

**DOMESTIC RELATIONS CODE (23
PA.C.S.) - HEARING, INVOLUNTARY
TERMINATION RELINQUISHMENT AND
GROUNDS, CONTINUING CONTACT
VOLUNTARY AGREEMENT,
IMPOUNDING PROCEEDINGS, ACCESS
TO RECORDS, MEDICAL HISTORY
INFORMATION, RECORDS AND
ACCESS, INFORMATION REGISTRY**

Act of Oct. 27, 2010, P.L. 961, No. 101

Cl. 23

Session of 2010

No. 2010-101

SB 1360

AN ACT

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

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

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

§ 2503. Hearing.

* * *

(e) Right to file personal and medical history information.--At the time the decree of termination is transmitted to the parent whose rights are terminated, the court shall advise that parent, in writing, of his or her continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at the time of adoption, on file with the court and with the Department of Public Welfare pursuant to [section 2905(d) (relating to impounding of proceedings and access to records)] **Subchapter B of Chapter 29 (relating to records and access to information).**

§ 2504. Alternative procedure for relinquishment.

* * *

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

§ 2511. Grounds for involuntary termination.

* * *

(c) Right to file personal and medical history information.--At the time the decree of termination is transmitted to the parent whose rights have been terminated, the court shall advise the parent, in writing, of his or her continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at the time of adoption, on file with the court and with the Department of Public Welfare pursuant to [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**
- (4) is subject to approval by the courts.**

§ 2732. Definitions.

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

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

- (1) is licensed, supervised or regulated by the Department of Public Welfare; and
- (2) provides adoption services.

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

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

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

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

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

§ 2733. Parties to agreement.

(a) Prospective adoptive parents and birth relatives.--A prospective adoptive parent of a child may enter into an agreement with a birth relative of the child to permit continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative.

(b) 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.

(c) Notification.--An agency or anyone representing the parties in an adoption shall provide notification to a prospective adoptive parent, a birth parent and a child who can be reasonably expected to understand that a prospective adoptive parent and a birth relative of a child have the option to enter into a voluntary agreement for continuing contact or communication.

(d) Construction.--Nothing in this chapter shall be construed to prohibit the parties from agreeing to mediation of an agreement at their own cost, including the modification of an agreement, before seeking a remedy from the court.

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

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

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

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

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

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

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

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

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

§ 2736. Failure to comply.

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

§ 2737. Modification of agreement.

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

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

§ 2738. Enforcement of agreement.

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

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

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

(1) In writing.

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

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

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

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

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

(e) Cessation of enforceability.--

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

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

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

§ 2739. Discontinuance of agreement.

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

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

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

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

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

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

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

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

§ 2741. Counsel.

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

(b) Guardians ad litem.--

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

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

§ 2742. Costs.

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

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

SUBCHAPTER A

General Provisions

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

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

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

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

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

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

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

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

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

(d) Disclosure of information.--

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

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

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

§ 2909. Medical history information.

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

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

(c) Availability of information forms.--The Department of Public Welfare shall, upon request, make available to courts, adoption agencies and individuals medical history information forms that enable parents whose rights have been terminated to register and update medical

history information with the Department of Public Welfare and with the court which entered the decree of termination.

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

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

SUBCHAPTER B

RECORDS AND ACCESS TO INFORMATION

Sec.

2911. Definitions.

2912. Combined request for information.

2913. Reasonable fees.

2914. Immunity from liability.

2915. Court and agency records.

2916. Attorney records.

§ 2911. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The circumstances surrounding the adoption.

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

§ 2912. Combined request for information.

An individual authorized to receive both nonidentifying information and identifying information may file a single written request under Subchapter D (relating to release of information).

§ 2913. Reasonable fees.

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

§ 2914. Immunity from liability.

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

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

§ 2915. Court and agency records.

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

(b) 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.**

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

(1) As soon as practicable, but not less than 30 days prior to the date on which an agency ceases to operate as a legal entity in this Commonwealth, the agency shall, unless it has applied to operate as a new legal entity, notify the department of its intention to cease operating.

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

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

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

§ 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 receipt, filing and retention of medical and social history information and authorization forms for all adoptions finalized or registered in this Commonwealth.

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

(i) Request identifying information or contact.

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

(iii) File and update information with the registry.

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

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

§ 2922. Informational material.

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

§ 2923. Filing information with registry.

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

§ 2924. Who may request information from registry.

The following individuals may request information from the registry:

- (1) An adoptee who is at least 18 years of age.**
- (2) An adoptive parent of an adoptee who is under 18 years of age, adjudicated incapacitated or 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.**
- (5) The birth parent of an adoptee who is at least 21 years of age.**
- (6) A parent of a birth parent of an adoptee who is at least 21 years of age if the birth parent consents, is adjudicated incapacitated or is deceased.**
- (7) A birth sibling of an adoptee, if both the birth sibling and adoptee are at least 21 years of age, and:
 - (i) the birth sibling remained in the custody of the birth parent and the birth parent consents, is deceased or adjudicated incapacitated;**
 - (ii) both the birth sibling and adoptee were adopted out of the same birth family; or**
 - (iii) the birth sibling was not adopted out of the birth family and did not remain in the custody of the birth parent.****

§ 2925. Providing information from registry.

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

(b) Identifying information.--

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

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

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

(ii) If the subject of the request is located, obtain written authorization from the subject before any information is released.

(c) Confidentiality of information.--In conducting a search, the court or agency shall ensure that no individual, other than a birth parent, is informed of the adoptee's existence and relationship to the birth parent.

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

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

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

§ 2926. Rules and regulations.

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

SUBCHAPTER D

RELEASE OF INFORMATION

Sec.

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.

2938. Rules and regulations.

§ 2931. Access to information.

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

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

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

(i) under 18 years of age;

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

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

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

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

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

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

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

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

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

(2) A birth parent of an adoptee.

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

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

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

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

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

§ 2932. Nonidentifying information.

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

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

§ 2933. Identifying information.

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

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

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

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

(ii) the agency that coordinated the adoption;

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2934. Statement of medical and social history information.

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

(1) The court that terminated parental rights.

(2) The court that finalized the adoption.

(3) The agency that coordinated the adoption.

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

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

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

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

(3) A descendant of a deceased adoptee.

(4) A birth parent.

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

(6) A survivor of a deceased birth parent.

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

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

shall be forwarded to the court that finalized the adoption and the information registry established under Subchapter C.

(e) Notice of filing.--

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

(2) Within 120 days after a statement is filed, the court, agency or information registry shall give notice of the filing to the individual who is at least 21 years of age and to whom the information is intended to benefit, if known or identified in its records.

(f) Request for information.--

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

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

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

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

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

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

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

(ii) file an authorization form.

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

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

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

(h) Deceased birth parent.--If the requester is an adoptee seeking information about a birth parent and the birth parent is deceased, any information on file regarding the deceased birth parent may be disclosed.

§ 2935. Confidentiality.

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

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

§ 2936. Refusal to search.

(a) Agency.--

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

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

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

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

(b) Court.--

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

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

§ 2937. Original birth record.

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

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

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

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

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

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

§ 2938. Rules and regulations.

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

Section 6. This act shall take effect in 180 days.

APPROVED--The 27th day of October, A.D. 2010.

EDWARD G. RENDELL