

**Public Policy Position
HB 5148**

The Family Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 2,595 members. The Family Law Section is not the State Bar of Michigan and the position expressed herein is that of the Family Law Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Family Law Section has a public policy decision-making body with 21 members. On March 7, 2024, the Section adopted its position after a discussion and vote at a scheduled meeting. 16 members voted in favor of the Section's position, 1 member voted against this position, 0 members abstained, 4 members did not vote.

Oppose with Recommended Amendments

Explanation:

Currently pursuant to MCL 710.68(9), only an adult may receive a copy of the original pre-adoptive birth certificate when the following conditions are met:

- Termination of parental rights occurred before 5/28/1945 or after 9/12/1980;
- Rights were not terminated pursuant to the Juvenile Code; and,
- The parent(s) is/are living and do/does not have a form on file with MDHHS Adoption Central Registry denying access to identifying information.

An adult adoptee may obtain a court order overcoming these obstacles pursuant to a motion based upon good cause shown.

5148 and 5149 appear to permit much broader access to the original pre-adoptive birth certificate to not only the adult adoptee, but also to a descendant or legal representative of the adult adoptee. The Family Law Section believes this is too broad and does not take into consideration a birth parent's express denial of release of public information. It also does not require confirmation that the adult adoptee would want a descendant or legal representative to have the birth certificate. It also permits release of adoption records older than 100 years.

The Section believes that birth certificates should only be available to adult adoptees if there is no express denial of release of identifying information or if the parent is deceased. The birth certificate may also be released to a descendant or legal representative if the adult adoptee has provided written authorization to do so, and if there is no express denial from a living parent. The Section would

support lifting the current date restrictions (5/28/45 to 9/12/80). The Section opposes releasing adoption information regardless of the age of the records. Given that the Section supports living birth parent's right to privacy if there is an express denial of release on file, the need for a contact preference form is not needed. The current form in use is sufficient.

Specifically, the Section opposes 5148 unless the following revisions are made:

- Strike page 2 lines 24 and 25 of section 2829(4), and restoration of the article “A” on line 24.
- Restoration of section 2882(2) and (3).
- Replace the language in proposed section 2882(4) with the following:
 - * On receipt of a written request of a descendant or legal representative of an adult who has been adopted and payment of the prescribed fee, the state registrar shall issue to that individual a copy of his or her original certificate of live birth, if the written request identifies the name of the adult adoptee, is accompanied by both express written permission from the adult adoptee, and a copy of a central adoption registry clearance reply form that was completed by the department and delivered to that individual as required under section 68(9) of the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.68.
- Striking proposed section 2882(6) entirely.

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