

# HOUSE BILL REPORT

## SHB 1525

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### As Amended by the Senate

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

**Brief Description:** Concerning birth certificates and other birth-related information.

**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.

#### **Brief Summary of Substitute Bill**

- Makes disclosure of nonidentifying information of a birth parent, adoptee, or adoptive parent mandatory, upon request.
- Allows an adult adoptee to obtain an uncertified copy of the original birth certificate, regardless of when the adoption was finalized, unless the birth parent has filed an affidavit of nondisclosure.
- Requires the Department of Health to conduct a search to determine if a birth parent who signed an affidavit of nondisclosure is deceased, upon request of the adoptee.
- Amends some provisions of the statutes relating to birth certificates to include gender-neutral terms.

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### 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,

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*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.*

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).

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## 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.

The Indian Child Welfare Act allows an adult adoptee to obtain information from the court that finalized the adoption in order to protect any rights flowing from the adoptee's tribal relationship.

The DOH administers state laws regarding birth certificates and other vital records. The DOH is responsible for issuing certified copies of vital records, including birth certificates showing the child's full name, sex, date of birth, and date of filing the certificate. The statutes governing birth certificates establish a standard birth certificate form, the requirements for completing and forwarding birth certificate information, and requirements for issuing new or amended birth certificates. Several of these statutes address information or other requirements specifically referencing the mother or father, or paternity acknowledgements or adjudications.

### **Summary of Substitute Bill:**

The disclosure of reasonably available nonidentifying information in agency and court files is mandatory, rather than discretionary, upon the written request of the adoptive parent, the adoptee, or the birth parent. The definition of nonidentifying information is amended to provide that the information must include, if available, the information listed in the statute.

Regardless of when an adoption was finalized, the DOH must provide an adult adoptee, upon the adoptee's request, a noncertified copy of the adoptee's original birth certificate, unless the birth parent has filed a valid affidavit of nondisclosure. An affidavit of nondisclosure is valid for five years from the date of filing for an adoption finalized on or after October 1, 1993, and 10 years for an adoption finalized before October 1, 1993. A birth parent may renew the affidavit before it expires by filing a new affidavit and may continue to renew the affidavit or file a new affidavit if the previously filed affidavit expired. An affidavit is considered expired upon the death of the birth parent. The affidavit of nondisclosure must include the birth parent's social security number. The DOH may charge an adoptee a fee up to \$20 for providing a noncertified copy of the adoptee's birth certificate.

Birth parents may file with the DOH a contact preference form indicating whether he or she desires to be contacted. If the birth parent files an affidavit of nondisclosure or a contact preference form, the birth parent must also file a medical history form. The DOH must create the contact preference form and the medical history form, which may not request any identifying information.

If the DOH provides a copy of the original birth certificate to an adoptee, the DOH must also provide a copy of any contact preference form and any medical history form filed by the birth parent. If the DOH does not provide a copy of the original birth certificate to the adoptee because the birth parent has filed a valid affidavit of nondisclosure, the DOH must provide the medical history form, and, if the adoptee requests, must attempt to determine if the birth parent is deceased. The DOH must make a reasonable effort to search public records that are accessible and available, and may charge the adoptee a reasonable fee to cover the cost of conducting the search. The adoptee may not request a search more than once per year.

An adult adoptee's rights under the state or federal Indian Child Welfare Act are not affected by the provisions of the act.

The DOH is directed to modify the language on the certified birth certificate to reflect the mother's/parent's name and date and place of birth, and the father's/parent's name and date

and place of birth. Language in the statutes governing birth certificates is amended to replace some gender-specific terms with gender-neutral terms.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment alters the process for releasing an original birth certificate to an adult adoptee. The affidavit of nondisclosure is replaced with a contact preference form, which indicates the birth parent's wishes regarding contact and release of the original birth certificate. 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.

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.

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. 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 Senate amendment removes the following provisions that were contained in the House of Representatives substitute bill:

- the provision requiring (rather than allowing) the disclosure of non-identifying data upon the request of an adult adoptee;
- the provisions amending the birth certificate statutes regarding how the DOH must identify parents on the birth certificate, and changing some gender-specific terms to gender-neutral terms; and
- the provision specifying that an adult adoptee's rights under the state or federal Indian Child Welfare Act are not affected by the provisions of the act.

**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.