

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 286

Short Title: Adoption Records and Registry.

(Public)

Sponsors: Representatives Earle; Braswell, Luebke, and Wainwright.

Referred to: Judiciary II, if favorable, Finance, if favorable, Appropriations.

March 4, 1999

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

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 48 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 11.**
8 **"ADOPTION REGISTRY.**

9 **"§ 48-11-101. Definitions.**

10 In this Article, the following definitions apply:

11 (1) 'Biological father' means any of the following:

- 12 a. A person presumed by law to be the biological father of the
13 adoptee.
14 b. A person who has established paternity by affidavit under G.S.
15 130A-101(f) or judicially.
16 c. A person who has legitimated the adoptee under G.S. 49-10 or
17 under a similar law of another state, or by marriage to the
18 biological mother of the adoptee.

1 d. A person who has provided substantial financial support or
2 consistent care with respect to the adoptee and biological mother
3 prior to the adoption.

4 (2) 'Biological relative' means the adoptee's biological mother, biological
5 father, or biological sibling.

6 (3) 'Biological sibling' includes a half-sibling related to the adoptee through
7 the biological mother or through the biological father only as defined in
8 subdivision (1) of this section.

9 **"§ 48-11-102. Department to establish and maintain mutual consent, voluntary**
10 **adoption registry.**

11 The Department shall establish and maintain a statewide, confidential, mutual
12 consent, voluntary adoption registry for receiving, filing, and retaining documents that
13 request, authorize, or deny authorization of the release of identifying information. The
14 purpose of the registry is to facilitate voluntary contact between adoptees and their
15 biological relatives when both the adoptee and the biological relative consent to that
16 contact.

17 **"§ 48-11-103. Authorized users of the registry.**

18 (a) Use of the registry is limited to adoptees and their biological relatives.

19 (b) No adoptee or biological relative shall be permitted to file a consent form with
20 the registry until that person has reached the age of 18 years.

21 **"§ 48-11-104. Information to be collected in the registry.**

22 (a) A person eligible to use the registry may consent to the disclosure of
23 identifying information about the person or request the disclosure of identifying
24 information about an adoptee or a biological relative by filing with the Department a
25 consent form that sets forth all of the following information to the extent known by the
26 person submitting the form:

27 (1) The current name, address, and telephone number of the person
28 submitting the form.

29 (2) Any prior names used by that person.

30 (3) The original and adopted name of the adoptee.

31 (4) The place of birth, date of birth, and sex of the adoptee.

32 (5) The name and address of the agency that placed the adoptee or prepared
33 the report to the court.

34 (6) The persons to whom identifying information about the person
35 submitting the consent form may be disclosed.

36 (7) If submitted by a biological relative, the relationship of that relative to
37 the adoptee.

38 (b) The person submitting the consent form shall notify the registry of any change
39 in that person's name, address, or telephone number that occurs after the person files the
40 consent form.

41 (c) An adoptee or a biological relative may submit a denial of consent form with
42 the registry.

1 (d) Either consent or denial of consent may be revoked at any time by a person
2 who submitted the consent form or the denial of consent form by submitting a revocation
3 form to the registry.

4 (e) The registry shall obtain only information necessary for identifying registrants.
5 In no event shall the registry obtain or release information of any kind pertaining to the
6 adoptive parents of or adoptive siblings to the adoptee.

7 **§ 48-11-105. Requirements for forms submitted to the registry.**

8 (a) Each of the following requirements applies to any consent, denial of consent,
9 or revocation form filed with the registry:

10 (1) It shall be notarized.

11 (2) It is effective as of the time it is filed with the registry.

12 (3) It may be revoked at any time by the person who submitted it.

13 (b) No consent, denial of consent, or revocation form shall be accepted by the
14 registry until the person submitting it presents satisfactory proof of the person's identity
15 in accordance with rules adopted by the Social Services Commission.

16 **§ 48-11-106. Disclosure of information contained in the registry.**

17 (a) The Department shall process each consent form filed with the registry in an
18 attempt to match the adoptee with a biological relative. There is a match when an
19 adoptee and a biological relative have both filed consent forms with the registry
20 designating the other as a person to whom identifying information may be disclosed. No
21 identifying information about an adoptee may be disclosed to a biological relative unless
22 that relative has been designated to receive identifying information by the adoptee on the
23 adoptee's consent form.

24 (b) No identifying information shall be disclosed under this section until the
25 Department determines there is a match. If the Department determines there is a match,
26 then the Department shall, within one month of the filing of the latter of the
27 corresponding consent forms, send a copy of the corresponding consent forms to the
28 agency that placed the adoptee or prepared the report to the court. The agency shall then
29 notify the persons who submitted the consent forms of the match and disclose to them the
30 identifying information contained in the consent forms.

31 (c) If the agency that placed the adoptee or prepared the report to the court is no
32 longer in existence at the time the Department determines there is a match, then any
33 notification or disclosure required by this section shall be made by an employee or agent
34 of the Department.

35 (d) All communications with adoptees and biological relatives required by this
36 section shall be made by a social worker who has expertise in post-adoption services.
37 These communications are confidential.

38 (e) If the Department has information that the person about whom identifying
39 information is requested is deceased, the fact of the person's death shall be disclosed to
40 the requesting person. No identifying information about the deceased person shall be
41 disclosed, except pursuant to G.S. 48-9-104, unless the registry has on file an unrevoked
42 consent form filed by the deceased person authorizing the disclosure of identifying
43 information to the requesting person.

1 **"§ 48-11-107. Recommendation of counseling.**

2 The Department shall recommend to a person submitting any form to the registry that
3 the person obtain counseling, voluntarily, at that person's own expense, from a licensed
4 counselor.

5 **"§ 48-11-108. Fees for using the registry.**

6 The Department shall charge a fee of fifty dollars (\$50.00) for filing a consent form
7 or a denial of consent form with the registry at the time of filing. The fee shall be applied
8 to the maintenance of the registry. Any fee authorized by this section may be waived for
9 any person who provides an affidavit of financial inability to pay the fee.

10 **"§ 48-11-109. Adoption of rules for the registry.**

11 The Social Services Commission shall adopt rules for use of and access to the registry
12 in accordance with the requirements of this Article.

13 **"§ 48-11-110. Department to publicize the registry.**

14 The Department shall announce and publicize to the general public the existence of
15 the registry and the procedure for the consensual release of identifying information.

16 **"§ 48-11-111. Department to provide necessary forms and cooperate with registries**
17 **in other states.**

18 The Department shall develop and furnish any forms necessary to carry out the
19 provisions of this Article. The Department shall cooperate with registries in other states
20 to facilitate the matching of documents filed pursuant to this Article by individuals in
21 different states.

22 **"§ 48-11-112. Violation and penalty.**

23 It is unlawful for a person having custody of or access to documents filed under this
24 Article to disseminate or permit dissemination of information contained in them except as
25 authorized by this Article. Any person who willfully violates the provisions of this
26 section is guilty of a Class I felony."

27 Section 2. G.S. 48-10-105 reads as rewritten:

28 **"§ 48-10-105. Unauthorized disclosure of information.**

29 (a) Except as authorized in G.S. 48-3-205 or in Article 9 or Article 11 of this
30 Chapter, no identifying or nonidentifying information contained in a report or records
31 described therein may be disclosed by present or former employees or officials of the
32 court, an agency, the State, a county, an attorney or other provider of professional
33 services, or any person or entity who wrongfully obtains such a report or records.

34 (b) ~~A~~ Except as provided in G.S. 48-11-112, a person who knowingly makes an
35 unauthorized disclosure of identifying information is guilty of a Class 1 misdemeanor.

36 (c) The district court may enjoin from further violations any person who makes an
37 unauthorized disclosure.

38 (d) Notwithstanding the penalties provided in subsection (b) of this section, an
39 individual who is the subject of any of this information may bring a civil action for
40 equitable or monetary relief or both against any person or entity who makes an
41 unauthorized disclosure of the information."

42 Section 3. There is appropriated from the General Fund to the Department of
43 Health and Human Services the sum of one hundred sixty-seven thousand dollars

1 (\$167,000) for the 1999-2000 fiscal year and the sum of one hundred sixty thousand
2 dollars (\$160,000) for the 2000-2001 fiscal year to establish and maintain the registry
3 created in Article 11 of Chapter 48 of the General Statutes as enacted in Section 1 of this
4 act.

5 Section 4. Section 3 of this act becomes effective July 1, 1999. The remainder
6 of this act becomes effective January 1, 2000. G.S. 48-11-112 as enacted in Section 1 of
7 this act becomes effective January 1, 2000, and applies to offenses committed on or after
8 that date.