

SENATE BILL No. 1411

October 3, 2000, Introduced by Senators HART and EMERSON and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 67 and 68 of chapter X (MCL 710.67 and 710.68), as amended by 1994 PA 373.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

1
2 Sec. 67. (1) Except as otherwise provided in subsection (4)
3 or in section 68 of this chapter, records of proceedings in adop-
4 tion cases, including a notice filed under section 33(1) of this
5 chapter, and a petition filed under section 34(1) of this chap-
6 ter, and the papers and books relating to the proceedings shall
7 be kept in separate locked files and shall not be open to inspec-
8 tion or copy except upon order of a court of record for good
9 cause shown expressly permitting inspection or copy. Except as
10 otherwise provided in subsection (4) or in section 68 of this

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1 chapter, the court, after 21 days following entry of the final
2 order of adoption, shall not permit copy or inspection of the
3 adoption proceedings, except upon a sworn petition setting forth
4 the purpose of the inspection or copy. The court may order
5 notice and a hearing on the petition. The court shall grant or
6 deny the petition in writing within 63 days after the petition is
7 filed, except that for good cause the court may grant or deny the
8 petition after the 63-day period but not later than 182 days
9 after the petition is filed.

10 (2) A person in charge of adoption records shall not dis-
11 close the names of the biological or adoptive parents of an
12 adopted person, unless ordered to do so by a court of record or
13 as provided in subsection (4) or in section 68 of this chapter,
14 except to meet requirements of the director of ~~public~~ COMMUNITY
15 health for the purpose of creating a new certificate of birth in
16 the adoptive name and sealing the original certificate of birth.

17 (3) ~~The~~ UNLESS THE STATE REGISTRAR WAS REQUESTED TO NOT
18 ESTABLISH A NEW BIRTH CERTIFICATE UNDER SECTION 2831 OF THE
19 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2831, THE director of
20 ~~public~~ COMMUNITY health shall furnish to the adopting parent or
21 parents a certified copy of the new birth certificate that shall
22 not disclose the adoption of the person. A birth certificate
23 issued to an adopted person shall not refer to adoption and shall
24 conform as nearly as possible to the appearance of birth certifi-
25 cates issued in other cases.

26 (4) After an order of adoption has been entered under
27 section 56 OF THIS CHAPTER, the court shall permit the children's

1 ombudsman to inspect closed adoption records in connection with
2 an investigation authorized under the children's ombudsman act,
3 ~~Act No. 204 of the Public Acts of 1994, being sections 722.921~~
4 ~~to 722.935 of the Michigan Compiled Laws~~ 1994 PA 204, MCL
5 722.921 TO 722.935. The ombudsman shall not disclose information
6 obtained by an inspection under this subsection. If the
7 children's ombudsman requires further information from an indi-
8 vidual whose identity is protected in closed adoption records,
9 the ombudsman shall contact the individual discreetly and
10 confidentially. The ombudsman shall inform the individual that
11 his or her participation in the ombudsman's investigation is con-
12 fidential, is strictly voluntary, and will not alter or consti-
13 tute a challenge to the adoption. The ombudsman shall honor the
14 individual's request not to be contacted further. As used in
15 this subsection, "children's ombudsman" or "ombudsman" means the
16 ombudsman appointed ~~pursuant to~~ UNDER section 3 of ~~Act No. 204~~
17 ~~of the Public Acts of 1994, being section 722.923 of the Michigan~~
18 ~~Compiled Laws~~ THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL
19 722.923, or his or her designee.

20 Sec. 68. (1) Within 63 days after a request for nonidenti-
21 fying information is received, a child placing agency, a court,
22 or the department shall provide in writing to the adoptive
23 parent, adult adoptee, former parent, or adult former sibling
24 requesting the information all of the nonidentifying information
25 described in section 27(1) and (2) of this chapter.

26 (2) Within 63 days after a request for identifying
27 information about an adult adoptee is received, a child placing

1 agency or court or the department shall provide in writing to the
2 former parent or adult former sibling requesting the information
3 the adult adoptee's most recent name and address if the adult
4 adoptee has given written consent to release of the information
5 ~~pursuant to~~ AS PROVIDED IN this chapter. If the adult adoptee
6 has not given written consent to the release of information, the
7 child placing agency, the court, or the department shall, upon
8 presentation of a certified copy of the order of appointment,
9 give the adult adoptee's name and address to a confidential
10 intermediary appointed ~~pursuant to~~ UNDER section 68b of this
11 chapter, together with any other information in its possession
12 that would help the confidential intermediary locate the adult
13 adoptee. At the option of agency or the department, the informa-
14 tion may be released to the court for release to the confidential
15 intermediary.

16 (3) If the department or a child placing agency receives a
17 request for adoption record information in its possession from an
18 adult adoptee, former parent, or adult former sibling, the
19 department or child placing agency shall provide the individual
20 requesting the information with the identity of the court that
21 confirmed the adoption within 28 days after receipt of the
22 request. If a court receives such a request, the court shall
23 provide the individual requesting the information with the iden-
24 tity of the child placing agency that handled the adoption.

25 (4) If the court that terminated parental rights receives
26 from the former parents or adult former siblings of the adult
27 adoptee a request for the identity of the agency, court, or

1 department to which the child was committed, the court shall
2 provide in writing the name of that agency, court, or department,
3 if known, within 28 days after receipt of the request.

4 (5) Upon receipt of a written request for identifying infor-
5 mation from an adult adoptee, a child placing agency, a court, or
6 the department, if it maintains the adoption file for that adopt-
7 ee, shall submit a clearance request form to the central adoption
8 registry. Within 28 days after receipt of a clearance reply form
9 from the central adoption registry, the child placing agency,
10 court, or department shall notify the adoptee in writing of the
11 identifying information to which the adoptee is entitled under
12 subsection (6) or (7), or, if the identifying information cannot
13 be released ~~pursuant to~~ UNDER those subsections, the reason why
14 the information cannot be released. The child placing agency,
15 court, or department shall retain a copy of the notice sent to
16 the adult adoptee.

17 (6) For adoptions in which the former parents' rights were
18 terminated on or after May 28, 1945 and before September 12,
19 1980, a child placing agency, a court, or the department shall
20 release to an adult adoptee or to a confidential intermediary
21 appointed under section 68b of this chapter the identifying
22 information described in section 27(3) of this chapter and other
23 identifying information on file with the central adoption regis-
24 try as specified in section 27b of this chapter, in the following
25 manner:

26 (a) All of the identifying information described in
27 section 27(3) of this chapter shall be released to the adult

1 adoptee ~~—~~ if both former parents have on file with the central
2 adoption registry a statement consenting to release of the iden-
3 tifying information.

4 (b) The identifying information described in
5 section 27(3)(b) and (c) of this chapter about 1 of the former
6 parents and the identifying information described in
7 section 27(3)(a) and (d) of this chapter shall be released to the
8 adult adoptee if that former parent has on file with the central
9 adoption registry a statement consenting to release of identify-
10 ing information.

11 (c) The identifying information described in
12 section 27(3)(b) and (c) of this chapter about 1 of the former
13 parents and the identifying information described in
14 section 27(3)(a) and (d) of this chapter shall be released to the
15 adult adoptee if that parent is deceased.

16 (d) All of the identifying information described in
17 section 27(3) of this chapter on both former parents shall be
18 released to the adult adoptee, if both former parents are
19 deceased.

20 (e) Upon presentation of a certified copy of the order of
21 appointment, all of the identifying information described in
22 section 27(3) of this chapter shall be released to a confidential
23 intermediary appointed ~~pursuant to~~ UNDER section 68b of this
24 chapter, together with additional information to assist the con-
25 fidential intermediary to locate former family members. At the
26 option of the agency or the department, the information may be

1 released to the court for release to the confidential
2 intermediary.

3 (7) For all adoptions in which the former parents' rights
4 were terminated before May 28, 1945 or on or after September 12,
5 1980, a child placing agency, a court, or the department shall
6 release to an adult adoptee the identifying information described
7 in section 27(3) of this chapter and any additional information
8 on file with the central adoption registry as specified in sec-
9 tion 27b of this chapter, except that if a former parent has
10 filed a statement currently in effect with the central adoption
11 registry denying consent to have identifying information
12 released, the identifying information specified in
13 section 27(3)(b) and (c) of this chapter shall not be released
14 about that parent. For purposes of this subsection, a denial of
15 consent is not effective after the death of the former parent.

16 (8) Upon receipt of a written request from an adult adoptee
17 for the name and address of an adult former sibling, a child
18 placing agency, a court, or the department, if it maintains the
19 adoption file for that adoptee, shall submit a clearance request
20 form to the central adoption registry. Within 28 days after
21 receipt of a clearance reply form from the central adoption reg-
22 istry, the child placing agency, court, or department shall
23 notify the adoptee in writing of the name and address of an adult
24 former sibling whose statement was forwarded by the central adop-
25 tion registry.

26 (9) If a child placing agency or court or the department
27 requests information from the central adoption registry and if

1 the clearance reply form from the central adoption registry
2 indicates that neither of the former parents has on file with the
3 central adoption registry a statement currently in effect denying
4 consent to have identifying information released, the child plac-
5 ing agency, court, or department shall deliver to the adult
6 adoptee a copy of the clearance reply form it received from the
7 central adoption registry. The clearance reply form may be used
8 by the adult adoptee to obtain a copy of his or her original cer-
9 tificate of live birth ~~pursuant to~~ UNDER section 2882 of the
10 public health code, ~~Act No. 368 of the Public Acts of 1978,~~
11 ~~being section 333.2882 of the Michigan Compiled Laws 1978 PA~~
12 368, MCL 333.2882. This subsection applies to all adoptions in
13 which the parents' rights were terminated before May 28, 1945 or
14 on or after September 12, 1980.

15 (10) If a child placing agency, a court, or the department
16 receives written information concerning a physician-verified med-
17 ical or genetic condition of an individual biologically related
18 to an adoptee and a request that the information be transmitted
19 to the adoptee because of the serious threat it poses to the
20 adoptee's life, the child placing agency, court, or department
21 shall send a written copy of the information by first-class mail
22 within 7 days after the request is received to the adoptee at his
23 or her last known address. If the adoptee is less than 18 years
24 of age, the information shall be sent by first-class mail within
25 7 days after the request is received to the adoptive parents at
26 their last known address.

1 (11) If the information described in subsection (10) is
2 returned undelivered, the agency, court, or department shall make
3 a reasonable effort to find the most recent address of the
4 adoptee or minor adoptee's parents and shall again send the
5 information by first-class mail within 21 days after receiving
6 the returned letter.

7 (12) If a child placing agency, a court, or the department
8 receives written information concerning a physician-verified med-
9 ical or genetic condition of a person biologically related to an
10 adoptee, and the condition is not life-threatening to the adopt-
11 ee, the child placing agency, court, or department shall place
12 the information in its adoption files. If the child placing
13 agency, court, or department receives a written request for the
14 information from the adult adoptee or minor adoptee's adoptive
15 parents, it shall release a written copy of the information to
16 the adult adoptee or to the minor adoptee's adoptive parents
17 within 63 days after the request for the information was made.

18 (13) If a child placing agency, a court, or the department
19 receives written information concerning a physician-verified med-
20 ical or genetic condition that threatens the life of an adoptee
21 and for which a biologically related person could give
22 life-saving aid, and receives a request from or on behalf of the
23 adoptee that the information be transmitted, the child placing
24 agency, court, or department shall send a written copy of the
25 information by first-class mail within 7 days after the request
26 is received to the biological parents or adult biological
27 siblings of the adoptee at their last known address.

1 (14) If the information described in subsection (13) is
2 returned undelivered, the agency, court, or department shall make
3 a reasonable effort to find the most recent address of the bio-
4 logical parents or adult biological siblings and shall again send
5 the information by first-class mail within 21 days after receiv-
6 ing the returned letter.

7 (15) If a child placing agency, a court, or the department
8 provides an adoptee with the name of 1 of the adoptee's former
9 parents, that child placing agency, court, or department shall
10 notify the department of ~~public~~ COMMUNITY health of that fact.
11 Upon receipt of notification by the child placing agency, court,
12 or department, the department of ~~public~~ COMMUNITY health shall
13 insure that the original birth certificate on file for the
14 adoptee has been sealed and that a new birth certificate has been
15 prepared in conformance with section 67 of this chapter, UNLESS
16 THE STATE REGISTRAR WAS REQUESTED TO NOT ESTABLISH A NEW BIRTH
17 CERTIFICATE UNDER SECTION 2831 OF THE PUBLIC HEALTH CODE, 1978 PA
18 368, MCL 333.2831.

19 (16) An employee or agent of a child placing agency, a
20 court, or the department, who intentionally releases identifying
21 information in violation of this section, is guilty of a
22 misdemeanor.

23 (17) This section also applies to a stepparent adoption and
24 to the adoption of a child related to the petitioner within the
25 fifth degree by marriage, blood, or adoption.

26 (18) As used in this section, "adult adoptee" means an
27 individual who was adopted as a child who is now 18 years of age

1 or older or an individual who was 18 years of age or older at the
2 time of adoption.

3 (19) A child placing agency, a court, and the department may
4 require a fee for supplying information under this section. The
5 fee shall be \$60.00 or the actual cost of supplying the informa-
6 tion, whichever is less. The child placing agency, court, or
7 department may waive a part or all of the fee in case of indi-
8 gency or hardship.

9 (20) A direct descendant of a deceased adult adoptee may
10 request information ~~pursuant to~~ UNDER this section. All infor-
11 mation to which an adult adoptee is entitled ~~pursuant to~~ UNDER
12 this section shall be released to the adult adoptee's direct
13 descendants if the adult adoptee is deceased.

14 (21) A child placing agency, a court, or the department
15 shall permit the children's ombudsman to inspect adoption records
16 in its possession in connection with an investigation authorized
17 under the children's ombudsman act, ~~Act No. 204 of the Public~~
18 ~~Acts of 1994, being sections 722.921 to 722.935 of the Michigan~~
19 ~~Compiled Laws~~ 1994 PA 204, MCL 722.921 TO 722.935. The ombuds-
20 man shall not disclose information obtained by an inspection
21 under this section. If the children's ombudsman requires further
22 information from an individual whose identity is protected in
23 closed adoption records, the ombudsman shall contact the individ-
24 ual discreetly and confidentially. The ombudsman shall inform
25 the individual that his or her participation in the ombudsman's
26 investigation is confidential, is strictly voluntary, and will
27 not alter or constitute a challenge to the adoption. The

1 ombudsman shall honor the individual's request not to be
2 contacted further. As used in this subsection, "children's
3 ombudsman" or "ombudsman" means the ombudsman appointed ~~pursuant~~
4 ~~to~~ UNDER section 3 of ~~Act No. 204 of the Public Acts of 1994,~~
5 ~~being section 722.923 of the Michigan Compiled Laws~~ THE
6 CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL 722.923, or his or her
7 designee.