

HOUSE BILL REPORT

SHB 1525

As Passed Legislature

Title: An act relating to birth certificates and other birth-related information.

Brief Description: Concerning access to original birth certificates after adoption.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Orwall, Pedersen, Goodman, Hunt, Roberts, Upthegrove, Ryu and Jinkins).

Brief History:

Committee Activity:

Judiciary: 2/6/13, 2/19/13 [DPS];

Appropriations Subcommittee on Health & Human Services: 2/25/13 [DPS(JUDI)].

Floor Activity:

Passed House: 3/6/13, 95-2.

Senate Amended.

Passed Senate: 4/16/13, 39-8.

House Concurred.

Passed House: 4/22/13, 94-1.

Passed Legislature.

Brief Summary of Substitute Bill

- Allows an adult adoptee to obtain a noncertified copy of the original birth certificate unless the birth parent has filed an affidavit of nondisclosure before the effective date of the act or a contact preference form indicating the birth parent does not want the original birth certificate released.
- Requires the contact preference form to include options for the birth parent to indicate his or her wishes regarding contact with the adoptee and release of the original birth certificate.
- Requires a birth parent who files a contact preference form to also file an updated medical history form, which must be provided to an adult adoptee upon request.
- Requires the Department of Health, upon request of the adoptee, to conduct a search to determine if a birth parent who filed an affidavit of nondisclosure or contact preference form is deceased.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pedersen, Chair; Hansen, Vice Chair; Rodne, Ranking Minority Member; O'Ban, Assistant Ranking Minority Member; Goodman, Hope, Jinkins, Kirby, Orwall and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Klippert, Nealey and Shea.

Staff: Edie Adams (786-7180).

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Morrell, Chair; Cody, Green, Jinkins, Kagi and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Harris, Ranking Minority Member; Ross and Schmick.

Staff: Mary Mulholland (786-7391).

Background:

Generally, all records of court proceedings relating to adoptions are sealed, and all files relating to adoptions are confidential and may not be disclosed, except by court order or through a confidential intermediary process.

The confidential intermediary process allows a birth parent or an adoptee who is at least 21 years of age to petition for the appointment of a confidential intermediary to search for and make contact with the other party. An adopted person over the age of 18 may file a certified statement with the Department of Health (DOH) indicating his or her consent or refusal to the release of identifying information, or his or her consent or refusal to be contacted by a biological parent or a confidential intermediary.

Reasonably available nonidentifying information of a birth parent, adoptive parent, or adoptee may be disclosed without a court order upon the request of the birth parent, adoptive parent, or adoptee. "Nonidentifying information" includes a nonexclusive list of information, such as age, heritage, education, general physical appearance, religion, occupation, other children of the birth parents, and medical and genetic history.

The DOH must release the noncertified copy of the original birth certificate without a court order under some circumstances. The DOH must provide a noncertified copy of the original birth certificate to the child's birth parents upon request. In addition, for adoptions finalized

after October 1, 1993, the DOH must provide a noncertified copy of the original birth certificate to an adult adoptee unless the birth parent has filed an affidavit of nondisclosure.

Summary of Substitute Bill:

The DOH must provide an adult adoptee with a noncertified copy of the original birth certificate upon request unless the birth parent has filed an affidavit of nondisclosure prior to the effective date of the act, or a contact preference form indicating the birth parent does not want the original birth certificate released. For adoptions finalized on or before October 1, 1993, the DOH may not release an original birth certificate until after June 30, 2014.

A birth parent may at any time complete a contact preference form indicating his or her preferences regarding contact with the adoptee and release of the original birth certificate.

The contact preference form must include the following options:

- I would like to be contacted. The DOH may release the original birth certificate to the adoptee.
- I would like to be contacted only through a confidential intermediary. The DOH may release the original birth certificate to the adoptee.
- I prefer not to be contacted and have completed an updated medical history form. The DOH may release the original birth certificate to the adoptee.
- I prefer not to be contacted and have completed an updated medical history form. I do not want the DOH to release the original birth certificate to the adoptee.

A birth parent who files a contact preference form must also file an updated medical history form, which must be provided to an adult adoptee upon request. The contact preference form and the updated medical history form are confidential and must be placed in the adoptee's sealed file.

If the DOH provides a noncertified copy of the original birth certificate to an adult adoptee, the DOH must also provide the adult adoptee with any contact preference form filed by the birth parent. If a contact preference form is filed within six months after an adoptee requests a copy of the original birth certificate, the DOH must send a copy of the contact preference form and updated medical history form to the adoptee.

The contact preference form and the affidavit of nondisclosure do not expire until the death of the birth parent. A birth parent may rescind a contact preference form by filing a new contact preference form indicating a different preference. If the DOH does not provide an adoptee with the original birth certificate because an affidavit of nondisclosure or contact preference form has been filed, the DOH must, upon the request of the adoptee, conduct a search of public records available to the DOH to determine if the birth parent is deceased. The adoptee may not request a search more than once per year.

The DOH must create the contact preference form, which must provide a method to ensure personally identifying information can be kept confidential, and the medical history form, which may not include any identifying information. The DOH may charge a fee not to exceed \$20 dollars for providing a noncertified copy of the original birth certificate, and may charge a reasonable fee to cover the cost of conducting a search to determine whether a birth parent is deceased.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Judiciary):

(In support) From the perspective of an adoptee, life's journey is different. Adoptees are missing a part of their history. Knowing who we are and where we come from helps us to better connect with each other, our families, and our communities. Not knowing that history, particularly the medical history, has a tremendous impact on the adoptee and on the adoptee's children.

Each citizen should be able to obtain his or her birth certificate. This is the historical record of that person's birth, and it belongs to that person. This is a measure of equality and dignity for adoptees. Washington does not have equal rights for access to birth certificates. Birth parents and other people are allowed to receive birth certificates. The state discriminates against adoptees, who did not choose to be a member of this group.

The affidavit process in this bill is discriminatory and should be removed. Birth parents need to be responsible parents and allow their adopted children to know where they came from. When a person has a child, that person has a responsibility to the child forever after. A parent who relinquishes a child should also relinquish the right to control what happens to that child's documents.

No proposal will be perfect for all parties involved, but this legislation balances the interests of adoptees and birth parents. The policies and practices relating to adoptions change over the years, and they need to continue to change.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations Subcommittee on Health & Human Services):

(In support) There was a virtually identical bill that passed the House of Representatives unanimously last year. This bill allows the same process for adult adoptees to access their original birth certificates. Folks have personal or emotional involvement in this issue. There would be a balance between the parties involved in an adoption. There is obviously concern among adoptees about the limited information that they currently have access to. There are concerns at times among birth parents about the release of the original birth certificate. An affidavit of nondisclosure provides a person with the ability to remain anonymous if they choose. It also does not preclude that person from changing his or her mind down the road. The cost-neutrality of the bill is another positive side. Access to birth certification information varies across the country and the world. It is a matter of choice on the part of the Legislature to do what it thinks is right. Many would object to preventing an adult adoptee from ever accessing their original birth certificate after the birth parent is deceased.

(Opposed) None.

Persons Testifying (Judiciary): Representative Orwall, prime sponsor; Stephanie Alphier and Judy Kennett, Washington Coalition for Adoptee Rights and Equality; Heidi Hanson; Nancy Ekdahl; and Laurie Lippold, Partners for Our Children.

Persons Testifying (Appropriations Subcommittee on Health & Human Services): Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations Subcommittee on Health & Human Services): None.