

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1360 Session of
2010

INTRODUCED BY GREENLEAF, M. WHITE, MUSTO, TARTAGLIONE, FONTANA,
O'PAKE, MELLOW, BROWNE, PICCOLA, STACK, WARD, ALLOWAY,
ERICKSON, BOSCOLA, EARLL, MENSCH, WASHINGTON, SCARNATI,
BRUBAKER, KASUNIC, PILEGGI, PIPPY, WILLIAMS, CORMAN, LEACH
AND TOMLINSON, MAY 7, 2010

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 25, 2010

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in adoption, further providing for
3 hearing, for alternative procedure for relinquishment and for
4 grounds for involuntary termination; providing for voluntary
5 agreement for continuing contact; further providing for
6 impounding of proceedings and access to records and for
7 medical history information; providing for records and access
8 to information; establishing an information registry; and
9 making editorial changes.

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

12 Section 1. Sections 2503(e), 2504(d) and 2511(c) of Title 23
13 of the Pennsylvania Consolidated Statutes are amended to read:

14 § 2503. Hearing.

15 * * *

16 (e) Right to file personal and medical history
17 information.--At the time the decree of termination is
18 transmitted to the parent whose rights are terminated, the court
19 shall advise that parent, in writing, of his or her continuing
20 right to place and update personal and medical history

1 information, whether or not the medical condition is in
2 existence or discoverable at the time of adoption, on file with
3 the court and with the Department of Public Welfare pursuant to
4 [section 2905(d) (relating to impounding of proceedings and
5 access to records)] Subchapter B of Chapter 29 (relating to
6 records and access to information).

7 § 2504. Alternative procedure for relinquishment.

8 * * *

9 (d) Right to file personal and medical history
10 information.--At the time the decree of termination is
11 transmitted to the parent, the court shall also advise, in
12 writing, the parent whose rights have been terminated of his or
13 her continuing right to place and update personal and medical
14 history information, whether or not the medical condition is in
15 existence or discoverable at the time of adoption, on file with
16 the court and with the Department of Public Welfare pursuant to
17 [section 2905(d) (relating to impounding of proceedings and
18 access to records)] Subchapter B of Chapter 29 (relating to
19 records and access to information).

20 § 2511. Grounds for involuntary termination.

21 * * *

22 (c) Right to file personal and medical history
23 information.--At the time the decree of termination is
24 transmitted to the parent whose rights have been terminated, the
25 court shall advise the parent, in writing, of his or her
26 continuing right to place and update personal and medical
27 history information, whether or not the medical condition is in
28 existence or discoverable at the time of adoption, on file with
29 the court and with the Department of Public Welfare pursuant to
30 [section 2905(d) (relating to impounding of proceedings and

access to records)] Subchapter B of Chapter 29 (relating to records and access to information).

Section 2. Chapter 27 of Title 23 is amended by adding a subchapter to read:

SUBCHAPTER D
VOLUNTARY AGREEMENT FOR
CONTINUING CONTACT

Sec.

2731. Purpose of subchapter.

2732. Definitions.

2733. Parties to agreement.

2734. Consent of a child.

2735. Filing and approval of an agreement.

2736. Failure to comply.

2737. Modification of agreement.

2738. Enforcement of agreement.

2739. Discontinuance of agreement.

2740. Procedures for facilitating and resolving agreements involving a county child welfare agency.

2741. Counsel.

2742. Costs.

§ 2731. Purpose of subchapter.

The purpose of this subchapter is to provide an option for adoptive parents and birth relatives to enter into a voluntary agreement for ongoing communication or contact that:

(1) is in the best interest of the child;

(2) recognizes the parties' interests and desires for ongoing communication or contact;

(3) is appropriate given the role of the parties in the child's life; and

1 (4) is subject to approval by the courts.

2 § 2732. Definitions.

3 The following words and phrases when used in this subchapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Agency." A public or private entity, including a county
7 agency, that:

8 (1) Is licensed, supervised or regulated by the
9 Department of Public Welfare.

10 (2) Provides adoption services.

11 "Agreement." A voluntary written agreement between an
12 adoptive parent and a birth relative that is approved by a court
13 and provides for continuing contact between a child and the
14 birth relative as provided under this subchapter.

15 "Birth relative." A parent, grandparent, stepparent,
16 sibling, uncle or aunt of the child's birth family, whether the
17 relationship is by blood or adoption.

18 "Child." An individual who is under 18 years of age.

19 "County agency." A county children and youth social service
20 agency established under section 405 of the act of June 24, 1937
21 (P.L.2017, No.396), known as the County Institution District
22 Law, or its successor, and supervised by the Department of
23 Public Welfare under Article IX of the act of June 13, 1967
24 (P.L.31, No.21), known as the Public Welfare Code.

25 "Department." The Department of Public Welfare of the
26 Commonwealth.

27 § 2733. Parties to agreement.

28 (a) Prospective adoptive parents and birth relatives.--A
29 prospective adoptive parent of a child may enter into an
30 agreement with a birth relative of a child to permit continuing

contact between a child and a birth relative.

(b) Requirements for birth relatives.--

(1) A birth relative that enters into an agreement must have established emotional ties with the child creating an ongoing personal relationship.

(2) If the child is under one year of age, the ongoing personal relationship between the birth relative and the child must have continued for at least half of the child's life, unless the birth relative is the birth parent of the child.

(c) Guardians ad litem for siblings of adoptees.--Where siblings have been freed for adoption through the termination of parental rights, following a dependency proceeding, and the prospective adoptive parent is not adopting all of the siblings, each such sibling who is under 18 years of age shall be represented by a guardian ad litem in the development of an agreement.

§ 2734. Consent of a child.

If the child is 12 years of age or older, an agreement made under this subchapter may not be entered into without the child's consent.

§ 2735. Filing and approval of an agreement.

(a) General rule.--An agreement shall be filed with the court that finalizes the adoption of the child.

(b) Conditions for approval.--The court shall approve the agreement if the court determines that:

(1) The agreement has been entered into knowingly and voluntarily by all parties. An affidavit made under oath must accompany the agreement affirmatively stating that the agreement was entered into knowingly and voluntarily and is

1 not the product of coercion, fraud or duress. The affidavit
2 may be executed jointly or separately.

3 (2) The agreement is in the best interest of the child.
4 In making that determination, factors that the court may
5 consider include, but are not limited to, the following:

6 (i) The length of time that the child has been under
7 actual care, custody and control of a person other than a
8 birth parent and the circumstances relating thereto.

9 (ii) The interaction and interrelationship of the
10 child with birth relatives and other persons who
11 routinely interact with the birth relatives and may
12 significantly affect the child's best interests.

13 (iii) The adjustment to the child's home, school and
14 community.

15 (iv) The willingness and ability of the birth
16 relative to respect and appreciate the bond between the
17 child and prospective adoptive parent.

18 (v) The willingness and ability of the prospective
19 adoptive parent to respect and appreciate the bond
20 between the child and the birth relative.

21 (vi) Any evidence of abuse or neglect of the child.

22 (c) Legal effect.--An agreement shall not be legally
23 enforceable unless approved by the court.

24 § 2736. Failure to comply.

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

28 § 2737. Modification of agreement.

29 (a) General rule.--Only the adoptive parent or a child who
30 is 12 years of age or older may seek to modify an agreement by

1 filing an action in the court that finalized the adoption.

2 (b) Standard for modification.--Before the court may enter
3 an order modifying the agreement, it must find by clear and
4 convincing evidence that modification serves the needs, welfare
5 and best interest of the child.

6 § 2738. Enforcement of agreement.

7 (a) General rule.--Any party to an agreement, a sibling or a
8 child who is the subject of an agreement may seek to enforce an
9 agreement by filing an action in the court that finalized the
10 adoption.

11 (b) Remedies.--Any party to an agreement, a sibling or a
12 child who is the subject of an agreement may request only
13 specific performance in seeking to enforce an agreement and may
14 not request monetary damages or modification of an agreement.

15 (c) Requirements.--For an agreement to be enforceable, it
16 must be:

17 (1) In writing.

18 (2) Approved by the court on or before the date for any
19 adoption decree.

20 (3) If the child is 12 years of age or older when the
21 agreement is executed, the child must consent to the
22 agreement at the time of its execution.

23 (d) Prerequisites.--Before the court may enter an order
24 enforcing an agreement, it must find all of the following:

25 (1) The party seeking enforcement of the agreement is in
26 substantial compliance with the agreement.

27 (2) By clear and convincing evidence, enforcement serves
28 the needs, welfare and best interest of the child.

29 (e) Cessation of enforceability.--

30 (1) An agreement shall cease to be enforceable on the

1 date the child turns 18 years of age unless the agreement
2 otherwise stipulates or is modified by the court.

3 (2) The court issuing final approval of an agreement
4 shall have continuing jurisdiction over enforcement of the
5 agreement until the child turns 18 years of age, unless the
6 agreement otherwise stipulates or is modified by the court.

7 (f) Exclusivity of remedy.--This section constitutes the
8 exclusive remedy for enforcement of an agreement and no
9 statutory or common law remedy shall be available for
10 enforcement or damages in connection with an agreement.

11 § 2739. Discontinuance of agreement.

12 (a) General rule.--A party to an agreement or a child that
13 is at least 12 years of age or older may seek to discontinue an
14 agreement by filing an action in the court that finalized the
15 adoption.

16 (b) Standard for discontinuation.--Before the court may
17 enter an order discontinuing an agreement, it must find by clear
18 and convincing evidence that discontinuance serves the needs,
19 welfare and best interest of the child.

20 § 2740. Procedures for facilitating and resolving agreements
21 involving a county child welfare agency.

22 (a) Department to develop procedures.--In termination of
23 parental rights and adoption proceedings involving a county
24 child welfare agency arising from a juvenile dependency case
25 under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the
26 department shall develop, in consultation with the
27 Administrative Office of the Pennsylvania Courts and the
28 Juvenile Courts Judges Commission, procedures to do the
29 following:

30 (1) Facilitate the development of an agreement, when

1 appropriate, before it is presented to the court.

2 (2) Resolve any requests to modify, enforce or
3 discontinue an agreement consistent with the provisions of
4 this subchapter.

5 (b) Requirements.--The procedures shall, among other
6 provisions to be determined by the department, clearly inform
7 the parties to and subject of an agreement how to seek
8 modification, enforcement or discontinuance of an agreement that
9 was approved by the court.

10 (c) Availability to county agencies.--The department shall
11 make the procedures available to county agencies no later than
12 180 days after the effective date of this subchapter.

13 § 2741. Counsel.

14 (a) General rule.--In proceedings under sections 2737
15 (relating to modification of agreement), 2738 (relating to
16 enforcement of agreement) and 2739 (relating to discontinuance
17 of agreement), parties shall not be entitled to court-appointed
18 counsel.

19 (b) Guardians ad litem.--

20 (1) Notwithstanding the provisions of subsection (a),
21 the court may appoint a guardian ad litem to represent the
22 interests of a child in proceedings under sections 2737, 2738
23 and 2739 and a sibling under 18 years of age who seeks to
24 enforce or to discontinue an agreement.

25 (2) When appointing a guardian ad litem under this
26 subchapter, the court may appoint the same attorney who
27 represents or has represented the child in any dependency
28 proceedings or termination of parental rights proceedings.

29 § 2742. Costs.

30 If the court finds that an action brought under section 2737

1 (relating to modification of agreement), 2738 (relating to
2 enforcement of agreement) or 2739 (relating to discontinuance of
3 agreement) was wholly insubstantial, frivolous or not advanced
4 in good faith, the court may award attorney fees and costs to
5 the prevailing parties.

6 Section 3. Chapter 29 of Title 23 is amended by adding a
7 subchapter heading to read:

8 SUBCHAPTER A

9 GENERAL PROVISIONS

10 Section 4. Sections 2905 and 2909 of Title 23 are repealed:

11 [§ 2905. Impounding of proceedings and access to records.

12 (a) General rule.--All petitions, exhibits, reports, notes
13 of testimony, decrees, and other papers pertaining to any
14 proceeding under this part or former statutes relating to
15 adoption shall be kept in the files of the court as a permanent
16 record thereof and withheld from inspection except on an order
17 of court granted upon cause shown or except as otherwise
18 provided in this section. In the case of an adult adoptee who is
19 assuming a name under section 2904 (relating to name of
20 adoptee), an order of court is not required for the court to
21 forward to the Pennsylvania State Police documentation in
22 accordance with 54 Pa.C.S. § 702 (relating to change by order of
23 court). Any report required to be filed under sections 2530
24 (relating to home study and preplacement report), 2531 (relating
25 to report of intention to adopt) and 2535 (relating to
26 investigation) shall be made available to parties to an adoption
27 proceeding only after all identifying names and addresses in the
28 report have been extirpated by the court.

29 (b) Petition to court for limited information.--Upon
30 petition by any adoptee at least 18 years of age or, if less

1 than 18, his adoptive parent or legal guardian to the court in
2 the judicial district in which the permanent records relating to
3 the adoption have been impounded, the court shall furnish to the
4 adoptee as much information concerning the adoptee's natural
5 parents as will not endanger the anonymity of the natural
6 parents. The information shall first be reviewed, in camera, by
7 the court to insure that no information is revealed which would
8 endanger the anonymity of the natural parents. The court shall,
9 upon motion of the adoptee, examine the entire record to
10 determine if any additional information can safely be revealed
11 without endangering the anonymity of the natural parents.

12 (c) Access to identity of natural parents.--

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

1 Department of Public Welfare, to contact the natural parents
2 as its designated agent.

3 (2) In addition to petitioning the court to contact the
4 natural parents, an adoptee at least 18 years of age or, if
5 less than 18, his adoptive parent or legal guardian may
6 request the agency that placed the adoptee to contact his
7 natural parents. If the agency agrees to attempt to contact
8 the natural parents, it shall do so pursuant to the same
9 safeguards provided for court inquiries in paragraph (1).

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

20 (4) The Department of Public Welfare may, by regulation,
21 prescribe procedures related to contact of natural parents by
22 designated agents of the court.

23 (d) Disclosure of information.--

24 (1) No disclosure of information shall be made by the
25 court, an agency, the Department of Health or any other
26 Commonwealth agency regarding the adopted person's original
27 certificate of birth or regarding the documents of proof on
28 which the amended certificate of birth is based or relating
29 in any way to the natural parents unless the disclosure is
30 made pursuant to the provisions of this section.

1 (2) Notwithstanding any other provision in this section
2 to the contrary, the natural parents may, at the time of the
3 termination of their parental rights pursuant to Chapter 25
4 (relating to proceedings prior to petition to adopt) or at
5 any time thereafter, place on file, with the court and with
6 the Department of Health, a consent form granting permission
7 for the court or the department to disclose the information
8 contained in the adoptee's original certificate of birth, or
9 any other identifying or nonidentifying information
10 pertaining to the natural parents, at any time after the
11 adoptee attains the age of 18 or, if less than 18, to his
12 adoptive parent or legal guardian. If both parents give their
13 consent, the information on the birth certificate may be
14 disclosed. If only one parent gives consent, only the
15 identity of the consenting parent shall be disclosed. The
16 natural parents shall be entitled to update those records, as
17 necessary, to reflect the natural parent's current address or
18 any other information pertaining to the natural parents. The
19 information may only be disclosed upon the request of the
20 adoptee or his adoptive parent or legal guardian, and the
21 consent of the natural parents may be withdrawn at any time
22 by filing a withdrawal of consent form with the court and the
23 department. The department shall prescribe by regulation the
24 procedure and forms to be utilized for the giving, updating
25 and withdrawal of the consent.

26 (3) An adoptee at least 18 years of age or, if less than
27 18 years of age, the parent or legal guardian of the adoptee
28 shall have access to any original or updated medical history
29 information on file with the court which entered the decree
30 of termination or the Department of Public Welfare. No

1 medical history information shall be released which would
2 endanger the anonymity of the natural parents.

3 § 2909. Medical history information.

4 (a) Delivery of information.--Prior to the finalization of
5 an adoption, medical history information shall, where
6 practicable, be delivered by the attending physician or other
7 designated person to the intermediary who shall deliver such
8 information to the adopting parents or their physician. In cases
9 where there is no intermediary, medical history information
10 shall be delivered directly to the adopting parents or their
11 physician.

12 (b) Editing of information.--Except as provided in section
13 2905 (relating to impounding of proceedings and access to
14 records), medical history information shall be edited before
15 delivery or release by the Department of Public Welfare so as to
16 remove any contents which would identify the adoptee's natural
17 family.

18 (c) Availability of information forms.--The Department of
19 Public Welfare shall, upon request, make available to courts,
20 adoption agencies and individuals medical history information
21 forms that enable parents whose rights have been terminated to
22 register and update medical history information with the
23 Department of Public Welfare and with the court which entered
24 the decree of termination.

25 (d) Regulations.--The Department of Public Welfare shall, in
26 consultation with the Department of Health, prescribe by
27 regulation the procedure to be utilized and to develop the
28 content of medical history information forms.]

29 Section 5. Chapter 29 of Title 23 is amended by adding
30 subchapters to read:

1 SUBCHAPTER B

2 RECORDS AND ACCESS TO INFORMATION

3 Sec.

4 2911. Definitions.

5 2912. Combined request for information.

6 2913. Reasonable fees.

7 2914. Immunity from liability.

8 2915. Court and agency records.

9 2916. Attorney records.

10 § 2911. Definitions.

11 The following words and phrases when used in this subchapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Agency records." All information collected by an agency
15 relating to a birth family, an adoptive family and an adoptee.

16 "Authorization form." A form provided by the department on
17 which an adoptee, an adoptive parent or a birth relative can
18 authorize or prohibit the release of identifying information
19 pursuant to the requirements of this chapter.

20 "Authorized representative." An individual who is appointed
21 to conduct a search under this chapter and who has completed a
22 standardized training program as required by the department
23 under this chapter.

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

27 "Department." The Department of Public Welfare of the
28 Commonwealth.

29 "Medical history information." Medical records and other
30 information concerning an adoptee or an adoptee's birth family

1 that is relevant to the present or future health care or medical
2 treatment of the adoptee or the adoptee's birth family. The term
3 includes, but is not limited to, the following:

4 (1) Otherwise confidential or privileged information, if
5 identifying information has been removed under section 2925
6 (relating to providing information from registry).

7 (2) Information about the birth parents of a child that
8 may concern a potential hereditary or congenital medical
9 problem.

10 "Social history information." The term includes, but is not
11 limited to, the following:

12 (1) Information about the adoptee and birth relatives of
13 the adoptee, including economic, cultural and ethnic
14 information.

15 (2) A developmental history of the adoptee, including
16 the circumstances at birth, early development and subsequent
17 age-appropriate task development.

18 (3) The social experiences of the adoptee, including
19 abuse and neglect, out-of-home care and patterns of
20 interpersonal relationships.

21 (4) The educational experiences of the adoptee,
22 including the name of schools attended and dates of
23 enrollment, academic performance, extracurricular activities
24 and special interests.

25 (5) The current functioning of the adoptee, including
26 behavioral patterns and relationships.

27 (6) The circumstances surrounding the adoption.

28 "Summary of original birth record." The summary of original
29 birth record, consisting of only the names and ages of the birth
30 parents, the date and county of the birth of the child and the

1 name of the child given at birth.

2 § 2912. Combined request for information.

3 An individual may file a single written request for both
4 nonidentifying information and identifying information under
5 Subchapter E D (relating to release of information).

6 § 2913. Reasonable fees.

7 Any court or agency may charge reasonable fees for services
8 provided under this chapter.

9 § 2914. Immunity from liability.

10 (a) General rule.--A person or agency, including the
11 Commonwealth and any of its governmental subdivisions, that
12 participates in good faith in providing services under this
13 chapter has immunity from civil and criminal liability that may
14 otherwise result by reason of an action or a failure to act
15 under this chapter.

16 (b) Presumption of good faith.--For the purpose of a civil
17 or criminal proceeding, the good faith of any person or agency
18 that provides services pursuant to this chapter is presumed.

19 § 2915. Court and agency records.

20 (a) General rule.--All court and agency records shall be
21 maintained as a permanent record and withheld from inspection
22 except as provided under this chapter.

23 (b) Agency records.--

24 (1) An agency shall forward its records to the
25 department under any of the following circumstances:

26 (i) The agency ceases to provide adoption services.

27 (ii) The agency decides to dispose of records.

28 (2) An agency shall provide at least 30 days' notice to
29 the department prior to forwarding its records.

30 (3) The department shall retain as a permanent record

all agency records forwarded to it.

(c) Who may access court or agency records.--Only the following are authorized to access court or agency records for the purpose of releasing nonidentifying or identifying information under this chapter:

(1) The court which finalized the adoption.

(2) The agency that coordinated the adoption.

(3) A successor agency authorized by the court which finalized the adoption.

§ 2916. 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.

SUBCHAPTER C

INFORMATION REGISTRY

Sec.

2921. Establishment of registry.

2922. Informational material.

2923. Filing information with registry.

2924. Who may request information from registry.

2925. Providing information from registry.

2926. Rules and regulations.

§ 2921. Establishment of registry.

The department shall do all of the following:

(1) Establish a Statewide confidential registry for the

1 receipt, filing and retention of medical and social history
2 information and authorization forms for all adoptions
3 finalized or registered in this Commonwealth as of the
4 effective date of this subchapter.

5 (2) Prescribe and distribute forms on which an adoptee,
6 an adoptive parent and a birth parent may:

7 (i) Request identifying information or contact.

8 (ii) Authorize or refuse to authorize the release of
9 identifying information or contact.

10 (iii) File and update information with the registry.

11 (3) Retain information filed with the registry as a
12 permanent record.

13 (4) Disseminate the information pursuant to the
14 requirements of this subchapter.

15 § 2922. Informational material.

16 The department shall publicize the availability of the
17 registry and the manner in which information may be filed with
18 and obtained from the registry.

19 § 2923. Filing information with registry.

20 An adoptee, an adoptive parent and a birth parent may at any
21 time file and update medical and social history information with
22 the registry on a form developed by the department.

23 § 2924. Who may request information from registry.

24 The following individuals may request information from the
25 registry:

26 (1) An adoptee who is at least 18 years of age.

27 (2) An adoptive parent of an adoptee who is under 18
28 years of age, adjudicated incapacitated or deceased.

29 (3) A legal guardian of an adoptee who is under 18 years
30 of age or adjudicated incapacitated.

1 (4) A descendant of a deceased adoptee.

2 (5) The birth parent of an adoptee who is at least 21
3 years of age.

4 (6) A parent of a birth parent of an adoptee who is at
5 least 21 years of age if the birth parent consents, is
6 adjudicated incapacitated or is deceased.

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

9 (i) the birth sibling remained in the custody of the
10 birth parent and the birth parent consents, is deceased
11 or adjudicated incapacitated;

12 (ii) both the birth sibling and adoptee were adopted
13 out of the same birth family; or

14 (iii) the birth sibling was not adopted out of the
15 birth family and did not remain in the custody of the
16 birth parent.

17 § 2925. Providing information from registry.

18 (a) Nonidentifying information.--Nonidentifying information,
19 if available, shall be provided to the requester within 30 days
20 of the request.

21 (b) Identifying information.--

22 (1) If an authorization form is on file, the department
23 shall notify the requester within 30 days of the request
24 whether information may be released.

25 (2) If there is no authorization on file, the department
26 shall designate an authorized representative to:

27 (i) Use reasonable efforts to locate the subject of
28 the request.

29 (ii) If the subject of the request is located,
30 obtain written authorization from the subject before any

1 information is released.

2 (c) Authorization form.--An authorization form allowing the
3 release of identifying information may be withdrawn at any time
4 by the individual who signed the authorization form.

5 (d) Editing information.--Before the release of information
6 from the registry, the department shall remove any identifying
7 information, unless authorized in writing by the subject of the
8 information to release the identifying information.

9 § 2926. Rules and regulations.

10 The department shall promulgate rules and regulations
11 necessary to implement this subchapter. The department may
12 request, but shall not require, an agency to submit medical and
13 social history information for adoptions finalized or registered
14 in this Commonwealth prior to the effective date of this
15 subchapter.

16 SUBCHAPTER D

17 RELEASE OF INFORMATION

18 Sec.

19 2931. Nonidentifying information.

20 2932. Identifying information.

21 2933. Statement of medical and social history information.

22 2934. Confidentiality.

23 2935. Refusal to search.

24 2936. Original birth record.

25 2937. Rules and regulations.

26 § 2931. Nonidentifying information.

27 (a) Who may request.--The following individuals may file a
28 written request for nonidentifying information with the court
29 which finalized an adoption, the agency which coordinated the
30 adoption or its successor agency by merger or acquisition:

1 (1) An adoptee who is 18 years of age or older.

2 (2) An adoptive parent of an adoptee who is:

3 (i) under 18 years of age;

4 (ii) adjudicated incapacitated and is at least 18
5 years of age; or

6 (iii) deceased.

7 (3) A legal guardian of an adoptee who is under 18 years
8 of age or adjudicated incapacitated.

9 (4) A descendant of a deceased adoptee.

10 (b) Notice of receipt of request.--When the court or agency
11 receives a written request for nonidentifying information, it
12 shall, within 30 days, notify the individual requesting the
13 information of its receipt of the request.

14 (c) Furnishing nonidentifying information.--The court or
15 agency shall, within 120 days, review its records and furnish to
16 the requester any information concerning the adoption that will
17 not compromise the confidentiality of the relationship between
18 the adoptee and the adoptee's birth parent.

19 § 2932. Identifying information.

20 (a) Who may request.--The following individuals may file a
21 written request for identifying information or contact with the
22 court which finalized an adoption, the agency which coordinated
23 the adoption or a successor agency:

24 (1) An adoptee who is at least 18 years of age.

25 (2) An adoptive parent of an adoptee who is:

26 (i) under 18 years of age;

27 (ii) adjudicated incapacitated and is 18 years of
28 age or older; or

29 (iii) deceased.

30 (3) A legal guardian of an adoptee who is under 18 years

1 of age or adjudicated incapacitated.

2 (4) A descendant of a deceased adoptee.

3 (5) A birth parent of an adoptee who is 21 years of age
4 or older.

5 (6) A parent of a birth parent of an adoptee who is 21
6 years of age or older, if the birth parent consents, is
7 adjudicated incapacitated or is deceased.

8 (7) A birth sibling of an adoptee, if both the birth
9 sibling and adoptee are 21 years of age or older and:

10 (i) the birth sibling remained in the custody of the
11 birth parent and the birth parent consents, is deceased
12 or adjudicated incapacitated;

13 (ii) both the birth sibling and adoptee were adopted
14 out of the same birth family; or

15 (iii) the birth sibling was not adopted out of the
16 birth family and did not remain in the custody of the
17 birth parent.

18 (b) Who may be the subject of a request.--An individual
19 under subsection (a) may request identifying information
20 regarding or contact with the following individuals:

21 (1) An adoptee who is 21 years of age or older.

22 (2) A birth parent of an adoptee.

23 (3) A parent of a birth parent of an adoptee who is 21
24 years of age or older, if the birth parent consents, is
25 adjudicated incapacitated or is deceased.

26 (4) A birth sibling of an adoptee, if both the birth
27 sibling and adoptee are 21 years of age or older and:

28 (i) the birth sibling remained in the custody of the
29 birth parent and the birth parent consents, is deceased
30 or adjudicated incapacitated;

1 (ii) both the birth sibling and adoptee were adopted
2 out of the same birth family; or
3 (iii) the birth sibling was not adopted out of the
4 birth family and did not remain in the custody of the
5 birth parent.

6 (c) Notice of availability of records.--The court or agency
7 shall, within 120 days of receiving a written request for
8 identifying information or contact, do all of the following:

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

11 (2) Conduct a good faith search for identifying
12 information, which search shall be commenced within 180 days.
13 The search for information shall only be conducted by an
14 authorized representative appointed by:

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

16 (ii) the agency that coordinated the adoption;

17 (iii) a successor, by merger or acquisition, of the
18 agency that coordinated the adoption; or

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

21 The authorized representative shall review the court and
22 agency record for identifying information regarding the birth
23 or adoptive family and shall determine whether an
24 authorization form has been filed with the court or agency.

25 (3) Notify any other court or agency listed in its
26 records of the existence of the request for identifying
27 information.

28 (4) Ask any other court or agency listed in its records
29 to advise if an authorization form has been filed.

30 (5) Contact the information registry established under

1 Subchapter D C (relating to information registry), advise the ←
2 registry of the request for identifying information and ask
3 whether an authorization form has been filed.

4 (6) Notify the requesting individual of its findings
5 pursuant to this subsection.

6 (d) No authorization form.--If an applicable authorization
7 form is not located, all of the following apply:

8 (1) The authorized representative shall use reasonable
9 efforts to locate the subject of the search.

10 (2) If the subject of the search is located, the
11 authorized representative shall obtain written authorization
12 from the subject before any identifying information is
13 released or contact between the parties is made.

14 (3) If the requester is an adoptee seeking the identity
15 of a birth parent, the identity of a deceased birth parent
16 may be disclosed.

17 (4) If the requester is an adoptee seeking the identity
18 of both birth parents and only one birth parent agrees to the
19 disclosure, only the information relating to that birth
20 parent shall be disclosed.

21 (e) Withdrawal of authorization form.--An individual may
22 withdraw the individual's authorization form at any time.

23 § 2933. Statement of medical and social history information.

24 (a) Filing places.--A statement regarding medical and social
25 history information may be filed with the following:

26 (1) The court that terminated parental rights.

27 (2) The court that finalized the adoption.

28 (3) The agency that coordinated the adoption.

29 (4) The information registry established under

30 Subchapter D C (relating to information registry). ←

1 (b) Individuals authorized to file and request.--The
2 following individuals may at any time file, update and request a
3 statement regarding medical and social history information:

4 (1) An adoptee who is 18 years of age or older.

5 (2) An adoptive parent or legal guardian of an adoptee
6 who is under 18 years of age or adjudicated incapacitated.

7 (3) A descendant of a deceased adoptee.

8 (4) A birth parent.

9 (5) A legal guardian of an adjudicated incapacitated
10 birth parent.

11 (6) A survivor of a deceased birth parent.

12 (c) Maintenance of record.--A statement regarding medical
13 and social history information shall be maintained as a
14 permanent record.

15 (d) Forwarding statement.--If a statement regarding medical
16 and social history information is filed in the court that
17 terminated parental rights, a copy of the statement shall be
18 forwarded to the court that finalized the adoption and the
19 information registry established under Subchapter D (relating to ←
20 information registry) C. ←

21 (e) Notice of filing.--

22 (1) Within 30 days of filing of a statement regarding
23 medical and social history information, the court, agency or
24 information registry shall give notice of its receipt to the
25 individual who filed the statement.

26 (2) Within 120 days after a statement is filed, the
27 court, agency or information registry shall give notice of
28 the filing to the individual to whom the information is
29 intended to benefit, if known or identified in its records.

30 (f) Request for information.--

1 (1) When the court or agency receives a written request
2 for medical and social history information, it shall notify
3 the requester within ~~180~~ 120 days whether it possesses any ←
4 medical and social history information relating to the
5 adoption.

6 (2) Within ~~180~~ 120 days of locating medical and social ←
7 history information, the court or agency shall do the
8 following:

9 (i) For nonidentifying information, review and
10 furnish to the requester any medical and social history
11 information that will not compromise the confidentiality
12 of the relationship between the adoptee and the adoptee's
13 birth parent.

14 (ii) For identifying information, if an
15 authorization form is on file with the court, agency or
16 information registry, furnish to the requester the
17 available identifying information in its records.

18 (g) No information or authorization form on file.--If a
19 court or agency receives a request for medical and social
20 history information and finds that no such information is in its
21 records or that no authorization form is on file, the court or
22 agency shall do the following:

23 (1) Contact the subject of the request and ask that the
24 subject:

25 (i) provide nonidentifying information for the
26 benefit of the requester; or

27 (ii) file an authorization form.

28 (2) If the subject of the request cannot be located from
29 information contained in the court records, appoint an
30 authorized representative to use reasonable efforts to locate

1 the subject.

2 (3) If nonidentifying information is provided by the
3 subject of the request, provide the nonidentifying
4 information to the requester.

5 (4) If an authorization form is filed, provide
6 identifying information to the requester.

7 § 2934. Confidentiality.

8 (a) General rule.--In conducting a search, the court or
9 agency shall ensure that no individual, other than a birth
10 parent, is informed of the adoptee's existence and relationship
11 to the birth parent of the adoptee.

12 (b) When inquiry not mandatory.--An authorized
13 representative of the court or agency conducting a search may
14 not make an inquiry which the representative reasonably believes
15 may compromise the confidentiality relating to the relationship
16 between the adoptee and a birth parent of the adoptee.

17 § 2935. Refusal to search.

18 (a) Agency.--

19 (1) If an agency is satisfied that a request could cause
20 physical or emotional harm to the requesting individual or
21 others, the agency may decline to conduct a search to
22 determine whether an individual will authorize the disclosure
23 of identifying information or contact under this chapter.

24 (2) An agency may decline to commence or conduct a
25 search required under this chapter if the requester fails to
26 pay the reasonable costs associated with commencing or
27 conducting the search.

28 (3) (i) An agency that declines to conduct a search
29 shall refer the request to the court that finalized the
30 adoption and inform the court of its reasons for

1 declining the request.

2 (ii) The agency shall notify the requester of the
3 referral and identify the court to which the referral was
4 made.

5 (b) Court.--

6 (1) If a court is satisfied that a request could cause
7 physical or emotional harm to the requesting individual or
8 others, the court receiving a request for identifying
9 information or contact may decline to perform a search.

10 (2) A court that declines to conduct a search shall
11 inform the requesting individual of its decision in writing
12 and of the procedures for appeal of that decision.

13 § 2936. Original birth record.

14 (a) General rule.--No disclosure of information shall be
15 made by a court, an agency, the Department of Health or any
16 other Commonwealth agency regarding an adoptee's original birth
17 record or regarding the documents or proof on which an amended
18 certificate of birth is based or relating in any way to the
19 birth parents unless the disclosure is made pursuant to the
20 provisions of this section.

21 (b) Filing of consent to issue copy of summary of original
22 birth record.--

23 (1) The birth parents may, at the time their parental
24 rights are terminated or at any time thereafter, place on
25 file with the court and the Department of Health a consent
26 form granting permission for the court or the Department of
27 Health to issue a copy of the summary of the adoptee's
28 original birth record, which summary discloses the identity
29 of the birth parents, at any time after the adoptee turns 18
30 years of age or, if less than 18 years of age, to the

1 adoptive parent or legal guardian.

2 (2) If only one birth parent has filed a consent, a copy
3 of the summary of the original birth record naming only the
4 consenting birth parent shall be issued.

5 (3) The consent of a birth parent may be withdrawn at
6 any time by filing a withdrawal of consent form with the
7 court and the Department of Health.

8 (c) Duty of ~~department~~ DEPARTMENT OF HEALTH.--The ~~department~~ ←
9 DEPARTMENT OF HEALTH shall prescribe by regulation the procedure ←
10 and forms to be utilized for the giving, updating and withdrawal
11 of consent.

12 § 2937. Rules and regulations.

13 The department shall promulgate rules and regulations
14 implementing a standardized training program for court-appointed
15 and agency-appointed authorized representatives conducting
16 searches under this subchapter.

17 Section 6. This act shall take effect in 60 days.