

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1968 Session of 2009

INTRODUCED BY SONNEY, CLYMER, CREIGHTON, FLECK, M. KELLER,  
MAJOR, MOUL, MURT, OBERLANDER, O'NEILL, PYLE, RAPP, SIPTROTH,  
SWANGER, VULAKOVICH, YOUNGBLOOD AND GEIST, SEPTEMBER 14, 2009

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE  
OF REPRESENTATIVES, AS AMENDED, JUNE 30, 2010

## AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in adoption, further providing for  
3 definitions and, FOR COUNSELING, FOR EFFECT OF DECREE OF  
4 TERMINATION, FOR RELIGIOUS BELIEF, FOR TIME OF ENTRY OF  
5 DECREE OF ADOPTION, for impounding of proceedings and access  
6 to records, FOR DOCKET ENTRIES AND FOR CERTIFICATE OF  
7 ADOPTION; and providing for agency records and attorney  
8 records.

←

←

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 ~~Section 1. Section 2102 of Title 23 of the Pennsylvania~~  
12 ~~Consolidated Statutes is amended by adding definitions to read:~~

←

13 SECTION 1. THE DEFINITION OF "MEDICAL HISTORY INFORMATION"  
14 IN SECTION 2102 OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED  
15 STATUTES IS AMENDED AND THE SECTION IS AMENDED BY ADDING  
16 DEFINITIONS TO READ:

←

17 § 2102. Definitions.

18 The following words and phrases when used in this part shall  
19 have, unless the context clearly indicates otherwise, the  
20 meanings given to them in this section:

1 \* \* \*

2 "Agency records." All WRITTEN AND ELECTRONIC information  
3 collected by an agency relating to a birth family, an adoptive  
4 family and an adoptee.

5 "Authorization form." A form, provided by the Department of  
6 Public Welfare, on which an adoptee, an adoptive parent or a  
7 birth relative can authorize or prohibit the release of  
8 identifying information under the requirements of this chapter.

9 "Authorized representative." An individual who is appointed  
10 to conduct a search under this chapter and has completed a  
11 standardized training program as required by the Department of  
12 Public Welfare under this chapter.

13 "Birth family identifying information summary form." A form  
14 provided by the Department of Public Welfare on which is  
15 recorded identifying birth family information extracted from  
16 agency records that includes the information outlined in section  
17 2905(b)(2)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii),  
18 (ix), (x) and (xi) (relating to impounding of proceedings and  
19 access to records) and, to the extent available, the following:  
20 full names of birth family members, dates of birth, Social  
21 Security numbers and previous addresses.

22 "Birth sibling." The biological sibling or half sibling of  
23 an adoptee.

24 \* \* \*

25 "Court records." All petitions, exhibits, reports, notes of  
26 testimony, decrees and other papers pertaining to a proceeding  
27 under this chapter or former statutes relating to adoption.

28 ~~"Department." The Department of Public Welfare of the~~  
29 ~~Commonwealth.~~

30 \* \* \*

1 "MEDICAL HISTORY INFORMATION." MEDICAL RECORDS AND OTHER  
2 INFORMATION CONCERNING AN ADOPTEE OR AN ADOPTEE'S [NATURAL]  
3 BIRTH FAMILY WHICH IS RELEVANT TO THE ADOPTEE'S PRESENT OR  
4 FUTURE HEALTH CARE OR MEDICAL TREATMENT. THE TERM INCLUDES:

5 (1) OTHERWISE CONFIDENTIAL OR PRIVILEGED INFORMATION  
6 PROVIDED THAT IDENTIFYING CONTENTS HAVE BEEN REMOVED PURSUANT  
7 TO SECTION 2909 (RELATING TO MEDICAL HISTORY INFORMATION);  
8 AND

9 (2) INFORMATION ABOUT THE [NATURAL] BIRTH PARENTS WHICH  
10 MAY BE RELEVANT TO A POTENTIAL HEREDITARY OR CONGENITAL  
11 MEDICAL PROBLEM.

12 \* \* \*

13 Section 2. ~~Section 2905~~ SECTIONS 2505(B), 2521(C), 2725,  
14 2901, 2905, 2906 AND 2907 of Title 23 ~~is~~ ARE amended to read:  
15 § 2505. COUNSELING.

16 \* \* \*

17 (B) COMPILATION OF LIST.--THE COURT SHALL COMPILE A LIST OF  
18 QUALIFIED COUNSELORS AND COUNSELING SERVICES (INCLUDING ALL  
19 ADOPTION AGENCIES) WHICH ARE AVAILABLE TO COUNSEL [NATURAL]  
20 BIRTH PARENTS WITHIN THE COUNTY WHO ARE CONTEMPLATING  
21 RELINQUISHMENT OR TERMINATION OF PARENTAL RIGHTS PURSUANT TO  
22 THIS PART. SUCH LIST SHALL BE DISTRIBUTED TO EVERY AGENCY,  
23 HOSPITAL OR OTHER FACILITY PROVIDING MATERNITY CARE WITHIN THE  
24 COUNTY AND SHALL BE MADE AVAILABLE UPON REQUEST TO ANY  
25 INTERMEDIARY OR LICENSED HEALTH CARE PROFESSIONAL.

26 \* \* \*

27 § 2521. EFFECT OF DECREE OF TERMINATION.

28 \* \* \*

29 (C) AUTHORITY OF AGENCY OR PERSON RECEIVING CUSTODY.--AN  
30 AGENCY OR PERSON RECEIVING CUSTODY OF A CHILD SHALL STAND IN

1 LOCO PARENTIS TO THE CHILD AND IN SUCH CAPACITY SHALL HAVE THE  
2 AUTHORITY, INTER ALIA, TO CONSENT TO MARRIAGE, TO ENLISTMENT IN  
3 THE ARMED FORCES AND TO MAJOR MEDICAL, PSYCHIATRIC AND SURGICAL  
4 TREATMENT AND TO EXERCISE SUCH OTHER AUTHORITY CONCERNING THE  
5 CHILD AS A [NATURAL] BIRTH PARENT COULD EXERCISE.

6 § 2725. RELIGIOUS BELIEF.

7 THE INTERMEDIARY MAY HONOR THE PREFERENCE OF THE [NATURAL]  
8 BIRTH PARENTS AS TO THE RELIGIOUS FAITH IN WHICH THE ADOPTIVE  
9 PARENTS INTEND TO REAR THE ADOPTED CHILD. NO PERSON SHALL BE  
10 DENIED THE BENEFITS OF THIS PART BECAUSE OF A RELIGIOUS BELIEF  
11 IN THE USE OF SPIRITUAL MEANS OR PRAYER FOR HEALING.

12 § 2901. TIME OF ENTRY OF DECREE OF ADOPTION.

13 UNLESS THE COURT FOR CAUSE SHOWN DETERMINES OTHERWISE, NO  
14 DECREE OF ADOPTION SHALL BE ENTERED UNLESS THE [NATURAL] BIRTH  
15 PARENT OR PARENTS' RIGHTS HAVE BEEN TERMINATED, THE  
16 INVESTIGATION REQUIRED BY SECTION 2535 (RELATING TO  
17 INVESTIGATION) HAS BEEN COMPLETED, THE REPORT OF THE  
18 INTERMEDIARY HAS BEEN FILED PURSUANT TO SECTION 2533 (RELATING  
19 TO REPORT OF INTERMEDIARY) AND ALL OTHER LEGAL REQUIREMENTS HAVE  
20 BEEN MET. IF ALL LEGAL REQUIREMENTS HAVE BEEN MET, THE COURT MAY  
21 ENTER A DECREE OF ADOPTION AT ANY TIME.

22 § 2905. Impounding of proceedings and access to records.

23 (a) General rule.--All petitions, exhibits, reports, notes  
24 of testimony, decrees, and other papers pertaining to any  
25 proceeding under this part or former statutes relating to  
26 adoption shall be kept in the files of the court as a permanent  
27 record thereof and withheld from inspection except on an order  
28 of court granted upon cause shown or except as otherwise  
29 provided in this section. In the case of an adult adoptee who is  
30 assuming a name under section 2904 (relating to name of

1 adoptee), an order of court is not required for the court to  
2 forward to the Pennsylvania State Police documentation in  
3 accordance with 54 Pa.C.S. § 702 (relating to change by order of  
4 court). Only the court in the county in which an adoption was  
5 finalized, the ~~agency which handled~~ COUNTY OR PRIVATE AGENCY ←  
6 WHICH WAS INVOLVED WITH the adoption or a successor agency  
7 authorized by the court may access records relating to the  
8 adoption for purposes of releasing nonidentifying or identifying  
9 information under this section. Any report required to be filed  
10 under sections 2530 (relating to home study and preplacement  
11 report), 2531 (relating to report of intention to adopt) [and],  
12 2535 (relating to investigation) and 2724(b) (relating to  
13 testimony and investigation) shall be made available to parties  
14 to an adoption proceeding only after all identifying names and  
15 addresses in the report have been extirpated by the court.

16 (b) Petition OR REQUEST to court OR REQUEST TO AGENCY for ←  
17 [limited] nonidentifying information.--

18 (1) Upon petition or written request by any adoptee at  
19 least 18 years of age or, if less than 18, his adoptive  
20 parent or legal guardian to the court in the judicial  
21 district in which the permanent records relating to the  
22 adoption have been impounded, the court shall furnish to the  
23 adoptee as much information concerning the adoptee's  
24 [natural] birth parents as will not endanger the anonymity of  
25 the [natural] birth parents. The information shall first be  
26 reviewed, in camera, by the court to insure that no  
27 information is revealed which would [endanger the anonymity  
28 of the natural] compromise the confidentiality of the birth  
29 parents. The court shall, upon motion of the adoptee, examine  
30 the entire record to determine if any additional information

1 can safely be revealed without endangering the anonymity of  
2 the [natural] birth parents.

3 (2) If the court ~~or agency~~ receives a petition or ←  
4 written request OR THE AGENCY RECEIVES A WRITTEN REQUEST for ←  
5 nonidentifying information from an adoptee, within 30 days it  
6 shall notify the petitioner or requester whether it has in  
7 its possession any records relating to the adoptee. If  
8 records are located, the court or agency shall, within 90  
9 days, review the records and furnish to the petitioner or  
10 requester information concerning the adoption which will not  
11 compromise the confidentiality of the biological relationship  
12 between the adoptee and the adoptee's birth parent. Unless  
13 the court or agency determines, due to unusual circumstances,  
14 that disclosure of one or more of these items may facilitate  
15 the identification of the birth parents or their extended  
16 family, nonidentifying information about the birth parents  
17 shall include, to the extent available, the following:

18 (i) Race/ethnic background.

19 (ii) Religion.

20 (iii) Ages at time of adoptee's birth.

21 (iv) Marital status.

22 (v) Occupation.

23 (vi) Physical description, including, but not  
24 limited to, height, weight, complexion, eye and hair  
25 color.

26 (vii) Education.

27 (viii) Hobbies.

28 (ix) Medical information of birth parents and  
29 adoptee.

30 (x) Other children at time of the adoptee's birth,

1 including their ages and sex.

2 (xi) Circumstances leading to adoption.

3 (c) [Access to identity of natural parents] Petition OR ←  
4 REQUEST to court or request to agency for identifying  
5 information or contact.--

6 [(1) Upon petition of an adoptee at least 18 years of  
7 age or, if less than 18, his adoptive parent or legal  
8 guardian, the court may also, through its designated agent,  
9 attempt to contact the natural parents, if known, to obtain  
10 their consent to release their identity and present place of  
11 residence to the adoptee. The petition may state the reasons  
12 why the adoptee desires to contact his natural parents, which  
13 reasons shall be disclosed to the natural parents if  
14 contacted. However, the court and its agents shall take care  
15 that none but the natural parents themselves are informed of  
16 the adoptee's existence and relationship to them. The court  
17 may refuse to contact the natural parents if it believes  
18 that, under the circumstances, there would be a substantial  
19 risk that persons other than the natural parents would learn  
20 of the adoptee's existence and relationship to the natural  
21 parents. The court shall appoint either the county children  
22 and youth agency, or a private agency which provides adoption  
23 services in accordance with standards established by the  
24 Department of Public Welfare, to contact the natural parents  
25 as its designated agent.

26 (2) In addition to petitioning the court to contact the  
27 natural parents, an adoptee at least 18 years of age or, if  
28 less than 18, his adoptive parent or legal guardian may  
29 request the agency that placed the adoptee to contact his  
30 natural parents. If the agency agrees to attempt to contact

1 the natural parents, it shall do so pursuant to the same  
2 safeguards provided for court inquiries in paragraph (1).

3 (3) If the court or an agency contacts the natural  
4 parents of an adoptee pursuant to a petition or request made  
5 under paragraph (1) or (2), except as hereinafter provided,  
6 information relating to both natural parents shall only be  
7 disclosed to the adoptee if both natural parents agree to the  
8 disclosure. If both of the natural parents are deceased,  
9 their identities may be disclosed. If one parent is deceased,  
10 his or her identity may be disclosed. If only one parent  
11 agrees to the disclosure, then only the information relating  
12 to the agreeing parent shall be disclosed.

13 (4) The Department of Public Welfare may, by regulation,  
14 prescribe procedures related to contact of natural parents by  
15 designated agents of the court.]

16 (5) A petition or request for identifying information or  
17 contact may be made by the following individuals:

18 (i) An adoptee at least 18 years of age.

19 (ii) The adoptive parent or legal guardian of an  
20 adoptee who is under 18 years of age, legally adjudicated  
21 incapacitated or deceased.

22 (iii) A descendant of a deceased adoptee.

23 (iv) The birth parent of an adoptee at least 21  
24 years of age.

25 (v) A parent of a birth parent of an adoptee at  
26 least 21 years of age if that birth parent consents, has  
27 been legally adjudicated incapacitated or is deceased.

28 (vi) A birth sibling of an adoptee if both the birth  
29 sibling and the adoptee are at least 21 years of age and:

30 (A) ~~The~~ THE birth sibling and adoptee were



adopted out of the same birth family-;

(B) ~~The~~ THE birth sibling remained in the  
custody of the birth parent and the birth parent  
consents, is deceased or has been legally adjudicated  
incapacitated-; OR

(C) ~~The~~ THE birth sibling was not adopted out of  
the birth family and did not remain in the custody of  
the birth parent.

(6) The following individuals may be the subject of a  
search:

(i) An adoptee at least 21 years of age.

(ii) A birth parent.

(iii) A parent of a birth parent of an adoptee at  
least 21 years of age if the birth parent consents, has  
been legally adjudicated incapacitated or is deceased.

(iv) A birth sibling of an adoptee if both the  
adoptee and the birth sibling are at least 21 years of  
age and:

(A) The birth sibling and adoptee were adopted  
out of the same birth family.

(B) The birth sibling remained in the custody of  
the birth parent and the birth parent consents, is  
deceased or has been legally adjudicated  
incapacitated.

(C) The birth sibling was not adopted out of the  
birth family and did not remain in the custody of the  
birth parent.

(7) If the court ~~or agency~~ receives a petition or  
request OR THE AGENCY RECEIVES A REQUEST for identifying  
information or contact, within 30 days it shall:

1           (i) Determine whether it has in its possession any  
2 records relating to the adoptee.

3           (ii) Notify any other court or agency listed in its  
4 records of the existence of a petition or request.

5           (iii) Ask any other court or agency listed in its  
6 records to advise if any individual listed as a subject  
7 of a search executed a written authorization to release  
8 identifying information.

9           (iv) Notify the individual filing the petition or  
10 request of its findings under this subsection.

11       (8) If records are located, a good faith search for  
12 identifying information must be commenced within 90 days. The  
13 search may only be conducted by:

14           (i) the court in which the adoption was finalized;

15           (ii) the agency which handled the adoption;

16           (iii) a successor, by merger or acquisition, of the  
17 agency which handled the adoption; or

18           (iv) if neither an agency nor a successor exists, by  
19 an agency authorized by the court.

20       (9) The court or agency may appoint an authorized  
21 representative to conduct the search. The following apply:

22           (i) The representative shall review the court and  
23 agency records for identifying information regarding the  
24 birth or adoptive family.

25           (ii) The representative shall use reasonable efforts  
26 to locate the subject of a search.

27           (iii) If the subject of a search is located, the  
28 representative must obtain written authorization from the  
29 subject before identifying information can be released or  
30 contact between the parties is made.

1           (iv) If the subject of the search agrees or is  
2           deceased, identifying information shall be disclosed to a  
3           petitioner or requester.

4           ~~(10) The department shall make available to authorized~~ ←  
5           ~~representatives a standardized training program on conducting~~  
6           ~~searches under this part.~~

7           (c.1) Limitations of search.--No representative of the court  
8           or agency conducting the search shall be required to make  
9           inquiries FOR which the representative believes may compromise ←  
10           ~~the confidentiality of the biological relationship between the~~  
11           ~~adoptee and the adoptee's birth parent~~ THAT UNDER THE ←  
12           CIRCUMSTANCES, THERE WOULD BE A SUBSTANTIAL RISK THAT PERSONS  
13           OTHER THAN THE BIRTH PARENTS WOULD LEARN OF THE ADOPTEE'S  
14           EXISTENCE AND RELATIONSHIP TO THE BIRTH PARENTS.

15           (c.2) Refusal to search.--Notwithstanding the provisions of  
16           subsection (c), the following apply:

17           (1) An agency receiving a request for identifying  
18           information or contact may decline to perform a search if it  
19           is satisfied that the request could cause physical or  
20           emotional harm to the petitioner or others.

21           (2) If the agency declines to perform the search, the  
22           agency shall refer the request to the court which handled the  
23           adoption and inform the court of its reasons for declining  
24           the petitioner's request.

25           (3) The agency shall notify the petitioner of the  
26           referral and identify the court to which the referral was  
27           made.

28           (4) A court receiving a petition for identifying  
29           information or contact may decline to perform a search if it  
30           is satisfied that the request could cause physical or

1 emotional harm to the petitioner or others.

2 (d) Disclosure of information.--

3 (1) No disclosure of information shall be made by the  
4 court, an agency, the Department of Health or any other  
5 Commonwealth agency regarding the adopted person's original  
6 certificate of birth or regarding the documents of proof on  
7 which the amended certificate of birth is based or relating  
8 in any way to the [natural] birth parents unless the  
9 disclosure is made pursuant to the provisions of this  
10 section.

11 (2) Notwithstanding any other provision in this section  
12 to the contrary, the [natural] birth parents may, at the time  
13 of the termination of their parental rights pursuant to  
14 Chapter 25 (relating to proceedings prior to petition to  
15 adopt) or at any time thereafter, place on file, with the  
16 court and with the Department of Health, [a consent] AN ←  
17 AUTHORIZATION form granting permission for the court or the  
18 department to disclose the information contained in the  
19 adoptee's original certificate of birth, or any other  
20 identifying or nonidentifying information pertaining to the  
21 [natural] birth parents, at any time after the adoptee  
22 attains the age of 18 or, if less than 18, to his adoptive  
23 parent or legal guardian. If both parents give their  
24 [consent] AUTHORIZATION, the information on the birth ←  
25 certificate may be disclosed. If only one parent gives  
26 [consent] AUTHORIZATION, only the identity of the consenting ←  
27 parent shall be disclosed. The [natural parents] birth parent  
28 shall be entitled to update those records, as necessary, to  
29 reflect the [natural] birth parent's current address or any  
30 other information pertaining to the [natural parents] birth

1 parent. The [information may only be disclosed upon the  
2 request of the adoptee or his adoptive parent or legal  
3 guardian, and the] consent] AUTHORIZATION of the [natural]  
4 birth parents may be withdrawn at any time by filing a  
5 withdrawal of [consent] AUTHORIZATION form with the court and  
6 the department. The department shall prescribe by regulation  
7 the procedure and forms to be utilized for the giving,  
8 updating and withdrawal of the [consent] AUTHORIZATION.

9 (3) An adoptee at least 18 years of age or, if less than  
10 18 years of age, the parent or legal guardian of the adoptee  
11 shall have access to any original or updated medical history  
12 information on file with the court which entered the decree  
13 of termination or the ~~{Department of Public Welfare}~~  
14 department. No medical history information shall be released  
15 which would [endanger the anonymity of the natural parents.]  
16 compromise the confidentiality of the biological relationship  
17 between the adoptee and the adoptee's birth parents.

18 (e) Immunity from liability.--

19 (1) Any person or agency, including the Commonwealth or  
20 its governmental subdivision, that in good faith acts or  
21 fails to act concerning any requirement of this section shall  
22 be immune from civil or criminal liability due to providing  
23 or refusing to provide services under this section.

24 (2) In any proceeding, the good faith of a person or  
25 agency acting under this section shall be presumed.

26 (f) Costs and fees.--A court or agency providing services  
27 under subsection (b) or (c) may establish a schedule of fees for  
28 services. The fees shall be reasonably related to the direct and  
29 indirect costs associated with providing services.

30 (g) Authorized representative qualification.--An authorized

representative shall complete a standardized training program  
developed by the ~~department~~ DEPARTMENT OF PUBLIC WELFARE.

(h) Rules and regulations.--The ~~department~~ DEPARTMENT OF  
PUBLIC WELFARE shall promulgate rules and regulations  
implementing a standardized training program for court and  
agency authorized representatives conducting searches under this  
subchapter.

§ 2906. DOCKET ENTRIES.

UPON THE FILING OF ANY DECREE UNDER THIS PART, THE CLERK  
SHALL ENTER ON THE DOCKET AN ENTRY SHOWING THE DATE OF THE  
DECREE. INFORMATION IDENTIFYING THE [NATURAL] BIRTH PARENTS  
SHALL NOT BE ENTERED ON THE DOCKET.

§ 2907. CERTIFICATE OF ADOPTION.

THE CLERK SHALL ISSUE TO THE ADOPTING PARENT OR PARENTS A  
CERTIFICATE RECITING THAT THE COURT HAS GRANTED THE ADOPTION.  
THE CERTIFICATE SHALL NOT DISCLOSE THE NAME OF ANY [NATURAL]  
BIRTH PARENT OR THE ORIGINAL NAME OF THE PERSON ADOPTED. THE  
CERTIFICATE SHALL BE ACCEPTED IN ANY LEGAL PROCEEDINGS IN THIS  
COMMONWEALTH AS EVIDENCE OF THE FACT THAT THE ADOPTION HAS BEEN  
GRANTED.

Section 3. Title 23 is amended by adding sections to read:

§ 2911. Agency records.

(a) General rule.--The birth family information summary form  
shall be maintained as a permanent record and withheld from  
inspection except as provided under this chapter.

(b) Disposition of agency records upon closure.--

(1) As soon as practicable, but no less than 30 days  
prior to the date on which an agency ceases to operate as a  
legal entity in this Commonwealth, the agency shall, unless  
it has applied to operate as a new legal entity, notify the

~~department~~ DEPARTMENT OF PUBLIC WELFARE of its intention to  
cease operating.

(2) Within this time period, the agency shall submit a  
plan to the ~~department~~ DEPARTMENT OF PUBLIC WELFARE relating  
to the closure and transfer of case records to another  
agency. The plan shall be subject to the approval by the  
~~department~~ DEPARTMENT OF PUBLIC WELFARE.

(3) In preparation for its closure and transfer of case  
records, the agency shall label its case records to identify  
the respective court that finalized an adoption or where a  
petition to terminate parental rights or to adopt has been  
filed.

(4) The ~~department~~ DEPARTMENT OF PUBLIC WELFARE shall  
notify each court so identified by the agency of the name,  
address and telephone number of the agency to which case  
records have been transferred.

§ 2912. Attorney records.

An attorney representing a party to an adoption proceeding or  
acting as counsel or guardian ad litem for a child in a  
proceeding under this part may forward records and information  
relating to the child, the child's birth family and the adoptive  
family to the court which finalized the adoption, as established  
by general rule by the Supreme Court. Such records and  
information shall be treated as court records for purposes of  
this chapter.

Section 4. This act shall take effect in 60 days.