

SENATE BILL REPORT

SHB 2529

AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,
FEBRUARY 23, 1994

Brief Description: Providing that persons and entities involved in adoption processes shall incur no liability.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Karahalios, Veloria and Mielke)

HOUSE COMMITTEE ON JUDICIARY

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: Do pass as amended.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Fraser, Hargrove, McAuliffe, McDonald, Moyer, Niemi, Prentice and Winsley.

Staff: Richard Rodger (786-7461)

Hearing Dates: February 18, 1994; February 23, 1994

BACKGROUND:

Prospective adoptive parents are entitled to receive a complete medical report about the child that the parents may adopt. The medical report must contain all available information concerning the child's mental, physical and sensory handicaps. The report must not identify the natural parents but must contain information about the natural parents' mental or physical health history that is necessary to help the adoptive parents determine proper health care for the child.

Prospective adoptive parents are also entitled to a report concerning the child's family background and social history report, which includes a chronological history of the circumstances surrounding the adoption. Every person, firm, society, association or corporation which receives, secures a home for, or otherwise cares for the child who is going to be adopted must provide the information to the prospective adoptive parents.

SUMMARY:

State agencies are added to the list of persons and entities which must provide information about the child to the prospective adoptive parents. Entities furnishing the information only have an obligation to provide information that is "reasonably" available, but must make reasonable

efforts to locate records and pertinent information. The entities do not have any obligation to interpret the records for the prospective adoptive parents.

If the entity makes reasonable efforts to locate pertinent information and provide the information to the prospective adoptive parents, the entity will not be subject to liability regarding the child's current or future health. Failure to make reasonable efforts to locate information is ordinary negligence.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

There is a responsibility to provide all known and available records versus "known and reasonably available" records. The department shall develop rules which set minimum standards for "reasonable efforts" in locating records. The provisions stating there is no liability if you have made reasonable efforts is stricken. Also stricken is the provision stating the failure to make reasonable efforts is ordinary negligence.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Around the country, adoption agencies are being sued for failing to provide information to the adopting parents about the child's medical background. This bill will clarify the law to ensure what efforts have to be made in providing records and information to adopting parents. Adoption agencies must have some protection from liability for lawsuits when they operate in good faith in providing information to prospective adoptive parents.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Representative Sue Karahalios, original prime sponsor: Jane Silberberg, Adoptive Parent Board, MCS; Bob Swanson, Medina Children's Services; Mark Demaray, attorney