

HOUSE BILL No. 5096

October 18, 2011, Introduced by Reps. Price, Heise, Kowall, Denby, LaFontaine, Shaughnessy, Agema, Hooker, Daley, Horn, Hughes, Genetski, Haveman, Kurtz, Poleski, Shirkey and Liss and referred to the Committee on Families, Children, and Seniors.

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.

1 (2) An adult former sibling may file a statement with the
2 central adoption registry providing notice that a former parent is
3 deceased. A copy of the former parent's death certificate or other
4 evidence of the former parent's death shall be attached to the
5 statement.

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

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

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

1 (2) Within 63 days after a request for identifying information
2 about an adult adoptee is received, a child placing agency or court
3 or the department shall provide in writing to the former parent or
4 adult former sibling requesting the information the adult adoptee's
5 most recent name and address if the adult adoptee has given written
6 consent to release of the information pursuant to this chapter. If
7 the adult adoptee has not given written consent to the release of
8 information, the child placing agency, the court, or the department
9 shall, upon presentation of a certified copy of the order of
10 appointment, give the adult adoptee's name and address to a
11 confidential intermediary appointed ~~pursuant to~~ **UNDER** section 68b
12 of this chapter, together with any other information in its
13 possession that would help the confidential intermediary locate the
14 adult adoptee. At the option of agency or the department, the
15 information may be released to the court for release to the
16 confidential intermediary.

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

26 (4) If the court that terminated parental rights receives from
27 the former parents or adult former siblings of the adult adoptee a

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

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

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

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

1 both former parents have on file with the central adoption registry
2 a statement consenting to release of the identifying information.

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

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

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

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

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

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

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

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

1 adoption registry a statement currently in effect denying consent
2 to have identifying information released, the child placing agency,
3 court, or department shall deliver to the adult adoptee a copy of
4 the clearance reply form it received from the central adoption
5 registry. The clearance reply form may be used by the adult adoptee
6 to obtain a copy of his or her original certificate of live birth
7 ~~pursuant to section 2882 of the public health code, Act No. 368 of~~
8 ~~the Public Acts of 1978, being section 333.2882 of the Michigan~~
9 ~~Compiled Laws. This~~ **UNDER SECTION 2882 OF THE PUBLIC HEALTH CODE,**
10 **1978 PA 368, MCL 333.2882. EXCEPT FOR ADOPTIONS IN WHICH THE FORMER**
11 **PARENTS' PARENTAL RIGHTS WERE TERMINATED UNDER CHAPTER XII OF THIS**
12 **ACT, THIS** subsection applies to all adoptions in which the parents'
13 rights were terminated before May 28, 1945 or on or after September
14 12, 1980.

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

27 (11) If the information described in subsection (10) is

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

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

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

27 (14) If the information described in subsection (13) is

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

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

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

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

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

26 (19) A child placing agency, a court, and the department may
27 require a fee for supplying information under this section. The fee

1 shall be \$60.00 or the actual cost of supplying the information,
2 whichever is less. The child placing agency, court, or department
3 may waive a part or all of the fee in case of indigency or
4 hardship.

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

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

1 ~~Compiled Laws~~ THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL
2 722.923, or his or her designee.