

Report on Public Policy Position

Name of section:

Family Law Section

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Bill Number:

[SB 0592](#) (Olshove) Records; adoption; issuance of certified copy of original certificate of live birth to certain adopted individuals; allow. Amends sec. 2832 of [1978 PA 368](#) (MCL. [333.2832](#)) & adds sec. 2832a.

Date position was adopted:

March 8, 2008

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

21

Number who voted in favor and opposed to the position:

16 Voted for position

0 Voted against position

0 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 4896, SB 592 would give an adopted child the absolute right to their original birth certificate as soon as they reach the age of 21.

Under current law, when a birth parent places their child for adoption, they state a preference on whether they wish their identity to be open to their child or not. They are allowed to change this preference over time. If an adopted child wishes to know their birth parent, but that parent has not wanted their identity known, the child may use the services of a Confidential Intermediary, who will contact the birth parents to let them know that their child would like to know the parent's identity or other information (such as medical history).

The birth parents may then determine what information they wish to share with their child. This process provides adoptive children with a process for initiating contact with their birth parent, but does not guarantee them that their birth parent will agree to reveal their identity. This process is also available for birth parents seeking contact with their birth child, and siblings seeking their birth sibling.

This bill would give adoptive children over 21 an absolute right to access their birth parents' identities. Although the birth parents could express a preference that they not be contacted, their identity would still be revealed to the adoptive child, and it would be up to the adoptive child to determine how they wished to use that information. There is no requirement of using an intermediary. The birth parent would have no control over the timing or manner of the first contact with their birth child. For birth mothers who were victims of rape or incest, abrupt and unwanted contact may be traumatic. The saner and more considerate adopted children might give great deference to their birth parents' wishes. The less stable and considerate adopted children may choose less appropriate interactions. The proposed bill washes its hands of this issue.

The Family Law Section believes that the current process was a better balancing of competing interests than the proposed process.

There are a few additional reasons to oppose this bill.

The sponsor affirms that this bill is intended to apply retroactively to parents who gave their child up for adoption under the belief that their identity would be protected. These birth parents were assured of a confidentiality that would be stripped by this bill. The Family Law Section felt that the state should not change a policy on which birth parents may have relied in the past.

It is also not clear how this bill will apply to children placed under the Safe Delivery of Newborns Act. The SDNA was enacted in reaction to the horrendous cases where newborns are found in dumpsters or public bathrooms, presumably left there by mothers too ashamed to deal with their pregnancies. The SDNA provides an opportunity for these mothers to have their children safely in hospitals under the assurance of absolute confidentiality. It would not seem fair that these parents could be assured of confidentiality, yet other birth parents would not. If the SDNA is tacitly repealed by this bill, it may endanger a certain class of newborns. If it isn't repealed, other birth mothers could choose this irrevocable choice of confidentiality at the time of their child's birth. Again, it seems that the current statute offers a well-balanced approach that is better than the unilateral process proposed in the bill.

There are several articles on this issue at the National Council for Adoption website http://www.adoptioncouncil.org/adopt_factbook.html. Here is a quote from one article: "Unfortunately, the loudest voices legislatures and the public generally hear regarding this issue belong to a small minority of adopted persons who insist upon an absolute right to identify and even to contact their birthparents, without birthparents' consent. A small but nationally well-organized group of activists seeks to eliminate confidentiality in adoption, or "secrecy and shame," as they attempt to caricature it. This vocal minority has little to lose simply by persevering year after year in their efforts to eliminate confidentiality in adoption. That is not the case for birthparents who desire their privacy, however. By standing up for their rights, they lose them in the process." Consent or Coercion? How Mandatory Open Records Harm Adoption, Thomas C. Atwood.

The Family Law Section opposes this bill.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2007-SB-0592>