

**Public Policy Position
HB 5149**

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:

The Legislative Committee requested a recommendation from the Sub-Committee on House Bills 5148 and 5149. The bills propose changes in the Public Health Code and Adoption Code with regard to the issuance of pre-adoptive birth certificates.

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 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 5149 unless the following revisions are made to the current proposed bill:

- Restoration of section 27a(1) entirely.
- Restoration of page 2 lines 21 through 29 of section 27a(4)(a).
- Strike proposed section 27a subsection 4(b).
- Restore section 27b(1) entirely.
- Strike proposed amendments in page 3 lines 8 and 9 of section 27b(2).
- Restore deletions in lines 13 and 14 of section 27b(3).
- Strike section 27c entirely.
- Restore section 67(2) entirely.
- Strike “subject to section 27c” in proposed section 68(6).
- Strike “had, before July 1, 2024” and restore “has” on page 10 line 3 of section 68(6).
- Strike “to release identifying information, if filed before July 1, 2024” on page 10 lines 8 and 9 of section 68(6).
- Restoration of section 68(9), except for page 11 lines 7-11 beginning with “Except”.
- Restore section 68(15) entirely.
- Strike proposed section 68(19).

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