

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 CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
SEPTEMBER 20, 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

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

8 § 2504. Alternative procedure for relinquishment.

9 * * *

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

21 § 2511. Grounds for involuntary termination.

22 * * *

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

1 [section 2905(d) (relating to impounding of proceedings and
2 access to records)] Subchapter B of Chapter 29 (relating to
3 records and access to information).

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

6 SUBCHAPTER D

7 VOLUNTARY AGREEMENT FOR

8 CONTINUING CONTACT

9 Sec.

10 2731. Purpose of subchapter.

11 2732. Definitions.

12 2733. Parties to agreement.

13 2734. Consent of a child.

14 2735. Filing and approval of an agreement.

15 2736. Failure to comply.

16 2737. Modification of agreement.

17 2738. Enforcement of agreement.

18 2739. Discontinuance of agreement.

19 2740. Procedures for facilitating and resolving agreements
20 involving a county child welfare agency.

21 2741. Counsel.

22 2742. Costs.

23 § 2731. Purpose of subchapter.

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

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

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

30 (3) is appropriate given the role of the parties in the

1 child's life; and

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

3 § 2732. Definitions.

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

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

9 (1) ~~is~~ IS licensed, supervised or regulated by the ←
10 Department of Public Welfare-; AND ←

11 (2) ~~Provides~~ PROVIDES adoption services. ←

12 "Agreement." A voluntary written agreement between an
13 adoptive parent and a birth relative that is approved by a court
14 and provides for continuing contact ~~between a~~ OR COMMUNICATION ←
15 BETWEEN THE child and the birth relative OR BETWEEN THE ADOPTIVE ←
16 PARENT AND THE BIRTH RELATIVE as provided under this subchapter.

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

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

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

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

29 § 2733. Parties to agreement.

30 (a) Prospective adoptive parents and birth relatives.--A

1 prospective adoptive parent of a child may enter into an
2 agreement with a birth relative of a THE child to permit
3 continuing contact between a child and a birth relative.



4 ~~(b) Requirements for birth relatives.~~

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

8 ~~(2) If the child is under one year of age, the ongoing~~
9 ~~personal relationship between the birth relative and the~~
10 ~~child must have continued for at least half of the child's~~
11 ~~life, unless the birth relative is the birth parent of the~~
12 ~~child~~ OR COMMUNICATION BETWEEN THE CHILD AND THE BIRTH
13 RELATIVE OR BETWEEN THE ADOPTIVE PARENT AND THE BIRTH
14 RELATIVE.



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



22 (C) NOTIFICATION.--AN AGENCY OR ANYONE REPRESENTING THE
23 PARTIES IN AN ADOPTION SHALL PROVIDE NOTIFICATION TO A
24 PROSPECTIVE ADOPTIVE PARENT, A BIRTH PARENT AND A CHILD WHO CAN
25 BE REASONABLY EXPECTED TO UNDERSTAND THAT A PROSPECTIVE ADOPTIVE
26 PARENT AND A BIRTH RELATIVE OF A CHILD HAVE THE OPTION TO ENTER
27 INTO A VOLUNTARY AGREEMENT FOR CONTINUING CONTACT OR
28 COMMUNICATION.



29 (D) CONSTRUCTION.--NOTHING IN THIS CHAPTER SHALL BE
30 CONSTRUED TO PROHIBIT THE PARTIES FROM AGREEING TO MEDIATION OF

1 AN AGREEMENT AT THEIR OWN COST, INCLUDING THE MODIFICATION OF AN
2 AGREEMENT, BEFORE SEEKING A REMEDY FROM THE COURT.

3 § 2734. Consent of a child.

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

7 § 2735. Filing and approval of an agreement.

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

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

12 (1) The agreement has been entered into knowingly and
13 voluntarily by all parties. An affidavit made under oath must
14 accompany the agreement affirmatively stating that the
15 agreement was entered into knowingly and voluntarily and is
16 not the product of coercion, fraud or duress. The affidavit
17 may be executed jointly or separately.

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

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

24 (ii) The interaction and interrelationship of the
25 child with birth relatives and other persons who
26 routinely interact with the birth relatives and may
27 significantly affect the child's best interests.

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

30 (iv) The willingness and ability of the birth

1 relative to respect and appreciate the bond between the
2 child and prospective adoptive parent.

3 (v) The willingness and ability of the prospective
4 adoptive parent to respect and appreciate the bond
5 between the child and the birth relative.

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

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

9 § 2736. Failure to comply.

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

13 § 2737. Modification of agreement.

14 (a) General rule.--Only the adoptive parent or a child who
15 is 12 years of age or older may seek to modify an agreement by
16 filing an action in the court that finalized the adoption.

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

21 § 2738. Enforcement of agreement.

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

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

30 (c) Requirements.--For an agreement to be enforceable, it

1 must be:

2 (1) In writing.

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

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

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

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

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

14 (e) Cessation of enforceability.--

15 (1) An agreement shall cease to be enforceable on the
16 date the child turns 18 years of age unless the agreement
17 otherwise stipulates or is modified by the court.

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

22 (f) Exclusivity of remedy.--This section constitutes the
23 exclusive remedy for enforcement of an agreement and no
24 statutory or common law remedy shall be available for
25 enforcement or damages in connection with an agreement.

26 § 2739. Discontinuance of agreement.

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

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

5 § 2740. Procedures for facilitating and resolving agreements
6 involving a county child welfare agency.

7 (a) Department to develop procedures.--In termination of
8 parental rights and adoption proceedings involving a county
9 child welfare agency arising from a juvenile dependency case
10 under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the
11 department shall develop, in consultation with the
12 Administrative Office of the Pennsylvania Courts and the
13 Juvenile Courts Judges Commission, procedures to do the
14 following:

15 (1) Facilitate the development of an agreement, when
16 appropriate, before it is presented to the court.

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

20 (b) Requirements.--The procedures shall, among other
21 provisions to be determined by the department, clearly inform
22 the parties to and subject of an agreement how to seek
23 modification, enforcement or discontinuance of an agreement that
24 was approved by the court.

25 (c) Availability to county agencies.--The department shall
26 make the procedures available to county agencies no later than
27 180 days after the effective date of this subchapter.

28 § 2741. Counsel.

29 (a) General rule.--In proceedings under sections 2737
30 (relating to modification of agreement), 2738 (relating to

1 enforcement of agreement) and 2739 (relating to discontinuance
2 of agreement), parties shall not be entitled to court-appointed
3 counsel.

4 (b) Guardians ad litem.--

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

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

14 § 2742. Costs.

15 If the court finds that an action brought under section 2737
16 (relating to modification of agreement), 2738 (relating to
17 enforcement of agreement) or 2739 (relating to discontinuance of
18 agreement) was wholly insubstantial, frivolous or not advanced
19 in good faith, the court may award attorney fees and costs to
20 the prevailing parties.

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

23 Subchapter A

24 General Provisions

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

26 [§ 2905. Impounding of proceedings and access to records.

27 (a) General rule.--All petitions, exhibits, reports, notes
28 of testimony, decrees, and other papers pertaining to any
29 proceeding under this part or former statutes relating to
30 adoption shall be kept in the files of the court as a permanent

1 record thereof and withheld from inspection except on an order
2 of court granted upon cause shown or except as otherwise
3 provided in this section. In the case of an adult adoptee who is
4 assuming a name under section 2904 (relating to name of
5 adoptee), an order of court is not required for the court to
6 forward to the Pennsylvania State Police documentation in
7 accordance with 54 Pa.C.S. § 702 (relating to change by order of
8 court). Any report required to be filed under sections 2530
9 (relating to home study and preplacement report), 2531 (relating
10 to report of intention to adopt) and 2535 (relating to
11 investigation) shall be made available to parties to an adoption
12 proceeding only after all identifying names and addresses in the
13 report have been extirpated by the court.

14 (b) Petition to court for limited information.--Upon
15 petition by any adoptee at least 18 years of age or, if less
16 than 18, his adoptive parent or legal guardian to the court in
17 the judicial district in which the permanent records relating to
18 the adoption have been impounded, the court shall furnish to the
19 adoptee as much information concerning the adoptee's natural
20 parents as will not endanger the anonymity of the natural
21 parents. The information shall first be reviewed, in camera, by
22 the court to insure that no information is revealed which would
23 endanger the anonymity of the natural parents. The court shall,
24 upon motion of the adoptee, examine the entire record to
25 determine if any additional information can safely be revealed
26 without endangering the anonymity of the natural parents.

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

28 (1) Upon petition of an adoptee at least 18 years of age
29 or, if less than 18, his adoptive parent or legal guardian,
30 the court may also, through its designated agent, attempt to

1 contact the natural parents, if known, to obtain their
2 consent to release their identity and present place of
3 residence to the adoptee. The petition may state the reasons
4 why the adoptee desires to contact his natural parents, which
5 reasons shall be disclosed to the natural parents if
6 contacted. However, the court and its agents shall take care
7 that none but the natural parents themselves are informed of
8 the adoptee's existence and relationship to them. The court
9 may refuse to contact the natural parents if it believes
10 that, under the circumstances, there would be a substantial
11 risk that persons other than the natural parents would learn
12 of the adoptee's existence and relationship to the natural
13 parents. The court shall appoint either the county children
14 and youth agency, or a private agency which provides adoption
15 services in accordance with standards established by the
16 Department of Public Welfare, to contact the natural parents
17 as its designated agent.

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

25 (3) If the court or an agency contacts the natural
26 parents of an adoptee pursuant to a petition or request made
27 under paragraph (1) or (2), except as hereinafter provided,
28 information relating to both natural parents shall only be
29 disclosed to the adoptee if both natural parents agree to the
30 disclosure. If both of the natural parents are deceased,

1 their identities may be disclosed. If one parent is deceased,
2 his or her identity may be disclosed. If only one parent
3 agrees to the disclosure, then only the information relating
4 to the agreeing parent shall be disclosed.

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

8 (d) Disclosure of information.--

9 (1) No disclosure of information shall be made by the
10 court, an agency, the Department of Health or any other
11 Commonwealth agency regarding the adopted person's original
12 certificate of birth or regarding the documents of proof on
13 which the amended certificate of birth is based or relating
14 in any way to the natural parents unless the disclosure is
15 made pursuant to the provisions of this section.

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

1 natural parents shall be entitled to update those records, as
2 necessary, to reflect the natural parent's current address or
3 any other information pertaining to the natural parents. The
4 information may only be disclosed upon the request of the
5 adoptee or his adoptive parent or legal guardian, and the
6 consent of the natural parents may be withdrawn at any time
7 by filing a withdrawal of consent form with the court and the
8 department. The department shall prescribe by regulation the
9 procedure and forms to be utilized for the giving, updating
10 and withdrawal of the consent.

11 (3) An adoptee at least 18 years of age or, if less than
12 18 years of age, the parent or legal guardian of the adoptee
13 shall have access to any original or updated medical history
14 information on file with the court which entered the decree
15 of termination or the Department of Public Welfare. No
16 medical history information shall be released which would
17 endanger the anonymity of the natural parents.

18 § 2909. Medical history information.

19 (a) Delivery of information.--Prior to the finalization of
20 an adoption, medical history information shall, where
21 practicable, be delivered by the attending physician or other
22 designated person to the intermediary who shall deliver such
23 information to the adopting parents or their physician. In cases
24 where there is no intermediary, medical history information
25 shall be delivered directly to the adopting parents or their
26 physician.

27 (b) Editing of information.--Except as provided in section
28 2905 (relating to impounding of proceedings and access to
29 records), medical history information shall be edited before
30 delivery or release by the Department of Public Welfare so as to

1 remove any contents which would identify the adoptee's natural
2 family.

3 (c) Availability of information forms.--The Department of
4 Public Welfare shall, upon request, make available to courts,
5 adoption agencies and individuals medical history information
6 forms that enable parents whose rights have been terminated to
7 register and update medical history information with the
8 Department of Public Welfare and with the court which entered
9 the decree of termination.

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

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

16 SUBCHAPTER B

17 Records and Access to Information

18 Sec.

19 2911. Definitions.

20 2912. Combined request for information.

21 2913. Reasonable fees.

22 2914. Immunity from liability.

23 2915. Court and agency records.

24 2916. Attorney records.

25 § 2911. Definitions.

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

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

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

5 "Authorized representative." An individual who is appointed
6 to conduct a search under this chapter and who has completed a
7 standardized training program as required by the department
8 under this chapter.

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

12 "Department." The Department of Public Welfare of the
13 Commonwealth.

14 "Medical history information." Medical records and other
15 information concerning an adoptee or an adoptee's birth family
16 that is relevant to the present or future health care or medical
17 treatment of the adoptee or the adoptee's birth family. The term
18 includes, but is not limited to, the following:

19 (1) Otherwise confidential or privileged information, if
20 identifying information has been removed under section 2925
21 (relating to providing information from registry).

22 (2) Information about the birth parents of a child that
23 may concern a potential hereditary or congenital medical
24 problem.

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

27 (1) Information about the adoptee and birth relatives of
28 the adoptee, including economic, cultural and ethnic
29 information.

30 (2) A developmental history of the adoptee, including

1 the circumstances at birth, early development and subsequent
2 age-appropriate task development.

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

6 (4) The educational experiences of the adoptee,
7 including the name of schools attended and dates of
8 enrollment, academic performance, extracurricular activities
9 and special interests.

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

12 (6) The circumstances surrounding the adoption.

13 "Summary of original birth record." The summary of original
14 birth record, consisting of only the names and ages of the birth
15 parents, the date and county of the birth of the child and the
16 name of the child given at birth.

17 § 2912. Combined request for information.

18 An individual may file a single written request for ←
19 AUTHORIZED TO RECEIVE both nonidentifying information and ←
20 identifying information MAY FILE A SINGLE WRITTEN REQUEST under ←
21 Subchapter D (relating to release of information).

22 § 2913. Reasonable fees.

23 Any court or agency may charge reasonable fees for services
24 provided under this chapter.

25 § 2914. Immunity from liability.

26 (a) General rule.--A person or agency, including the
27 Commonwealth and any of its governmental subdivisions, that
28 participates in good faith in providing services under this
29 chapter has immunity from civil liability that may otherwise
30 result by reason of an action or a failure to act under this

1 chapter.

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

5 § 2915. Court and agency records.

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

9 ~~(b) Agency records.~~ ←

10 ~~(1) An agency shall forward its records to the~~
11 ~~department under any of the following circumstances:~~

12 ~~(i) The agency ceases to provide adoption services.~~

13 ~~(ii) The agency decides to dispose of records.~~

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

16 ~~(3) The department shall retain as a permanent record~~
17 ~~all agency records forwarded to it.~~

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

22 ~~(1) The court which finalized the adoption.~~

23 ~~(2) The agency that coordinated the adoption.~~

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

26 ~~(C) DISPOSITION OF AGENCY RECORDS UPON CLOSURE.--~~ ←

27 ~~(1) AS SOON AS PRACTICABLE, BUT NOT LESS THAN 30 DAYS~~
28 ~~PRIOR TO THE DATE ON WHICH AN AGENCY CEASES TO OPERATE AS A~~
29 ~~LEGAL ENTITY IN THIS COMMONWEALTH, THE AGENCY SHALL, UNLESS~~
30 ~~IT HAS APPLIED TO OPERATE AS A NEW LEGAL ENTITY, NOTIFY THE~~

1 DEPARTMENT OF ITS INTENTION TO CEASE OPERATING.

2 (2) WITHIN THIS TIME PERIOD, THE AGENCY SHALL SUBMIT A
3 PLAN TO THE DEPARTMENT RELATING TO THE CLOSURE AND TRANSFER
4 OF CASE RECORDS TO ANOTHER AGENCY. THE PLAN SHALL BE SUBJECT
5 TO APPROVAL BY THE DEPARTMENT.

6 (3) IN PREPARATION FOR ITS CLOSURE AND TRANSFER OF CASE
7 RECORDS, THE AGENCY SHALL LABEL ITS CASE RECORDS TO IDENTIFY
8 THE RESPECTIVE COURT THAT FINALIZED AN ADOPTION OR WHERE A
9 PETITION TO TERMINATE PARENTAL RIGHTS OR TO ADOPT HAS BEEN
10 FILED.

11 (4) THE DEPARTMENT SHALL NOTIFY EACH COURT SO IDENTIFIED
12 BY THE AGENCY OF THE NAME, ADDRESS AND TELEPHONE NUMBER OF
13 THE AGENCY TO WHICH CASE RECORDS HAVE BEEN TRANSFERRED.

14 § 2916. Attorney records.

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

23 SUBCHAPTER C

24 INFORMATION REGISTRY

25 Sec.

26 2921. Establishment of registry.

27 2922. Informational material.

28 2923. Filing information with registry.

29 2924. Who may request information from registry.

30 2925. Providing information from registry.

1 2926. Rules and regulations.

2 § 2921. Establishment of registry.

3 The department shall do all of the following:

4 (1) Establish a Statewide confidential registry for the
5 receipt, filing and retention of medical and social history
6 information and authorization forms for all adoptions
7 finalized or registered in this Commonwealth ~~as of the~~ ←
8 effective date of this subchapter.

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

11 (i) Request identifying information or contact.

12 (ii) Authorize or refuse to authorize the release of
13 identifying information or contact.

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

15 (3) Retain information filed with the registry as a
16 permanent record.

17 (4) Disseminate the information pursuant to the
18 requirements of this subchapter.

19 § 2922. Informational material.

20 The department shall publicize the availability of the
21 registry and the manner in which information may be filed with
22 and obtained from the registry.

23 § 2923. Filing information with registry.

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

27 § 2924. Who may request information from registry.

28 The following individuals may request information from the
29 registry:

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

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

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

5 (4) A descendant of a deceased adoptee.

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

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

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

13 (i) the birth sibling remained in the custody of the
14 birth parent and the birth parent consents, is deceased
15 or adjudicated incapacitated;

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

18 (iii) the birth sibling was not adopted out of the
19 birth family and did not remain in the custody of the
20 birth parent.

21 § 2925. Providing information from registry.

22 (a) Nonidentifying information.--Nonidentifying information,
23 if available, shall be provided to the requester within 30 days
24 of the request.

25 (b) Identifying information.--

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

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

RELEASE OF INFORMATION

Sec.

~~2931. Nonidentifying information.~~

~~2932. Identifying information.~~

~~2933. Statement of medical and social history information.~~

~~2934. Confidentiality.~~

~~2935. Refusal to search.~~

~~2936. Original birth record.~~

~~2937. Rules and regulations.~~

~~§ 2931. Nonidentifying information.~~

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

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

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

~~(i) under 18 years of age;~~

~~(ii) adjudicated incapacitated and is at least 18-~~

~~years of age; or~~

~~(iii) deceased.~~

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

~~(4) A descendant of a deceased adoptee.~~

~~2931. ACCESS TO INFORMATION.~~

~~2932. NONIDENTIFYING INFORMATION.~~

~~2933. IDENTIFYING INFORMATION.~~

~~2934. STATEMENT OF MEDICAL AND SOCIAL HISTORY INFORMATION.~~

~~2935. CONFIDENTIALITY.~~

~~2936. REFUSAL TO SEARCH.~~

~~2937. ORIGINAL BIRTH RECORD.~~

1 2938. RULES AND REGULATIONS.

2 § 2931. ACCESS TO INFORMATION.

3 (A) WHO MAY ACCESS INFORMATION.--THE FOLLOWING INDIVIDUALS
4 MAY FILE A WRITTEN REQUEST FOR NONIDENTIFYING INFORMATION OR
5 IDENTIFYING INFORMATION OR CONTACT WITH THE COURT WHICH
6 FINALIZED THE ADOPTION, THE AGENCY WHICH COORDINATED THE
7 ADOPTION OR A SUCCESSOR AGENCY:

8 (1) AN ADOPTEE WHO IS AT LEAST 18 YEARS OF AGE.

9 (2) AN ADOPTIVE PARENT OF AN ADOPTEE WHO IS:

10 (I) UNDER 18 YEARS OF AGE;

11 (II) ADJUDICATED INCAPACITATED AND IS 18 YEARS OF
12 AGE OR OLDER; OR

13 (III) DECEASED.

14 (3) A LEGAL GUARDIAN OF AN ADOPTEE WHO IS UNDER 18 YEARS
15 OF AGE OR ADJUDICATED INCAPACITATED.

16 (4) A DESCENDANT OF A DECEASED ADOPTEE.

17 (5) A BIRTH PARENT OF AN ADOPTEE WHO IS 21 YEARS OF AGE
18 OR OLDER.

19 (6) A PARENT OF A BIRTH PARENT OF AN ADOPTEE WHO IS 21
20 YEARS OF AGE OR OLDER, IF THE BIRTH PARENT CONSENTS, IS
21 ADJUDICATED INCAPACITATED OR IS DECEASED.

22 (7) A BIRTH SIBLING OF AN ADOPTEE, IF BOTH THE BIRTH
23 SIBLING AND ADOPTEE ARE 21 YEARS OF AGE OR OLDER AND:

24 (I) THE BIRTH SIBLING REMAINED IN THE CUSTODY OF THE
25 BIRTH PARENT AND THE BIRTH PARENT CONSENTS, IS DECEASED
26 OR ADJUDICATED INCAPACITATED;

27 (II) BOTH THE BIRTH SIBLING AND THE ADOPTEE WERE
28 ADOPTED OUT OF THE SAME BIRTH FAMILY; OR

29 (III) THE BIRTH SIBLING WAS NOT ADOPTED OUT OF THE
30 BIRTH FAMILY AND DID NOT REMAIN IN THE CUSTODY OF THE

1 BIRTH PARENT.

2 (B) WHO MAY BE THE SUBJECT OF A REQUEST FOR INFORMATION.--AN
3 INDIVIDUAL ENUMERATED UNDER SUBSECTION (A) MAY REQUEST
4 NONIDENTIFYING OR IDENTIFYING INFORMATION REGARDING OR CONTACT
5 WITH THE FOLLOWING INDIVIDUALS:

6 (1) AN ADOPTEE WHO IS 21 YEARS OF AGE OR OLDER.

7 (2) A BIRTH PARENT OF AN ADOPTEE.

8 (3) A PARENT OF A BIRTH PARENT OF AN ADOPTEE WHO IS 21
9 YEARS OF AGE OR OLDER, IF THE BIRTH PARENT CONSENTS, IS
10 ADJUDICATED INCAPACITATED OR IS DECEASED.

11 (4) A BIRTH SIBLING OF AN ADOPTEE, IF BOTH THE BIRTH
12 SIBLING AND THE ADOPTEE ARE 21 YEARS OF AGE OR OLDER AND:

13 (I) THE BIRTH SIBLING REMAINED IN THE CUSTODY OF THE
14 BIRTH PARENT AND THE BIRTH PARENT CONSENTS, IS DECEASED
15 OR ADJUDICATED INCAPACITATED;

16 (II) BOTH THE BIRTH SIBLING AND THE ADOPTEE WERE
17 ADOPTED OUT OF THE SAME BIRTH FAMILY; OR

18 (III) THE BIRTH SIBLING WAS NOT ADOPTED OUT OF THE
19 BIRTH FAMILY AND DID NOT REMAIN IN THE CUSTODY OF THE
20 BIRTH PARENT.

21 § 2932. NONIDENTIFYING INFORMATION.

22 ~~(b)~~ (A) Notice of receipt of request.--When the court or ←
23 agency receives a written request for nonidentifying
24 information, it shall, within 30 days, notify the individual
25 requesting the information of its receipt of the request.

26 ~~(c)~~ (B) Furnishing nonidentifying information.--The court or ←
27 agency shall, within 120 days, review its records and furnish to
28 the requester any information concerning the adoption that will
29 not compromise the confidentiality of the relationship between
30 the adoptee and the adoptee's birth parent.

1 ~~§ 2932~~ 2933. Identifying information. ←

2 ~~(a) Who may request. The following individuals may file a~~ ←
3 ~~written request for identifying information or contact with the~~
4 ~~court which finalized an adoption, the agency which coordinated~~
5 ~~the adoption or a successor agency:~~

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

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

8 ~~(i) under 18 years of age;~~

9 ~~(ii) adjudicated incapacitated and is 18 years of~~
10 ~~age or older; or~~

11 ~~(iii) deceased.~~

12 ~~(3) A legal guardian of an adoptee who is under 18 years~~
13 ~~of age or adjudicated incapacitated.~~

14 ~~(4) A descendant of a deceased adoptee.~~

15 ~~(5) A birth parent of an adoptee who is 21 years of age~~
16 ~~or older.~~

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

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

22 ~~(i) the birth sibling remained in the custody of the~~
23 ~~birth parent and the birth parent consents, is deceased~~
24 ~~or adjudicated incapacitated;~~

25 ~~(ii) both the birth sibling and adoptee were adopted~~
26 ~~out of the same birth family; or~~

27 ~~(iii) the birth sibling was not adopted out of the~~
28 ~~birth family and did not remain in the custody of the~~
29 ~~birth parent.~~

30 ~~(b) Who may be the subject of a request. An individual~~

1 ~~under subsection (a) may request identifying information~~
2 ~~regarding or contact with the following individuals:~~

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

4 ~~(2) A birth parent of an adoptee.~~

5 ~~(3) 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 ~~(4) 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 ~~(e) (A) Notice of availability of records.--The court or~~ ←
19 ~~agency shall, within 120 days of receiving a written request for~~
20 ~~identifying information or contact, do all of the following:~~

21 ~~(1) Determine whether it has in its possession any~~
22 ~~records relating to the adoptee.~~

23 ~~(2) Conduct a good faith search for identifying~~
24 ~~information, which search shall be commenced within 180 120~~ ←
25 ~~days. The search for information shall only be conducted by~~
26 ~~an authorized representative appointed by:~~

27 ~~(i) the court in which the adoption was finalized;~~

28 ~~(ii) the agency that coordinated the adoption;~~

29 ~~(iii) a successor, by merger or acquisition, of the~~
30 ~~agency that coordinated the adoption; or~~

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

3 The authorized representative shall review the court and
4 agency record for identifying information regarding the birth
5 or adoptive family and shall determine whether an
6 authorization form has been filed with the court or agency.

7 (3) Notify any other court or agency listed in its
8 records of the existence of the request for identifying
9 information.

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

12 (5) Contact the information registry established under
13 Subchapter C (relating to information registry), advise the
14 registry of the request for identifying information and ask
15 whether an authorization form has been filed.

16 (6) Notify the requesting individual of its findings
17 pursuant to this subsection.

18 ~~(d)~~ (B) No authorization form.--If an applicable
19 authorization form is not located, all of the following apply:



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

22 (2) If the subject of the search is located, the
23 authorized representative shall obtain written authorization
24 from the subject before any identifying information is
25 released or contact between the parties is made.

26 (3) If the requester is an adoptee seeking the identity
27 of a birth parent, the identity of a deceased birth parent
28 may be disclosed.

29 (4) If the requester is an adoptee seeking the identity
30 of both birth parents and only one birth parent agrees to the

1 disclosure, only the information relating to that birth
2 parent shall be disclosed.

3 ~~(e)~~ (C) Withdrawal of authorization form.--An individual may ←
4 withdraw the individual's authorization form at any time.

5 § ~~2933~~ 2934. Statement of medical and social history ←
6 information.

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

9 (1) The court that terminated parental rights.

10 (2) The court that finalized the adoption.

11 (3) The agency that coordinated the adoption.

12 (4) The information registry established under
13 Subchapter C (relating to information registry).

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

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

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

20 (3) A descendant of a deceased adoptee.

21 (4) A birth parent.

22 (5) A legal guardian of an adjudicated incapacitated
23 birth parent.

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

25 (c) Maintenance of record.--A statement regarding medical
26 and social history information shall be maintained as a
27 permanent record.

28 (d) Forwarding statement.--If a statement regarding medical
29 and social history information is filed in the court that
30 terminated parental rights, a copy of the statement shall be

1 forwarded to the court that finalized the adoption and the
2 information registry established under Subchapter C.

3 (e) Notice of filing.--

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

8 (2) Within 120 days after a statement is filed, the
9 court, agency or information registry shall give notice of
10 the filing to the individual ~~to~~ WHO IS AT LEAST 21 YEARS OF ←
11 AGE AND whom the information is intended to benefit, if known
12 or identified in its records.

13 (f) Request for information.--

14 (1) When the court or agency receives a written request
15 for medical and social history information, it shall notify
16 the requester within 120 days whether it possesses any
17 medical and social history information relating to the
18 adoption.

19 (2) Within 120 days of locating medical and social
20 history information, the court or agency shall do the
21 following:

22 (i) For nonidentifying information, review and
23 furnish to the requester any medical and social history
24 information that will not compromise the confidentiality
25 of the relationship between the adoptee and the adoptee's
26 birth parent.

27 (ii) For identifying information, if an
28 authorization form is on file with the court, agency or
29 information registry, furnish to the requester the
30 available identifying information in its records.

1 (g) No information or authorization form on file.--If a
2 court or agency receives a request for medical and social
3 history information and finds that no such information is in its
4 records or that no authorization form is on file, the court or
5 agency shall do the following:

6 (1) Contact the subject of the request and ask that the
7 subject:

8 (i) provide nonidentifying information for the
9 benefit of the requester; or

10 (ii) file an authorization form.

11 (2) If the subject of the request cannot be located from
12 information contained in the court records, appoint an
13 authorized representative to use reasonable efforts to locate
14 the subject.

15 (3) If nonidentifying information is provided by the
16 subject of the request, provide the nonidentifying
17 information to the requester.

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

20 (H) DECEASED BIRTH PARENT.--IF THE REQUESTER IS AN ADOPTEE ←
21 SEEKING INFORMATION ABOUT A BIRTH PARENT AND THE BIRTH PARENT IS
22 DECEASED, ANY INFORMATION ON FILE REGARDING THE DECEASED BIRTH
23 PARENT MAY BE DISCLOSED.

24 § ~~2934~~ 2935. Confidentiality. ←

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

29 (b) When inquiry not mandatory.--An authorized
30 representative of the court or agency conducting a search may

1 not make an inquiry which the representative reasonably believes
2 may compromise the confidentiality relating to the relationship
3 between the adoptee and a birth parent of the adoptee.

4 § ~~2935~~ 2936. Refusal to search.



5 (a) Agency.--

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

11 (2) An agency may decline to commence or conduct a
12 search required under this chapter if the requester fails to
13 pay the reasonable costs associated with commencing or
14 conducting the search.

15 (3) (i) An agency that declines to conduct a search
16 shall refer the request to the court that finalized the
17 adoption and inform the court of its reasons for
18 declining the request.

19 (ii) The agency shall notify the requester of the
20 referral and identify the court to which the referral was
21 made.

22 (b) Court.--

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

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

30 § ~~2936~~ 2937. Original birth record.



1 (a) General rule.--No disclosure of information shall be
2 made by a court, an agency, the Department of Health or any
3 other Commonwealth agency regarding an adoptee's original birth
4 record or regarding the documents or proof on which an amended
5 certificate of birth is based or relating in any way to the
6 birth parents unless the disclosure is made pursuant to the
7 provisions of this section.

8 (b) Filing of consent to issue copy of summary of original
9 birth record.--

10 (1) The birth parents may, at the time their parental
11 rights are terminated or at any time thereafter, place on
12 file with the court and the Department of Health a consent
13 form granting permission for the court or the Department of
14 Health to issue a copy of the summary of the adoptee's
15 original birth record, which summary discloses the identity
16 of the birth parents, at any time after the adoptee turns 18
17 years of age or, if less than 18 years of age, to the
18 adoptive parent or legal guardian.

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

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

25 (c) Duty of Department of Health.--The Department of Health
26 shall prescribe by regulation the procedure and forms to be
27 utilized for the giving, updating and withdrawal of consent.

28 § 2937 2938. Rules and regulations.

29 The department shall promulgate rules and regulations
30 implementing a standardized training program for court-appointed



1 and agency-appointed authorized representatives conducting
2 searches under this subchapter.

3 Section 6. This act shall take effect in ~~60~~ 180 days.

