

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO.

Senate Bill 1360

PRINTER'S NO.

2188

AMOUNT

Minimal State Fund Fiscal Impact

FUND

General

DATE INTRODUCED

May 7, 2010

PRIME SPONSOR

Senator Greenleaf

HISTORY OF BILLReferred to JUDICIARY, May 7, 2010Reported as amended, May 25, 2010

First consideration, May 25, 2010

Re-referred to APPROPRIATIONS, June 9, 2010Re-reported as amended, Sept. 20, 2010**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 1360 amends the Adoption Act of the Domestic Relations Code recognizing voluntary open adoption agreements and streamlining procedures for retrieving adoption records.

Voluntary Agreements for Continuing Contact

Provides for voluntary agreements for continuing contact and requires that the agreement must be in the best interest of the child; must recognize the parties' interests and desire for ongoing communication or contact; must be appropriate given the role of the parties in the child's life; and is subject to court approval.

Defines a "birth relative" as a parent, grandparent, stepparent, sibling, uncle or aunt of the child's birth family, whether the relationship is by blood, marriage or adoption.

A prospective adoptive parent of a child may enter into an agreement with a birth relative of the child to permit continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative. Requires the siblings who are under 18 years of age and not being adopted shall be represented by a guardian ad litem in the development of an agreement.

An agency or anyone representing the parties in an adoption shall provide notification to a prospective adoptive parent, a birth parent and a child who can be reasonably expected to understand that a prospective adoptive parent and a birth relative of a child have the option to enter into a voluntary agreement for continuing contact or communication. Requires the child's consent in some cases.

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Requires the court approve the agreement if the agreement has been entered into knowingly and voluntarily by all of the parties and the agreement is in the best interest of the child and provides circumstances the court may consider. An agreement is not legally enforceable unless approved by the court.

Only the adoptive parent or a child who is 12 years of age or older may seek to modify an agreement. Before the court may enter an order modifying an agreement, the court must find by clear and convincing evidence that the modification serves the needs, welfare and best interests of the child .

Failure to comply with the terms of an agreement that has been approved by the court shall not be grounds for setting aside an adoption decree.

Any party to an agreement, a sibling or the child who is the subject of an agreement may seek to enforce the agreement in the court that finalized the adoption.

For the agreement to be enforceable, it must: be in writing; be approved by the court on or before the date for an adoption decree; and have the child's consent if the child is 12 years or older when the agreement is executed.

An agreement shall cease to be enforceable when the child turns 18 years of age.

A party to an agreement or a child that is at least 12 years of age may seek to discontinue an agreement by filing an action in the court. Before entering an order discontinuing an agreement, the court must find by clear and convincing evidence that discontinuance serves the needs, welfare and best interest of the child.

The Department of Public Welfare shall develop, in consultation with the Administrative Office of the Pennsylvania Courts and the Juvenile Courts Judges Commission, procedures to facilitate the development of an agreement before the agreement is presented to the court and resolve any requests to modify, enforce or discontinue an agreement. The procedures shall be made available within 120 days of the effective date of the subchapter.

Parties shall not be entitled to court-appointed counsel, but a court may appoint a guardian ad litem to represent the interests of a child or a sibling who is under 18 years of age.

Adoption Records and Access to Information

Provides for adoption records and access to adoption information and permits an individual authorized to receive both nonidentifying information and identifying information to file a single written request. Permits any court or agency to charge reasonable fees for services provided under this chapter.

All court and agency records must be maintained as a permanent record and withheld from inspection except as provided under this chapter.

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The legislation establishes the procedure an agency is to follow as to the disposition of agency records upon closure, identifying a time frame for action, notification requirements to the department and development of plan relating to the closure and transfer of case records to another agency. The plan is subject to the approval by the department. The agency is to label its case records and the department must notify each court identified by the agency of the name, address and telephone number of the agency to which case records have been transferred.

Requires the department establish a confidential registry for the receipt, filing and retention of medical and social history information and authorization forms for all adoptions finalized or registered in the Commonwealth and to publicize the availability of the registry and the manner in which information may be filed with and obtained from the registry.

An adoptee, an adoptive parent and a birth parent may at any time file and update medical and social history information with the registry.

Individuals who may request information from the registry are identified.

Non-identifying information, if available in the registry, shall be provided within 30 days of a request.

For identifying information, if an authorization form is on file, the department shall notify the requester within 30 days of the request whether information may be released. If no authorization form is on file, an authorized representative shall be appointed to locate the subject of the request and seek authorization for release of the information. An authorization form may be withdrawn at any time. The department shall issue rules and regulations as necessary to implement this subchapter. An "authorized representative" is defined as an individual who is appointed to conduct a search under this chapter and who has completed a standardized training program as required by the department. The confidentiality of the information and when an inquiry is not mandated is also addressed.

Identifies which individuals may file a written request for non-identifying or identifying information or contact with the court which finalized the adoption, the agency which coordinated the adoption or a successor agency and identifies time frames for court or agency response. Legislation also identifies who may be the subject of a request for information or contact.

Provides that within 120 days of receiving a written request for identifying information, the court or agency shall: determine whether it has in its possession any records relating to the adoptee; conduct a good faith search for identifying information using an authorized representative to conduct the search; notify any other court or agency listed in its records of the request; ask any other court or agency listed in its records to advise if an authorization form has been filed; contact the information registry and advise the registry of the request; and notify the requesting individual of its findings.

Also provides what steps are to be taken by the authorized representative if an authorization form is not located and what information can be disclosed as a result. Provides where a statement regarding medical and social history may be filed, and who may, at any time, file, update and request a statement regarding the information.

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A statement regarding medical and social history information is maintained as a permanent record. In addition, legislation provides time frame for notification of individual for whom new information becomes available and provides how written requests for social and social history information are to be handled for both non-identifying information and for identifying information.

As a general rule, a court, agency, the Department of Health or any other Commonwealth agency may not disclose an adoptee's original birth record. However, the birth parents, at the time their parental rights are terminated or any time thereafter, may place on file with the court and the Department of Health a consent form to issue a copy of the summary of the adoptee's original birth record identifying the birth parents. If only one birth parent files a consent, the summary may only identify the consenting birth parent. The consent may be withdrawn at any time. The Department of Public Welfare shall issue rules and regulations implementing a standardized training program for court-appointed and agency-appointed authorized representatives.

Provides that the Department of Health has the responsibility for prescribing the procedure and forms for use in giving consent for disclosure of information from an adoptee's original birth record.

Effective in 180 days.

FISCAL IMPACT:

The Department of Welfare estimates that there will be some fiscal impact in terms of needing to develop and disseminate new forms and also for training programs for "authorized representatives"; however, those costs should be minimal. Based on a previous effort by the Office of Children, Youth and Families (OCYF) involving brochures, the cost of creating new forms in hard copy and disseminating them is estimated to be between \$3,000 and \$6,000. This cost may be alleviated if a decision was made to have the brochures available electronically rather than producing hard copies for distribution.

In regards to training, OCYF currently contracts with the Pennsylvania Child Welfare Training Program to provide training to county agencies that includes diligent search as a means of locating birth parents and relatives. It is believed that the curriculum could easily be expanded to address the training development required by this bill. Private agencies receive similar training through the Statewide Adoption and Permanency Network. It is also anticipated that the information in the existing medical history registry under the Statewide Adoption Network would be expanded.