provided by the Department of Human Resources and shall
9 include any information which would have a substantial bearing on the adoptee's mental
10 or physical health. For any adoption completed prior to July 10, 1981, the information
11 described in this subsection, if available, shall be given in writing to the adoptive parent
12 or parents or legal guardian of any minor adoptee or to any adoptee upon written request
13 by such person to the agency which has the information.

14 Sec. 3. Chapter 48 of the General Statutes is amended by adding the
15 following sections to read:

16 **"§ 48-25.1. Use of information by department or agency; when disclosure**
17 **authorized.**

18 (a) The county department of social services or the licensed child-placing agency
19 may, in its sole discretion, make use of any information contained in its records relating
20 to the adoptive parents in connection with a subsequent adoption matter involving the
21 same adoptive parents. The county department of social services or the licensed child-
22 placing agency may, in its sole discretion, make use of any information contained in its
23 records on an adoptee when the adoption disrupts after finalization, or when the
24 information is required by federal law.

25 (b) Upon the written request of a party to an adoption proceeding, or upon the
26 written request of a provider of medical services to such party, for certain information
27 that is necessary because of a medical emergency or for medical diagnosis or treatment,
28 the department or licensed child-placing agency may, in its sole discretion, petition the
29 superior court in the county of adoption to obtain access to the department's or agency's
30 own records of the adoption for the purpose of adding medical information obtained
31 subsequent to finalization of the adoption or to release nonidentifying medical
32 information contained in its records on such adopted persons.

33 (c) The county department or licensed child-placing agency may, upon written
34 request of an adopted person who has reached the age of 21 years, release to the adopted
35 person the name of the person's biological parent if:

36 (1) The biological parent whose name is requested has submitted
37 unrevoked written permission to the county department or licensed
38 child-placing agency for the release of that parent's name to the
39 adopted person; and

40 (2) The identity of the biological parent consenting to release of that
41 parent's name has been verified by the county department or licensed
42 child-placing agency; and

1 (3) The county department or licensed child-placing agency has records
2 pertaining to the finalized adoption and to the identity of the biological
3 parent whose name is to be released.

4 (d) If a biological parent has not filed written unrevoked permission for the
5 release of that parent's name to the adopted person, then the county department or
6 licensed child-placing agency, within six months of receipt of the written request of the
7 adopted person who has reached 21 years of age, shall make a diligent effort to notify
8 the biological parent identified in the original adoption proceedings or in other records
9 of the county department or the licensed child-placing agency relative to the adopted
10 person, that such person has requested release of the biological parent's identity. For
11 purposes of this subsection, 'notify' means a personal and confidential contact with the
12 biological parent named on the original birth certificate of the adopted person making
13 the request. The contact shall not be by mail and shall be made by an employee or
14 independent agent of the county department or licensed child-placing agency that
15 processed the pertinent adoption or by other agents or employees of the county
16 department. The person who made such contact with the biological parent shall
17 establish a written record certifying to the county department that the biological parent
18 contacted was given the following information:

19 (1) The nature of the information requested by the adopted person;
20 (2) The date of the request of the adopted person;
21 (3) The right of the biological parent to file within 90 days of the receipt
22 of the notice an affidavit with the department or licensed child-placing
23 agency stating that such parent's identity should not be disclosed;
24 (4) The right of the biological parent listed on the original birth certificate
25 to file a consent to disclosure with the department or licensed child-
26 placing agency at any time; and
27 (5) The effect of the failure of the biological parent to file either a consent
28 to disclosure or an affidavit stating that the information in the original
29 birth certificate should not be disclosed.

30 (e) If a biological parent files an unrevoked consent to the disclosure of that
31 parent's identity, such parent's name shall be released to the adopted person who has
32 requested the information in accordance with this section.

33 (f) If, subsequent to being notified by the department or licensed child-placing
34 agency, a biological parent has not filed an unrevoked consent to the disclosure of that
35 parent's identity at any time within six months after the written request for such
36 information is received by the county department or licensed child-placing agency, or, if
37 such parent has filed with the county department or licensed child-placing agency
38 within 90 days after notice to the biological parent of the request for information an
39 affidavit objecting to the release of the information, whichever occurs later, the
40 information regarding the biological parent shall not be released.

41 (g) If the agent of the county department or licensed child-placing agency
42 certifies that such department or agency has been unable to notify a parent identified in
43 the original adoption record within six months after receipt of the adopted person's
44 written request, and if neither identified biological parent has at any time filed an

1 unrevoked consent to disclosure with the department or licensed child-placing agency,
2 the identity of the biological parent may only be disclosed as provided in subsection (h)
3 of this section.

4 (h) The adopted person who has reached 21 years of age may petition the
5 superior court of the county of adoption to seek the release of the identity of the person's
6 biological parent from the county department or licensed child-placing agency. The
7 court shall grant the petition if the court finds that the county department or child-
8 placing agency made diligent efforts to locate the biological parent without success and
9 that failure to release the identity of each biological parent would have an adverse
10 impact upon the physical, mental, and emotional health of the adopted person.

11 (i) Upon the written request of an adopted person who has reached 21 years of
12 age, or upon the request of a person who has reached 21 years of age and who is the
13 birth sibling of an adopted person, the county department or licensed child-placing
14 agency shall attempt to identify and notify the siblings of the requesting party, if such
15 siblings are at least 18 years of age. Upon locating the requesting party's sibling, the
16 county department or licensed child-placing agency shall notify that sibling of the
17 inquiry. Upon the written consent of the sibling so notified, the department or child-
18 placing agency shall forward the requesting party's name and address to the notified
19 sibling and upon further written consent of that sibling shall divulge to the requesting
20 party the name and address of the consenting sibling. If the sibling is deceased or
21 cannot be identified or located, the department or child-placing agency shall notify the
22 requesting party of such circumstances but shall not disclose any name or other
23 information which would tend to identify the sibling.

24 (j) The adopted person who has reached 21 years of age, or a person who is 21
25 years old and is the sibling of an adopted person may petition the superior court of the
26 county of adoption to seek the release of the last known name and address of each of the
27 siblings of the petitioning sibling, who are at least 18 years of age, from the department
28 or child-placing agency. The court shall grant the petition if the court finds that the
29 county department or child-placing agency made diligent efforts without success to
30 locate such sibling and that failure to release the identity and last known physical
31 address of the sibling would have an adverse impact upon the physical, mental, and
32 emotional health of the petitioning sibling.

33 **"§ 48-25.2. Department to maintain registry.**

34 (a) The Department of Human Resources shall establish and maintain a registry
35 for the recording of requests by adopted persons for the name of any biological relative
36 of the adopted person. In addition to the recording of such requests, the registry shall
37 contain:

- 38 (1) The recording of written consent or written objections of any
39 biological relative to the release of that person's identity to the adopted
40 person upon the adopted person's request for such identity, and
- 41 (2) The recording of nonidentifying information regarding the biological
42 relative which may be released pursuant to G.S. 48-25.

43 County departments of social services and licensed child-placing agencies that
44 receive requests for information and consents and objections to the release of

1 information shall file one copy of all such requests, consents, and objections with the
2 Department of Human Resources for inclusion in the registry. The Department shall
3 establish guidelines for use of and access to the registry in accordance with the
4 requirements of this section, G.S. 48-25, and G.S. 48-26.

5 (b) A biological relative may request the county department or licensed child-
6 placing agency to notify the adoptee who has reached 21 years of age of the relative's
7 registration of information with the Department's registry.

8 (c) The Department may charge a reasonable fee for the cost of conducting a
9 search for information from the registry. The fee charged shall not exceed three
10 hundred dollars (\$300.00) per search plus other reasonable and necessary actual costs
11 incurred pursuant to the search.

12 (d) Any employee or authorized agent of a county department of social services,
13 a licensed child-placing agency, or the Department who releases information or makes
14 authorized contacts in good faith and in compliance with G.S. 48-25 and G.S. 48-25.1
15 shall be immune from civil and criminal liability for such release of information or
16 authorized contact.

17 (e) A licensed child-placing agency that demonstrates to the Department that a
18 search for a biological relative would cause undue hardship upon the agency shall be
19 relieved from the responsibility of conducting the search and the Department shall
20 assume such responsibility."

21 Sec. 4. This act becomes effective January 1, 1994.