

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 237  
Committee Substitute Favorable 5/8/95

Short Title: Adoption Records Access.

(Public)

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Sponsors:

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Referred to:

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February 22, 1995

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

4 The General Assembly of North Carolina enacts:

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

6 **"§ 48-2. Definitions.**

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

8 (1) a., b. Repealed by Session Laws 1985, c. 758, s. 4, effective October 1,  
9 1985.

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

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

13 (3a) 'County department' means the county department of social services.

14 (3b) 'Department' means the Department of Human Resources.

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

1 state, territory, or the District of Columbia, empowered by law to issue  
2 such licenses.

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

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

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

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

9 "**§ 48-25. Record and information not to be made public; violation a ~~misdemeanor.~~**  
10 **misdemeanor; certain disclosures authorized.**

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

14 (b) With the exception of the information contained in the final order, it shall be a  
15 misdemeanor for any person having charge of the file or record to disclose, except as  
16 provided in subsection (d) of this section, G.S. 48-26, and as may be required under ~~the~~  
17 ~~provisions of~~ G.S. 48-27, 48-25.1, and 48-25.2, any information concerning the contents  
18 of any papers in the proceeding.

19 (c) Except as authorized under G.S. 48-25.1 and G.S. 48-25.2, No no director of  
20 social services or any employee of a social services department nor a duly licensed child-  
21 placing agency or any of its employees, officers, directors or trustees shall be required to  
22 disclose any information, written or verbal, relating to any child or to its biological, legal  
23 or adoptive parents, acquired in the contemplation of an adoption of the child, except by  
24 order of the clerk of the superior court of original jurisdiction of the adoption, approved  
25 by order of a judge of that court, upon motion and after due notice of hearing thereupon  
26 given to the director of social services or child-placing agency; provided, however, that  
27 every director of social services and child-placing agency shall make to the court all  
28 reports required under the provisions of G.S. 48-16 and 48-19.

29 (d) Notwithstanding any other provision of law, certain nonidentifying  
30 information, if known, shall be given by the county department of social services or  
31 licensed child-placing agency which has such information in writing on a form provided  
32 by the Department of Human Resources to the adoptive parent or parents not later than  
33 the date of finalization of the adoption proceedings. The information described in this  
34 subsection, if known, shall, upon written request of the adoptee, be made available to the  
35 adoptee upon ~~his~~ the adoptee's reaching the age of ~~21~~18. This information or any part  
36 thereof may be withheld only if it is of such a nature that it would tend to identify a  
37 biological relative of the adoptee. For any adoption completed prior to July 10, 1981, the  
38 information described in this subsection, if available, shall be given in writing to the  
39 adoptive parent or parents or legal guardian of any minor adoptee or to any adoptee who  
40 has reached the age of ~~21~~18 years upon written request by such person to the agency  
41 which has the information. The nonidentifying information, if known, may include only  
42 the following:

- 1           (1)    Date and time of the birth of the adoptee and ~~his~~ the adoptee's weight at  
2            birth;
- 3           (2)    Age of biological parents in years, not dates of birth, at birth of the  
4            adoptee;
- 5           (3)    Heritage of biological parents which shall consist of nationality, ethnic  
6            background, and race;
- 7           (4)    Education, which shall be the number of years of school completed by  
8            the biological parents at the time of birth of the adoptee;
- 9           (5)    General physical appearance of the biological parents at the time of  
10           birth of the adoptee in terms of height, weight, color of hair, eyes, ~~skin-~~  
11           skin; and
- 12           (6)    A health history of adoptee's biological relatives.
- 13        (e)    The county department of social services or licensed child-placing agency shall  
14        make diligent efforts to secure the most complete health history as possible from the  
15        biological relatives of an adoptee. Such efforts shall include assistance to biological  
16        relatives in obtaining, insofar as possible, full and accurate health information and  
17        providing written information on the importance of providing and updating health  
18        information. The county department of social services or licensed child-placing agency  
19        shall ~~give if available~~ give, to the fullest extent available, a ~~complete~~ health history of  
20        biological parents and other relatives to the adoptive parent or parents no later than the  
21        date of finalization of the adoption proceeding and to the adoptee upon ~~his~~ the adoptee's  
22        written request. Health history information may be provided subsequent to finalization of  
23        adoption proceedings upon written request of an adoptee, the adoptive parent, or a  
24        provider of medical services to the adoptee, or a person otherwise authorized to receive  
25        the information. If any of the information contained in the health history would tend to  
26        identify the subject of the health history, then the identifying information in the health  
27        history shall be disclosed only if that information would have a substantial bearing on the  
28        adoptee's mental or physical health. Health history information shall be maintained and  
29        updated by the county department of social services or licensed child-placing agency  
30        when relevant information is received pursuant to subsection (f) of this section and ~~The~~  
31        ~~information~~ shall be given on a standardized form provided by the Department of Human  
32        ~~Resources and Resources. shall include any information which would have a substantial~~  
33        ~~bearing on the adoptee's mental or physical health.~~ For any adoption completed prior to July  
34        10, 1981, the information described in this subsection, if available, shall be given in  
35        writing to the adoptive parent or parents or legal guardian of any minor adoptee or to any  
36        adoptee upon written request by such person to the agency which has the information.
- 37        (f)    An adoptee, a biological relative, or an adoptive parent, upon presenting  
38        satisfactory proof of the person's identity, may submit any relevant medical information  
39        concerning an adoptee or the biological relative of an adoptee to the department or  
40        agency that has the health history described by subsections (d) and (e) of this section and  
41        that department or agency shall add the information to the health histories maintained by  
42        it."

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

3 **"§ 48-25.1. Use of information by department or agency.**

4           The county department of social services or the licensed child-placing agency may, in  
5 its sole discretion, make use of any information contained in its records relating to the  
6 adoptive parents in connection with a subsequent adoption matter involving the same  
7 adoptive parents. The county department of social services or the licensed child-placing  
8 agency may, in its sole discretion, make use of any information contained in its records  
9 on an adoptee when the adoption disrupts after finalization, or when the information is  
10 required by federal law.

11 **"§ 48-25.2. Department to maintain mutual consent voluntary adoption registry;**  
12 **when disclosure authorized.**

13           (a) The Department of Human Resources shall establish and maintain a statewide,  
14 confidential, mutual consent voluntary adoption registry for receiving, filing, and  
15 retaining documents requesting, authorizing, or not authorizing, the release of identifying  
16 information. The purpose of the registry shall be to facilitate voluntary contact between  
17 mutually consenting adopted persons and their biological relatives.

18           (b) The use of the registry shall be limited to adoptees who have reached the age  
19 of 18 years and their biological relatives. For purposes of this section, 'biological relative'  
20 includes only:

21           (1) The biological mother of an adoptee; and

22           (2) The biological father of an adoptee if such person:

23           a. Is presumed by law to be the biological father of the adoptee;

24           b. Established his paternity judicially or by affidavit which has been  
25 filed in a central registry maintained by the Department of  
26 Human Resources;

27           c. Legitimated the adoptee pursuant to the provisions of G.S. 49-10  
28 or by marriage to the biological mother of the adoptee; or

29           d. Provided substantial financial support or consistent care with  
30 respect to the adoptee and the biological mother prior to the  
31 adoption; and

32           (3) An adoptee's biological sibling or biological half-sibling who has  
33 reached the age of 18 years. A half-sibling related to an adoptee  
34 through his biological father shall only be eligible to use the registry if  
35 his biological father is eligible to use the registry.

36           (c) No person shall be permitted to use the registry to obtain identifying  
37 information until the person about whom the information is requested has reached the age  
38 of 18 years.

39           (d) A person eligible to use the registry may consent to the disclosure of  
40 identifying information about the person or request the disclosure of identifying  
41 information about an adoptee or a biological relative by filing with the Department of  
42 Human Resources a consent form that sets forth the following information to the extent  
43 known by the person submitting the form:

- 1           (1) The current name, address, and telephone number of the person  
2           submitting the form;
- 3           (2) Any prior names used by that person;
- 4           (3) The original and adopted names of the adoptee;
- 5           (4) The place and date of birth and sex of the adoptee;
- 6           (5) The name and address of the county department of social services or  
7           licensed child-placing agency that placed the adoptee or investigated the  
8           adoption;
- 9           (6) The persons to whom identifying information about the person  
10           submitting the consent form may be disclosed; and
- 11           (7) If submitted by a biological relative, the relationship of the relative to  
12           the adoptee.
- 13        (e) The person submitting the consent form shall notify the registry of any change  
14        in his name, address, or telephone number that occurs after he files the consent form.
- 15        (f) No identifying information about an adoptee may be disclosed to a biological  
16        relative unless that relative has been designated to receive identifying information by the  
17        adoptee on his consent form.
- 18        (g) An adoptee or biological relative may submit a denial of consent form with the  
19        registry, which shall remain in effect until such time, if ever, the person revokes the form.
- 20        (h) Any form filed with the registry:
- 21           (1) Shall be notarized;
- 22           (2) Is effective as of the time it is filed with the registry; and
- 23           (3) May be revoked at any time by the person who submitted it.
- 24        (i) No consent or revocation form may be accepted by the registry until the person  
25        submitting it presents satisfactory proof of the person's identity in accordance with rules  
26        promulgated by the Secretary of the Department of Human Resources.
- 27        (j) The Department of Human Resources shall process each consent form filed  
28        with the registry in an attempt to match the adoptee with a biological relative. It shall be  
29        determined that there is a match when an adoptee and a biological relative have both filed  
30        consent forms with the registry designating the other as a person to whom identifying  
31        information may be disclosed.
- 32        (k) If it is determined that there is a match, then the Department of Human Resources  
33        shall, within one week of the filing of the second of the corresponding consent forms,  
34        send a copy of the corresponding consent forms to the county department of social  
35        services or licensed child-placing agency that placed the adoptee or investigated the  
36        adoption for contact to be made with the persons who submitted the consent forms. The  
37        department or agency shall then notify the persons submitting the consent forms of the  
38        match and the department or agency shall disclose to them the identifying information  
39        contained in the consent forms. No identifying information may be disclosed pursuant to  
40        this section, however, until it is determined there is a match.
- 41        (l) If the adoptee was placed by a licensed child-placing agency that is no longer  
42        in existence at the time the consent form is filed with the registry, then any notification or

1 disclosure required by this subsection shall be made by an employee or agent of the  
2 department of human resources.

3 (m) All communications with adoptees and biological relatives required by this  
4 subsection shall be made in a confidential manner by a trained social worker who has  
5 expertise in postadoption services.

6 (n) If the county DSS or child-placing agency has information that the person  
7 about whom identifying information is requested is deceased, the fact of the person's  
8 death shall be disclosed to the requesting person. No identifying information about the  
9 deceased person may be disclosed, however, unless the registry has on file an unrevoked  
10 consent form filed by the deceased authorizing the disclosure of identifying information  
11 to the registering person.

12 (o) Costs for establishing and maintaining the registry shall be obtained through  
13 users' fees. The user fee shall not be less than thirty-five dollars (\$35.00) and shall be  
14 charged to persons who use the registry. Any fees authorized by this subsection may be  
15 waived in whole or in part for any person who provides satisfactory proof of the person's  
16 financial inability to pay the fee.

17 (p) The Department shall establish guidelines for use of and access to the registry  
18 in accordance with the requirements of this section, G.S. 48-25, 48-25.1 and 48-26.

19 (q) Any employee or authorized agent of a county department of social services, a  
20 licensed child-placing agency, or the Department who releases information or makes  
21 authorized contacts in good faith and in compliance with G.S. 48-25, G.S. 48-25.1, and  
22 this section shall be immune from civil and criminal liability for such release of  
23 information or authorized contact."

24 Sec. 4. The Department of Human Resources shall announce and publicize to  
25 the general public the existence of the registry and the procedure for the consensual  
26 release of identifying information. The Department of Human Resources shall develop  
27 and furnish any forms necessary to carry out the provisions of this act. The Department  
28 of Human Resources shall cooperate with registries in other states to facilitate the  
29 matching of documents filed pursuant to this section by individuals in different states.  
30 The Secretary of the Department of Human Resources shall adopt rules necessary to  
31 carry out the intent of this act.

32 Sec. 5. There is appropriated from the General Fund to the Department of  
33 Human Resources funds necessary to establish and maintain the registry for a period not  
34 to exceed one year from the effective date of this act.

35 Sec. 6. This act becomes effective January 1, 1996.