

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 869*
Judiciary I (Civil) Committee Substitute Adopted 5/8/07
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Short Title: Confidential Intermediary Changes.

(Public)

Sponsors:

Referred to:

March 19, 2007

A BILL TO BE ENTITLED

AN ACT ALLOWING ADULT BIOLOGICAL SIBLINGS OF ADULT ADOPTEES,
ADULT BIOLOGICAL HALF SIBLINGS OF ADULT ADOPTEES, ADULT
FAMILY MEMBERS OF DECEASED ADOPTEES, ADULT FAMILY
MEMBERS OF BIOLOGICAL PARENTS, AND ADULT ADOPTIVE PARENTS
OF A MINOR OR INCOMPETENT TO HAVE ACCESS TO CONFIDENTIAL
INTERMEDIARY SERVICES AND REQUIRING ADOPTION AGENCIES
ACTING AS CONFIDENTIAL INTERMEDIARIES TO REPORT CERTAIN
INFORMATION TO THE NORTH CAROLINA DEPARTMENT OF HEALTH
AND HUMAN SERVICES AND REQUIRING THE DEPARTMENT TO
MAINTAIN RECORDS OF THIS INFORMATION AS WELL AS CERTAIN
OTHER INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-1-101 reads as rewritten:

"§ 48-1-101. Definitions.

...

(5a) "Confidential intermediary" means a licensed adoption agency staff person who may act as a third party to facilitate the sharing of information authorized by G.S. 48-9-104.~~contact between an adult adoptee or the adult lineal descendant of a deceased adoptee and the biological parent.~~

...

(9a) ~~"Lineal descendant of a deceased adoptee" means any person who descends from the direct line of the adoptee.~~

...."

SECTION 2. G.S. 48-9-101 reads as rewritten:

1 **"§ 48-9-101. ~~Certain terms~~ Records defined.**

2 (a) For purposes of this Article, "records" means any petition, affidavit, consent
3 or relinquishment, transcript or notes of testimony, deposition, power of attorney,
4 report, decree, order, judgment, correspondence, document, invoice, receipt, certificate,
5 or other printed, written, microfilmed or microfiched, video-taped or tape-recorded
6 material or electronic data processing records regardless of physical form or
7 characteristics pertaining to a proceeding for adoption under this Chapter.

8 (b) ~~Notwithstanding G.S. 48-1-101, for purposes of this Article, "adult" means an~~
9 ~~individual who has attained 21 years of age."~~

10 **SECTION 3.** G.S. 48-9-104 reads as rewritten:

11 **"§ 48-9-104. Release of identifying information; confidential**
12 **intermediary services.**

13 (a) Except as provided in this section or in G.S. 48-9-109(2) or (3), no person or
14 entity shall release from any records retained and sealed under this Article the name,
15 address, or other information that reasonably could be expected to lead directly to the
16 identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or
17 an individual who, but for the adoption, would be the adoptee's sibling or grandparent,
18 except upon order of the court for cause pursuant to G.S. 48-9-105.

19 (b) A child placing agency licensed by the Department or a county department of
20 social services may agree to act as a confidential intermediary for ~~a biological parent or~~
21 ~~adult adoptee or adult lineal descendant of a deceased adoptee, without appointment by~~
22 ~~the court pursuant to G.S. 48-9-105, in order to obtain and share nonidentifying birth~~
23 ~~family health information or facilitate contact or share identifying information with~~
24 ~~adult adoptees, adult lineal descendants of deceased adoptees, and biological parents~~
25 ~~with the written consent of all parties to the contact or the sharing of information.~~ any of
26 the following:

27 (1) An adult adoptee.

28 (2) An adult biological parent.

29 (3) An adult biological sibling of an adult adoptee.

30 (4) An adult biological half sibling of an adult adoptee.

31 (5) An adult family member of a biological parent.

32 (6) An adult family member of a deceased adoptee.

33 (7) An adult adoptive parent or legal guardian, if the adult adoptee is
34 incompetent.

35 (c) For any individual listed in subsection (b) of this section, a confidential
36 intermediary, without appointment by the court pursuant to G.S. 48-9-105, may Further,
37 ~~a child placing agency licensed by the Department or a county department of social~~
38 ~~services may agree to act as a confidential intermediary for the adoptive parents of a~~
39 ~~minor adoptee, without appointment by the court pursuant to G.S. 48-9-105, to obtain~~
40 ~~and share nonidentifying birth family health information.~~

41 (d) For any individual listed in subdivisions (1), (2), (3), (4), (6), or (7) of
42 subsection (b) of this section, a confidential intermediary, without appointment by the
43 court pursuant to G.S. 48-9-105, may obtain and share identifying information with an
44 adult biological parent with the written consent of the parties to the contact or the

1 sharing of information and may facilitate contact between the parties. If the biological
2 parent is deceased, the confidential intermediary may obtain and share identifying
3 information with any other individuals listed in subsection (b) of this section with the
4 written consent of the parties to the contact or the sharing of information and may
5 facilitate contact between those parties.

6 (e) A confidential intermediary shall contact individuals in a manner reasonably
7 calculated to prevent incidental disclosure of confidential information. ~~An agency that~~
8 ~~agrees to provide~~ A confidential intermediary ~~services~~ may charge a reasonable fee for
9 ~~doing so, providing confidential intermediary services,~~ which fee must be pursuant to
10 written agreement signed by the individual to be charged. The Division shall establish
11 guidelines for confidential intermediary services.

12 (f) If in the provision of confidential intermediary services a confidential
13 intermediary determines that the individual who is the subject of the search is deceased,
14 the confidential intermediary may continue to search for other family members or
15 siblings of that individual.

16 (g) For purposes of this section only, the term 'family member' means a spouse,
17 child, stepchild, parent, stepparent, grandparent, or grandchild.

18 (h) Each confidential intermediary shall report to the Department annually by
19 February 1 of each year for the previous calendar year the following information:

- 20 (1) The length of time it takes the confidential intermediary to conduct an
21 individual search.
- 22 (2) The length of the confidential intermediary's waiting list.
- 23 (3) The number of biological parents found and the number of biological
24 parents unable to be found.
- 25 (4) The number of adoptees found and the number of adoptees unable to
26 be found.
- 27 (5) The number of biological parents refusing contact after being found.
- 28 (6) The number of adoptees refusing contact after being found.
- 29 (7) The number of biological parents providing updated medical
30 information.
- 31 (8) The number of times that consent to contact or the sharing of
32 information was mutually matched by the confidential intermediary.
- 33 (9) The minimum and maximum fees paid by individuals soliciting
34 confidential intermediary services.

35 Nothing in this subsection shall prohibit the Department from collecting additional
36 information related to confidential intermediary services. The Department shall
37 maintain records of the information reported by each confidential intermediary. The
38 Department shall also maintain records of the number of confidential intermediaries
39 within each county providing confidential intermediary services and the number of
40 confidential intermediaries within each county not providing confidential intermediary
41 services. The information that the Department collects under this subsection shall be
42 reported to the Legislative Study Commission on Children and Youth annually by July
43 31 of each year."

44 **SECTION 4.** This act becomes effective October 1, 2008.