

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 237

Short Title: Adoption Records Access.

(Public)

Sponsors: Representatives Ellis; and Allred.

Referred to: Welfare Reform and Human Resources.

February 22, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO ADOPTION RECORDS.

The General Assembly of North Carolina enacts:

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

"§ 48-2. Definitions.

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

(1) a., b. Repealed by Session Laws 1985, c. 758, s. 4, effective October 1, 1985.

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

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

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

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

(4) 'Licensed child-placing agency' means any agency operating under a license to place children for adoption issued by the Department of Human Resources, or in the event that such agency is in another state or territory or in the District of Columbia, operating under a license to 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 (a) Neither the original file of the proceeding in the office of the clerk nor the
11 recording of the proceeding by the Department of Human Resources shall be open for
12 general public inspection.

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

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

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

42 (1) Date and time of the birth of the adoptee and ~~his~~ the adoptee's weight at
43 birth;

- 1 (2) Age of biological parents in years, not dates of birth, at birth of the
2 adoptee;
- 3 (3) Heritage of biological parents which shall consist of nationality, ethnic
4 background, and race;
- 5 (4) Education, which shall be the number of years of school completed by
6 the biological parents at the time of birth of the adoptee;
- 7 (5) General physical appearance of the biological parents at the time of
8 birth of the adoptee in terms of height, weight, color of hair, eyes, skin.

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

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

22 "**§ 48-25.1. Use of information by department or agency; when disclosure**
23 **authorized.**

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

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

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

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

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

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

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

25 (1) The nature of the information requested by the adopted person;

26 (2) The date of the request of the adopted person;

27 (3) The right of the biological parent to file within 90 days of the receipt of
28 the notice an affidavit with the department or licensed child-placing
29 agency stating that such parent's identity should not be disclosed;

30 (4) The right of the biological parent listed on the original birth certificate
31 to file a consent to disclosure with the department or licensed child-
32 placing agency at any time; and

33 (5) The effect of the failure of the biological parent to file either a consent
34 to disclosure or an affidavit stating that the information in the original
35 birth certificate should not be disclosed.

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

39 (f) If, subsequent to being notified by the department or licensed child-placing
40 agency, a biological parent has not filed an unrevoked consent to the disclosure of that
41 parent's identity at any time within six months after the written request for such
42 information is received by the county department or licensed child-placing agency, or, if
43 such parent has filed with the county department or licensed child-placing agency within

1 90 days after notice to the biological parent of the request for information an affidavit
2 objecting to the release of the information, whichever occurs later, the information
3 regarding the biological parent shall not be released.

4 (g) If the agent of the county department or licensed child-placing agency certifies
5 that such department or agency has been unable to notify a parent identified in the
6 original adoption record within six months after receipt of the adopted person's written
7 request, and if neither identified biological parent has at any time filed an unrevoked
8 consent to disclosure with the department or licensed child-placing agency, the identity of
9 the biological parent may only be disclosed as provided in subsection (h) of this section.

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

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

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

39 **"§ 48-25.2. Department to maintain registry.**

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

1 (1) The recording of written consent or written objections of any biological
2 relative to the release of that person's identity to the adopted person
3 upon the adopted person's request for such identity, and

4 (2) The recording of nonidentifying information regarding the biological
5 relative which may be released pursuant to G.S. 48-25.

6 County departments of social services and licensed child-placing agencies that receive
7 requests for information and consents and objections to the release of information shall
8 file one copy of all such requests, consents, and objections with the Department of
9 Human Resources for inclusion in the registry. The Department shall establish guidelines
10 for use of and access to the registry in accordance with the requirements of this section,
11 G.S. 48-25, and G.S. 48-26.

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

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

19 (d) 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 and G.S. 48-25.1
22 shall be immune from civil and criminal liability for such release of information or
23 authorized contact.

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

28 Sec. 4. This act becomes effective January 1, 1996.