

SENATE BILL No. 727

August 5, 2009, Introduced by Senators BIRKHOLZ and HARDIMAN and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 27a and 68 of chapter X (MCL 710.27a and 710.68), section 27a as added by 1994 PA 208 and section 68 as amended by 1994 PA 373.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

Sec. 27a. (1) A former parent, **INCLUDING A FORMER PARENT WHOSE PARENTAL RIGHTS WERE TERMINATED UNDER CHAPTER XII OF THIS ACT**, may file with the central adoption registry a statement consenting to or denying the release of the identifying information about that parent specified in section 27(3)(b) and (c). The consent or denial may be filed, updated, or revoked at any time.

(2) An adult former sibling may file a statement with the

1 central adoption registry providing notice that a former parent is
2 deceased. A copy of the former parent's death certificate or other
3 evidence of the former parent's death shall be attached to the
4 statement.

5 (3) An adult former sibling who knows the birth name of an
6 adoptee may file with the central adoption registry a statement
7 consenting to the release of the adult former sibling's name and
8 address to the adult adoptee. The statement may be filed, updated,
9 or revoked at any time.

10 (4) At the time of termination of parental rights ~~pursuant to~~
11 **UNDER** this chapter or chapter XIIIA, the court shall inform each
12 parent of the provisions described in this section and sections
13 27b, 68, 68a, and 68b. The court shall inform each parent that the
14 parent's consent to the release of identifying information about
15 that parent specified in section 27(3)(b) and (c) shall be presumed
16 unless the parent files a statement with the central adoption
17 registry denying the release of the information about that parent.
18 The court shall explain the parent's right to file, update, or
19 revoke the denial at any time, and shall provide each parent with
20 the forms prescribed under section 27b.

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

27 (2) Within 63 days after a request for identifying information

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

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

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

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

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

25 (a) All of the identifying information described in section
26 27(3) of this chapter shall be released to the adult adoptee, if
27 both former parents have on file with the central adoption registry

1 a statement consenting to release of the identifying information.

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

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

13 (d) All of the identifying information described in section
14 27(3) of this chapter on both former parents shall be released to
15 the adult adoptee, if both former parents are deceased.

16 (e) Upon presentation of a certified copy of the order of
17 appointment, all of the identifying information described in
18 section 27(3) of this chapter shall be released to a confidential
19 intermediary appointed ~~pursuant to~~ **UNDER** section 68b of this
20 chapter, together with additional information to assist the
21 confidential intermediary to locate former family members. At the
22 option of the agency or the department, the information may be
23 released to the court for release to the confidential intermediary.

24 (7) For all adoptions in which the former parents' rights were
25 terminated before May 28, 1945 or on or after September 12, 1980, a
26 child placing agency, a court, or the department shall release to
27 an adult adoptee the identifying information described in section

1 27(3) of this chapter and any additional information on file with
2 the central adoption registry as specified in section 27b of this
3 chapter, except that if a former parent has filed a statement
4 currently in effect with the central adoption registry denying
5 consent to have identifying information released, the identifying
6 information specified in section 27(3)(b) and (c) of this chapter
7 shall not be released about that parent. For purposes of this
8 subsection, a denial of consent is not effective after the death of
9 the former parent. **THIS SUBSECTION DOES NOT APPLY TO ADOPTIONS IN
10 WHICH THE FORMER PARENTS' RIGHTS WERE TERMINATED UNDER CHAPTER XII
11 OF THIS ACT UNLESS THE FORMER PARENT HAS FILED A STATEMENT WITH THE
12 CENTRAL ADOPTION REGISTRY CONSENTING TO THE RELEASE OF IDENTIFYING
13 INFORMATION.**

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

23 (9) If a child placing agency or court or the department
24 requests information from the central adoption registry and if the
25 clearance reply form from the central adoption registry indicates
26 that neither of the former parents has on file with the central
27 adoption registry a statement currently in effect denying consent

1 to have identifying information released, the child placing agency,
2 court, or department shall deliver to the adult adoptee a copy of
3 the clearance reply form it received from the central adoption
4 registry. The clearance reply form may be used by the adult adoptee
5 to obtain a copy of his or her original certificate of live birth
6 ~~pursuant to section 2882 of the public health code, Act No. 368 of~~
7 ~~the Public Acts of 1978, being section 333.2882 of the Michigan~~
8 ~~Compiled Laws. This~~ **UNDER SECTION 2882 OF THE PUBLIC HEALTH CODE,**
9 **1978 PA 368, MCL 333.2882. EXCEPT FOR ADOPTIONS IN WHICH THE FORMER**
10 **PARENTS' PARENTAL RIGHTS WERE TERMINATED UNDER CHAPTER XII OF THIS**
11 **ACT, THIS** subsection applies to all adoptions in which the parents'
12 rights were terminated before May 28, 1945 or on or after September
13 12, 1980.

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

26 (11) If the information described in subsection (10) is
27 returned undelivered, the agency, court, or department shall make a

1 reasonable effort to find the most recent address of the adoptee or
2 minor adoptee's parents and shall again send the information by
3 first-class mail within 21 days after receiving the returned
4 letter.

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

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

26 (14) If the information described in subsection (13) is
27 returned undelivered, the agency, court, or department shall make a

1 reasonable effort to find the most recent address of the biological
2 parents or adult biological siblings and shall again send the
3 information by first-class mail within 21 days after receiving the
4 returned letter.

5 (15) If a child placing agency, a court, or the department
6 provides an adoptee with the name of 1 of the adoptee's former
7 parents, that child placing agency, court, or department shall
8 notify the department of ~~public~~**COMMUNITY** health of that fact. Upon
9 receipt of notification by the child placing agency, court, or
10 department, the department of ~~public~~**COMMUNITY** health shall insure
11 that the original birth certificate on file for the adoptee has
12 been sealed and that a new birth certificate has been prepared in
13 conformance with section 67 of this chapter.

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

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

21 (18) As used in this section, "adult adoptee" means an
22 individual who was adopted as a child who is now 18 years of age or
23 older or an individual who was 18 years of age or older at the time
24 of adoption.

25 (19) A child placing agency, a court, and the department may
26 require a fee for supplying information under this section. The fee
27 shall be \$60.00 or the actual cost of supplying the information,

1 whichever is less. The child placing agency, court, or department
2 may waive a part or all of the fee in case of indigency or
3 hardship.

4 (20) A direct descendant of a deceased adult adoptee may
5 request information ~~pursuant to~~ **UNDER** this section. All information
6 to which an adult adoptee is entitled ~~pursuant to~~ **UNDER** this
7 section shall be released to the adult adoptee's direct descendants
8 if the adult adoptee is deceased.

9 (21) A child placing agency, a court or the department shall
10 permit the children's ombudsman to inspect adoption records in its
11 possession in connection with an investigation authorized under the
12 children's ombudsman act, ~~Act No. 204 of the Public Acts of 1994,~~
13 ~~being sections 722.921 to 722.935 of the Michigan Compiled Laws.~~
14 **1994 PA 204, MCL 722.921 TO 722.935.** The ombudsman shall not
15 disclose information obtained by an inspection under this section.
16 If the children's ombudsman requires further information from an
17 individual whose identity is protected in closed adoption records,
18 the ombudsman shall contact the individual discreetly and
19 confidentially. The ombudsman shall inform the individual that his
20 or her participation in the ~~ombudsman's~~ investigation is
21 confidential, is strictly voluntary, and will not alter or
22 constitute a challenge to the adoption. The ombudsman shall honor
23 the individual's request not to be contacted further. As used in
24 this subsection, "children's ombudsman" or "ombudsman" means the
25 ombudsman appointed ~~pursuant to~~ **UNDER** section 3 of ~~Act No. 204 of~~
26 ~~the Public Acts of 1994, being section 722.923 of the Michigan~~
27 ~~Compiled Laws~~ **THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL**

1 722.923, or his or her designee.