

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 200
Committee Substitute Favorable 5/9/89

Short Title: Voluntary Adoption Registry.

(Public)

Sponsors:

Referred to:

February 13, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO GIVE ADOPTees AND THEIR BIOLOGICAL RELATIVES
3 GREATER ACCESS TO RELEVANT MEDICAL INFORMATION AND TO
4 ESTABLISH A MUTUAL CONSENT VOLUNTARY ADOPTION REGISTRY.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 48-25(e) is repealed.

7 Sec. 2. Chapter 48 of the General Statutes is amended by adding the
8 following new sections to read:

9 "**§ 48-25.1. Disclosure of medical information.**

10 (a) A complete health history of the adoptee's biological relatives, to the extent it
11 is available, shall be given by the county department of social services or licensed child-
12 placing agency that has the information to:

13 (1) The adoptive parent or parents not later than the date of finalization of
14 the adoption proceedings;

15 (2) The adoptee who has reached the age of 21 years at any time upon his
16 written request; and

17 (3) The adoptive parent or parents or legal guardian of any minor adoptee
18 at any time upon the written request of such person.

19 A complete health history of the adoptee, to the extent it is available, shall be given by
20 the county department of social services or licensed child-placing agency that has the
21 information to a biological relative of the adoptee at any time upon the written request
22 of such person.

1 The information available under this subsection shall be given on a standardized
2 form provided by the Department of Human Resources and shall include any
3 information that would have a substantial bearing on the mental or physical health of the
4 adoptee or his biological relative.

5 (b) An adoptee, a biological relative, or an adoptive parent, upon presenting
6 satisfactory proof of his identity, may submit any relevant medical information
7 concerning an adoptee or the biological relative of an adoptee to the department or
8 agency that has the health history described by subsection (a) of this section and that
9 department or agency shall add the information to the health histories maintained by it.

10 (c) An adoptee who has reached the age of 21 years or the adoptive parent of an
11 adoptee under the age of 21 years who wishes to obtain nonidentifying medical
12 information about a biological relative of the adoptee, or a biological relative who
13 wishes to obtain nonidentifying medical information about an adoptee, that is not
14 otherwise available under subsection (a) of this section may request the county
15 department of social services or licensed child-placing agency that placed the adoptee or
16 investigated the adoption to conduct a search for the biological relative or the adoptee to
17 obtain the information. The request must be accompanied by a statement from a
18 licensed physician certifying that there is a need for the information.

19 Upon receiving such a request, the department or agency shall undertake a diligent
20 search for the person about whom the information has been requested and, upon
21 locating that person, notify him of the request and the need for the information. If the
22 person agrees to provide the information requested, the department or agency shall relay
23 the medical information provided to the requesting person. If the person refuses to
24 provide the information requested or if the department or agency is unable to locate the
25 person, the requesting person shall be informed of that fact. If it is determined that the
26 person about whom the medical information has been requested is deceased, the fact
27 and the cause of the person's death may be disclosed to the requesting person.

28 Under no circumstances is the identity or location of the person about whom the
29 information has been requested to be disclosed to the requesting person except as
30 provided under G.S. 25.2 or G.S. 48-26.

31 The diligent search required by this subsection shall be completed no later than six
32 months from the date the request for the search was received by the department or
33 agency.

34 (d) The Department of Human Resources shall cooperate with any county
35 department of social services or licensed child-placing agency undertaking a search
36 pursuant to this section and shall make any records within its control needed to conduct
37 the search available to the department or agency.

38 (e) A reasonable fee for the cost of conducting a search pursuant to this section
39 may be charged to the person who requested the search. This fee may be waived in
40 whole or in part, however, for any person who provides satisfactory proof of his
41 financial inability to pay the fee.

42 **"§ 48-25.2. Mutual consent voluntary adoption registry.**

1 (a) The Department of Human Resources shall establish and maintain a mutual
2 consent voluntary adoption registry for the purpose of facilitating voluntary contact
3 between mutually consenting adopted persons and their biological relatives.

4 (b) The use of the registry shall be limited to adoptees who have reached the age
5 of 21 years and their biological relatives. For purposes of this section, 'biological
6 relative' includes only:

7 (1) The biological mother of an adoptee; and

8 (2) The biological father of an adoptee if such person:

9 a. Is presumed by law to be the biological father of the adoptee;

10 b. Established his paternity judicially or by affidavit which has
11 been filed in a central registry maintained by the Department of
12 Human Resources;

13 c. Legitimated the adoptee pursuant to the provisions of G.S. 49-
14 10 or by marriage to the biological mother of the adoptee; or

15 d. Provided substantial financial support or consistent care with
16 respect to the adoptee and the biological mother prior to the
17 adoption; and

18 (3) An adoptee's biological sibling or biological half-sibling who has
19 reached the age of 21 years. A half-sibling related to an adoptee
20 through his biological father shall only be eligible to use the registry if
21 his biological father is eligible to use the registry.

22 No person shall be permitted to use the registry to obtain identifying information
23 until the person about whom the information is requested has reached the age of 21
24 years.

25 (c) A person eligible to use the registry may indicate his consent to the disclosure
26 of identifying information about himself or request the disclosure of identifying
27 information about an adoptee or a biological relative by filing with the Department of
28 Human Resources a consent form that sets forth the following information to the extent
29 known by the person submitting the form:

30 (1) The current name, address, and telephone number of the person
31 submitting the form;

32 (2) Any prior names used by that person;

33 (3) The original and adopted names of the adoptee;

34 (4) The place and date of birth, and sex, of the adoptee;

35 (5) The name and address of the county department of social services or
36 licensed child-placing agency that placed the adoptee or investigated
37 the adoption;

38 (6) The persons to whom identifying information about the person
39 submitting the consent form may be disclosed; and

40 (7) If submitted by a biological relative, the relationship of the relative to
41 the adoptee.

42 The person submitting the consent form shall notify the registry of any change in his
43 name, address, or telephone number that occurs after he files the consent form.

1 No identifying information about an adoptee may be disclosed to a biological
2 relative unless that relative has been designated to receive identifying information by
3 the adoptee on his consent form.

4 (d) Any adoptee or biological relative who does not want to ever be contacted
5 regarding a request made for the disclosure of identifying information about himself
6 shall file a denial of consent form with the registry, which shall remain in effect until
7 such time, if ever, the person revokes that form. If a person has on file with the registry
8 an unrevoked denial of consent form, he shall not under any circumstances be contacted
9 by the Department of Human Resources, a county department of social services, or a
10 licensed child-placing agency regarding a request made for the disclosure of identifying
11 information about himself.

12 (e) Any form filed with the registry:

13 (1) Shall be notarized;

14 (2) Is effective as of the time it is filed with the registry; and

15 (3) May be revoked at any time by the person who submitted it.

16 (f) No consent, denial of consent, or revocation form may be accepted by the registry
17 until the person submitting it presents satisfactory proof of his identity in accordance
18 with rules promulgated by the Secretary of the Department of Human Resources.

19 (g) Before any identifying information may be disclosed pursuant to this section,
20 the persons filing corresponding consent forms shall participate in not less than two
21 hours of counseling with a trained social worker who has expertise in post-adoption
22 services employed by a county department of social services or a licensed child-placing
23 agency. County departments of social services and licensed child-placing agencies shall
24 make counseling available to persons using the registry.

25 (h) The Department of Human Resources shall process each consent form filed
26 with the registry in an attempt to match the adoptee with a biological relative. It shall
27 be determined that there is a match when an adoptee and a biological relative have both
28 filed consent forms with the registry designating the other as a person to whom
29 identifying information may be disclosed.

30 If it is determined that there is a match, then the Department of Human Resources
31 shall, within one week of the filing of the second of the corresponding consent forms,
32 send a copy of the corresponding consent forms to the county department of social
33 services or licensed child-placing agency that placed the adoptee or investigated the
34 adoption for contact to be made with the persons who submitted the consent forms. The
35 department or agency shall then notify the persons submitting the consent forms of the
36 match and remind them of the requirement for counseling. After the persons submitting
37 the corresponding consent forms have completed the counseling required by this
38 section, the department or agency shall disclose to them the identifying information
39 contained in the consent forms. No identifying information may be disclosed pursuant
40 to this section, however, until it is determined there is a match and, except as provided
41 in subsection (j) of this section, the persons submitting the corresponding consent forms
42 have completed the required counseling.

43 If it is determined that there is not a match and if the adoption was filed on or after
44 January 1, 1990, and if the person about whom identifying information has been

1 requested does not have a denial of consent form on file with the registry, then the
2 Department of Human Resources shall, within one week of the filing of the consent
3 form requesting the disclosure of identifying information, send a copy of the consent
4 form to the county department of social services or licensed child-placing agency that
5 placed the adoptee or investigated the adoption for contact to be made with the person
6 about whom identifying information has been requested. The department or agency
7 shall then make a diligent effort to contact the person about whom identifying
8 information has been requested to inform him of the existence of the registry and the
9 request that has been made.

10 If, upon being so informed, the person wishes to have his identity disclosed to the
11 requesting person, he shall indicate that fact by filing a consent form, as described in
12 subsection (c) of this section, with the registry. Upon the filing of the consent
13 form and completion of the required counseling, the identifying information contained
14 in the corresponding consent forms shall be disclosed to the persons submitting the
15 consent forms.

16 If the person does not wish to have his identity disclosed, the department or agency
17 shall inform the requesting person of that fact and no identifying information shall be
18 disclosed to the requesting person.

19 If after a diligent search the department or agency is unable to locate the person
20 about whom identifying information has been requested, the department or agency shall
21 inform the requesting person of that fact and no identifying information shall be
22 disclosed to the requesting person.

23 The diligent search required by this subsection shall be completed no later than six
24 months from the date the consent form requesting the disclosure of identifying
25 information was filed with the registry.

26 If the adoptee was placed by a licensed child-placing agency that is no longer in
27 existence at the time the consent form is filed with the registry, then any notification,
28 disclosure, or search required by this subsection shall be made by an employee or agent
29 of the Department of Human Resources.

30 All communications with adoptees and biological relatives required by this
31 subsection shall be made in a confidential manner by a trained social worker who has
32 expertise in post-adoption services.

33 (i) The Department of Human Resources shall cooperate with any county
34 department of social services or licensed child-placing agency undertaking a search
35 pursuant to this section and shall make any records within its control needed to conduct
36 the search available to the department or agency.

37 (j) If it is determined that the person about whom identifying information is
38 requested is deceased, the fact of the person's death shall be disclosed to the requesting
39 person. No identifying information about the deceased person may be disclosed,
40 however, unless the registry has on file an unrevoked consent form filed by the
41 deceased authorizing the disclosure of identifying information to the requesting person
42 in which case the identifying information may be disclosed regardless of whether the
43 deceased participated in the counseling required by this section.

1 (k) Costs for establishing and maintaining the registry may be obtained through
2 users' fees charged to persons who use the registry. In addition, reasonable fees for
3 counseling and for the cost of conducting a search pursuant to this section may be
4 charged to persons using the registry. Any fees authorized by this subsection may be
5 waived in whole or in part for any person who provides satisfactory proof of his
6 financial inability to pay the fee.

7 (l) Notwithstanding any other provision of law, the information acquired by the
8 registry may not be disclosed under any public records law or under any sunshine or
9 freedom of information legislation, rules, or practice.

10 (m) Nothing contained in this section shall limit a person's right to proceed under
11 G.S. 48-26 to obtain confidential adoption information.

12 (n) As used in this section, 'diligent effort' or 'diligent search' or 'search' shall
13 mean an attempt to contact a person using public records and information contained
14 within the agency case files and records."

15 Sec. 3. The Department of Human Resources shall publicize the
16 establishment of and procedures related to the Voluntary Adoption Registry. The
17 Department of Human Resources shall develop and furnish any forms necessary to carry
18 out the provisions of this act. The Secretary of the Department of Human Resources
19 shall adopt rules necessary to carry out the intent of this act.

20 Sec. 4. G.S. 48-25(b) reads as rewritten:

21 "(b) With the exception of the information contained in the final order, it shall be
22 a misdemeanor for any person having charge of the file or the record to disclose, except
23 as provided in subsection (d) of this section, G.S. 48-25.1, G.S. 48-25.2, G.S. 48-26,
24 and as may be required under the provisions of G.S. 48-27, any information concerning
25 the contents of any papers in the proceeding."

26 Sec. 5. G.S. 48-25(c) reads as rewritten:

27 "(c) No director of social services or any employee of a social services department
28 nor a duly licensed child-placing agency or any of its employees, officers, directors or
29 trustees shall be required to disclose any information, written or verbal, relating to any
30 child or to its biological, legal or adoptive parents, acquired in the contemplation of an
31 adoption of the child, except as provided by G.S. 48-25.1 or G.S. 48-25.2 or by order of
32 the clerk of superior court of original jurisdiction of the adoption, approved by order of
33 a judge of that court, upon motion and after due notice of hearing thereupon given to the
34 director of social services or child-placing agency; provided, however, that every
35 director of social services and child-placing agency shall make to the court all reports
36 required under the provisions of G.S. 48-16 and 48-19."

37 Sec. 6. This act shall become effective October 1, 1990, or three months
38 from the date additional funds are appropriated to implement the provisions of this act,
39 whichever event occurs first.