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April 13, 2015

The Honorable Katharine M. Watson
B16 Main Capitol Building
PO Box 202144
Harrisburg, PA 17120-2144

The Honorable H. Scott Conklin
314 Irvis Office Building
PO Box 202077
Harrisburg, PA 17120-2077

RE: OPPOSITION TO HOUSE BILL 162 (BENNINGHOFF)

Dear Chairwoman Watson and Chairman Conklin,

Thank you for the opportunity to submit written testimony for the House Children and Youth Committee hearing on House Bill 162, which allows adult adoptees to get their original birth record consisting of the names and ages of the birth parents without the consent of the birth parents. Throughout the years, thousands of women have placed children up for adoption and have relied on Pennsylvania law to ensure that their information would remain confidential. Privacy is a fundamental concern in the adoption process and the rights of birth parents must be respected and protected. The American Civil Liberties Union of Pennsylvania opposes HB 162.

The fairest process in adoption is one that respects the wishes of *all* parties. Current law accomplishes that.

Adoption is a highly personal decision for parents and touches upon women's fundamental rights concerning reproduction and parenting. In many cases, the need for privacy protects both the adoptee and the biological parent, especially in cases where a biological parent was involved in an act of violence and/or rape. Through the adoption process, a child's relationship with her biological parents is terminated, and she is assimilated into her new family. In order to embrace the bond between an adoptee and her new family, nearly all states require that the original birth certificate and all adoption records remain confidential.¹ In Pennsylvania, the adoption process requires that confidential information be gathered and recorded. However, an adoptee must establish good cause through clear and convincing evidence to obtain the information.²

Due to the confidential aspect of adoption records and the fact that the information is available to so few individuals, public disclosure to an adoptee of information gained from court records should be disallowed. HB 162 would disrupt this entire process and allow the Pennsylvania Department of Health to provide an adoptee's birth record without the consent

¹ Child Welfare Information Gateway. (2012). *Access to Adoption Records*, Washington, D.C.: U.S. Department of Health and Human Services, Children's Bureau.

² See, *In re the Matter of Kami L. Long*, 745 A.2d 673 (Pa. Super. 2000). ³ 23 Pa. C.S.A. § 2934(b).

of the birth parent(s). That adoptee can release that information to others, even in closed adoptions. HB 162 would overturn any right to privacy and confidentiality of information on the part of biological parents.

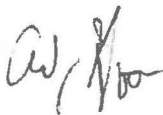
Pennsylvania law already respects the importance of an adoptee's access to the medical and social history of her birth parents, and that information is helpful to understanding many aspects of a person's future health and social decisions.³ An adoptee who is at least 18 years of age can submit a written request to a court or the agency involved in the adoption for this information. Pennsylvania law requires that the non-identifying medical and social information be provided to the adoptee.⁴

Pennsylvania also has a mutual consent registry, which allows birth parents to agree to the disclosure of their identifying information to an adoptee. Even if birth parents do not consent at the time of adoption, courts/agencies -upon written request by the adoptee- must use reasonable efforts to locate the birth parents and inquire about potential disclosure of their identifying information.⁵ These current procedures allow adoptees access to vital medical and social information while still protecting the fundamental privacy rights of birth parents.

HB 162 would create true conflicts between the adoptee's need to know her biological parents and the biological parents' right to privacy. Allowing the release of identifying information without the consent of the parties involved would alter past jurisprudence, interpretations of existing adoption confidentiality statutes, and the intent of legislators who created such statutes.

HB 162 upends the respect for privacy in adoption procedures. Pennsylvania law already allows adoptee's access to important medical and social information of their biological parents without disrupting the privacy of the birth parents' identifying information. Please vote "no" on House Bill 162.

Sincerely,



Andy Hoover
Legislative Director, ACLU of Pennsylvania

³ 23 Pa. C.S.A. § 2934(b).

⁴ 23 Pa. C.S.A. §§ 2931, 2932

⁵ 23 Pa. C. S. A. § 2933