

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1394*

Children & Human Resources Committee Substitute Adopted 7/23/98

Short Title: Adoption Registry.

(Public)

Sponsors:

Referred to: Appropriations.

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ADOPTION LAWS PERTAINING TO ACCESS TO
3 ADOPTION RECORDS, AND TO ESTABLISH AN ADOPTION REGISTRY.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 48 of the General Statutes is amended by adding the
6 following new Article to read:

7 **"ARTICLE 11.**
8 **"ADOPTION REGISTRY.**
9 **"§ 48-11-101. Department to maintain mutual consent voluntary adoption registry;**
10 **when disclosure authorized.**

11 (a) The Department shall establish and maintain a statewide, confidential, mutual
12 consent, voluntary adoption registry for receiving, filing, and retaining documents that
13 request, authorize, or deny authorization of the release of identifying information. The
14 purpose of the registry shall be to facilitate voluntary contact between mutually
15 consenting adopted persons and their biological relatives.

16 (b) The use of the registry shall be limited to adoptees who have reached the age
17 of 18 years and their biological relatives. For purposes of this section, 'biological relative'
18 includes only:

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

- 1 (2) The biological father of an adoptee if such person:
2 a. Is presumed by law to be the biological father of the adoptee;
3 b. Has established paternity judicially or by affidavit that has been
4 filed in a central registry maintained by the Department;
5 c. Has legitimated the adoptee pursuant to the provisions of G.S.
6 49-10 or by marriage to the biological mother of the adoptee; or
7 d. Has provided substantial financial support or consistent care with
8 respect to the adoptee and the biological mother prior to the
9 adoption; and

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

14 (c) No person shall be permitted to use the registry to obtain identifying
15 information until the person about whom the information is requested has reached the age
16 of 18 years.

17 (d) A person eligible to use the registry may consent to the disclosure of
18 identifying information about the person or request the disclosure of identifying
19 information about an adoptee or a biological relative by filing with the Department a
20 consent form that sets forth the following information to the extent known by the person
21 submitting the form:

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

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

25 (3) The original or adopted name of the adoptee;

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

27 (5) The name and address of the agency that placed the adoptee or prepared
28 the report to the court;

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

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

33 (e) The person submitting the consent form shall notify the registry of any change
34 in the person's name, address, or telephone number that occurs after the person files the
35 consent form.

36 (f) No identifying information about an adoptee may be disclosed to a biological
37 relative unless that relative has been designated to receive identifying information by the
38 adoptee on the adoptee's consent form.

39 (g) An adoptee or a biological relative may submit a denial of consent form with
40 the registry, which shall remain in effect until such time, if ever, the person revokes the
41 form.

42 (h) Any form filed with the registry:

43 (1) Shall be notarized;

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

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

3 (i) No consent or revocation form shall be accepted by the registry until the
4 person submitting it presents satisfactory proof of the person's identity in accordance with
5 rules adopted by the Social Services Commission.

6 (j) The Department shall recommend to a person submitting any form with the
7 registry that the person obtain counseling, voluntarily, at that person's own cost, from a
8 licensed counselor.

9 (k) The Department shall process each consent form filed with the registry in an
10 attempt to match the adoptee with a biological relative. The Department shall determine
11 that there is a match when an adoptee and a biological relative have both filed consent
12 forms with the registry designating the other as a person to whom identifying information
13 may be disclosed.

14 (l) If it is determined that there is a match, then the Department shall, within one
15 month of the filing of the second of the corresponding consent forms, send a copy of the
16 corresponding consent forms to the agency that placed the adoptee or prepared the report
17 to the court. That agency shall contact the persons who submitted the consent forms.
18 The agency shall then notify the persons submitting the consent forms of the match and
19 the agency shall disclose to them the identifying information contained in the consent
20 forms. No identifying information shall be disclosed pursuant to this section until it is
21 determined there is a match.

22 (m) If the adoptee was placed by a licensed child-placing agency that is no longer
23 in existence at the time the consent form is filed with the registry, then any notification or
24 disclosure required by this section shall be made by an employee or agent of the
25 Department.

26 (n) All communications with adoptees and biological relatives required by this
27 section shall be made in a confidential manner by a social worker who has expertise in
28 postadoption services.

29 (o) If the agency has information that the person about whom identifying
30 information is requested is deceased, the fact of the person's death shall be disclosed to
31 the requesting person. No identifying information about the deceased person shall be
32 disclosed, except pursuant to G.S. 48-9-104(b), unless the registry has on file an
33 unrevoked consent form filed by the deceased authorizing the disclosure of identifying
34 information to the requesting person.

35 (p) Users fees shall be collected to offset the costs of maintaining the registry.
36 The user fee shall be fifty dollars (\$50.00) and shall be charged to persons who use the
37 registry. Any fees authorized by this subsection may be waived for any person who
38 provides an affidavit of financial inability to pay the fee.

39 (q) The Social Services Commission shall adopt rules for use of and access to the
40 registry in accordance with the requirements of this Article.

41 (r) The registry shall obtain only information necessary for identifying registrants.
42 In no event shall the registry obtain or release information of any kind pertaining to the
43 adoptive parents or siblings to the adult adoptee who are children of the adoptive parent.

1 **"§ 48-11-102. Department to publicize the registry.**

2 The Department shall announce and publicize to the general public the existence of
3 the registry and the procedure for the consensual release of identifying information.

4 **"§ 48-11-103. Department to provide necessary forms and cooperate with registries**
5 **in other states.**

6 The Department shall develop and furnish any forms necessary to carry out the
7 provisions of this act. The Department shall cooperate with registries in other states to
8 facilitate the matching of documents filed pursuant to this Article by individuals in
9 different states."

10 **"§ 48-11-104. Violation and penalty.**

11 (a) It is unlawful for a person having custody of or access to documents filed
12 pursuant to this Article to disseminate or permit dissemination of information contained
13 in them except as authorized under this Article.

14 (b) Any person who willfully violates the provisions of G.S. 48-11-104(a) is guilty
15 of a Class I felony."

16 Section 2. G.S. 48-10-105 reads as rewritten:

17 **"§ 48-10-105. Unauthorized disclosure of information.**

18 (a) Except as authorized in G.S. 48-3-205 or in Article 9 or Article 11 of this
19 Chapter, no identifying or nonidentifying information contained in a report or records
20 described therein may be disclosed by present or former employees or officials of the
21 court, an agency, the State, a county, an attorney or other provider of professional
22 services, or any person or entity who wrongfully obtains such a report or records.

23 (b) ~~A~~ Except for the penalties provided in G.S. 48-11-104(b), a person who
24 knowingly makes an unauthorized disclosure of identifying information is guilty of a
25 Class 1 misdemeanor.

26 (c) The district court may enjoin from further violations any person who makes an
27 unauthorized disclosure.

28 (d) Notwithstanding the penalties provided in subsection (b) of this section, an
29 individual who is the subject of any of this information may bring a civil action for
30 equitable or monetary relief or both against any person or entity who makes an
31 unauthorized disclosure of the information."

32 Section 3. There is appropriated from the General Fund to the Department of
33 Health and Human Services the sum of three hundred sixteen thousand four hundred
34 eighty-six dollars (\$316,486) for the 1998-99 fiscal year to establish and maintain the
35 registry.

36 Section 4. Section 3 of this act becomes effective July 1, 1998. The remainder
37 of this act becomes effective January 1, 1999. G.S. 48-11-104 becomes effective on
38 January 1, 1999, and applies to offenses committed on or after that date.