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Chairperson MaryValentine and Members
Committee on Families and Children's Services
P.O. Box 30014
Lansing, MI 48909-7514

Re: House Bills 4006 & 4015

Dear Representative Valentine and Committee Members:

I am writing to provide a written version of my testimony in support of HB 4006 and 4015, which would give adult adoptees relinquished during what is known as the "closed era" of adoption (roughly 1945-1980) access to their original birth certificates.

I am an attorney, but not an adoption attorney. However, for over a decade I have provided pro bono services to adoptees seeking information about their birth families, and for birthparents looking to reconnect with those they relinquished. In addition, I work as a confidential intermediary, or "CI," for Wayne County. Finally, and perhaps most importantly, I'm the oldest of eight adopted by my parents. Given all this, I believe that I have a thorough working knowledge of the law as it previously stood, currently works, and would function if amended by the bills under consideration.

I attended the hearing held on March 17, 2010, and reviewed online some of the comments submitted. I noted several misconceptions regarding the impact of the bills, and hope my testimony can help set the record straight so that this committee can make a properly informed decision.

Prior testimony repeatedly indicated that these amendments are about reunions and obtaining medical information for adoptees. That is wrong. This is a matter of the civil right of an entire class of citizens to access what everyone else takes for granted – the governmentally issued document that officially *and truthfully* documents their birth. Adoptees may only obtain a substitute document that rewrites history to suggest that they were the biological product of their adoptive parents. That is not the truth. Personally, I have already reunited with both of my birthparents, and have received whatever medical information they could provide. I *still* want my original birth certificate, which documents my birth and no one else's. As a human being, I deserve that much.

It was also frequently suggested that birthmothers were guaranteed or promised privacy. In reality, the only promise that could legally have been made to birthmothers was that their relinquishment would be kept confidential from the general public. Adoption records were initially sealed not to protect the anonymity of the birthparents, but instead to protect the adoptive families, shielding adoptees from the label of illegitimacy and freeing their new parents from feared interference from birthparents. (Thankfully, with open adoptions these days, we've realized that birthparent involvement is a good thing, not a negative one.) It was not about the birthparents at all. If you doubt this, remember that it is not the birthmother's birth certificate that is altered – it is the adoptee's. In fact, a birthparent's identity has

always been subject to release, by court order upon a showing of good cause. This absolute promise of privacy being bandied about simply never existed.

In fact, when I was adopted, my parents were given an adoption order that included my birthmother's surname. That name was not kept confidential at all. However, birthmothers were not given the same courtesy. What they were actually told was that the new identities of the children they were relinquishing would be kept from them, not that the adoptees would never be given their name. These birthmothers were advised to move on, as if the birth and relinquishment had never occurred.

A "contract" guaranteeing privacy was also sometimes mentioned. However, it is a basic principle of law that only the parties to a contract may be bound by that contract. Adoptees were not a party to any contract, nor did they promise anyone anything. They are the true innocents in the entire process, yet their rights always come second. It is puzzling how the only party to an adoption that waived *all* her rights is now being given greater rights than anyone else.

It was also stated, by John Mills of the Family Law Section, that birthmothers between 1945 and 1980 were given forms to indicate whether they wished to consent to contact with the sons and daughters they relinquished. The consent form, however, was created to be filed with the Central Adoption Registry, which came into existence on the same day the records were opened in September of 1980. As a result, not one single birthparent who relinquished a child during the entire closed era could have been offered a consent form, because it did not yet exist. It is a mistake to assume, as Mr. Mills apparently did, that adoptions were conducted the same way from 1945 to 1980 as they have been done since he started handling them in 1994.

Another example of a dangerous assumption was Mr. Mills' statement that he believed most adoption files prior to 1980 probably contained medical questionnaire forms similar to the ones he uses today. Again, that simply was not the case, in that it was never believed by the agencies that would have maintained such forms that this information would ever be shared. I was adopted in 1956, and my agency file contained not one shred of medical history.

While concern is now being voiced that birthparents may not learn that they need to file a denial if they don't want the original birth certificate released once these bills are passed, there seems to have been no similar concern that birthparents learn that they could file a consent once the law changed in 1980, even though far more consent to the release of their information than deny it. (In fact, statistics from the Central Adoption Registry indicate that less than five percent of birthmothers filing forms blocked the release of their information.) This is a clear double standard. Nor was there any formal attempt to notify birthmothers that they could be contacted by a confidential intermediary if they filed no denial, once the law was changed again in 1995. The fact that the legislature has already twice changed the law after the fact, first in 1980 and again in 1995, makes it clear that it *can* enact new laws that apply to old transactions. In addition, the records are not private now, in that they can be provided to a confidential intermediary, who can in turn contact a birthmother.

Nevertheless, it was suggested at the prior hearing that birthparents would or should receive notification of the change in the law. The bill provides for no such notice, nor is it feasible. Adoption agencies and attorneys do not update their files after an adoption concludes, and the records the bill deals with are at a minimum of 30 years and as many as 65 years old. The vast majority of the individuals involved changed their residences long ago, and many have changed their last names after marriage, sometime

more than once, in the ensuing decades. The mere act of processing and mailing letters would be an incredibly expensive venture, and trying to update names and addresses would significantly compound that cost. Additionally, the mailing of a letter to these individuals would present the same risk of trauma that supposedly so concerns the opponents of these bills. In addition, blindly mailing letters to last known addresses would represent a clear danger to the very confidentiality opponents claim, in that the letters could easily be opened by a spouse or other current family member of a birthmother. This would likely expose more birthmothers than the number who would actually ever be contacted if the bills pass.

It was also stated at the prior hearing that, if both birthparents file a consent with the registry, the adoptee will receive a copy of his or her original birth certificate. For those relinquished in the closed era, this does *not* occur. Instead, those individuals merely receive identifying information about their birthparents, but no birth certificate. That can only be released by a judge, and otherwise remains sealed even if everyone named on it agrees to its release.

The letter sent on behalf of the Family Law Section by Kent Weichmann contains two significant misstatements. First, it indicates that, if a birthparent is contacted by a confidential intermediary and refuses contact, a court could require the release of non-identifying medical information. There is absolutely no provision for this. Medical history truly is private information, and even a son or daughter never relinquished can't force his or her parent to divulge it. Second, Mr. Weichmann suggests that the new bills might affect the Safe Delivery of Newborns Act. However, that Act did not take effect until the year 2000, while the bills under consideration today only apply to relinquishments in or before 1980, 20 years earlier. Quite obviously, there is no conflict.

Mr. Weichmann's letter also warns of the alleged threat posed by adult adoptees contacting their birth parents. Actually, the letter continually refers to adoptees as "adopted children," even though all adoptees covered by these bills would be at least 29 years old today. The current laws have a way of permanently infantilizing adoptees, but no children are involved here. This mindset suggests that the laws already in place would not be sufficient to prevent inappropriate contacts, and that a second set of laws should be put in place to provide a further barrier solely applicable to adoptees. Again, this is a double standard, and assumes adoptees cannot conform their behavior to socially acceptable norms as well as do nonadopted individuals. This is offensive.

I hope that I have helped clear the air surrounding these bills. Please record this letter (and my verbal testimony) as support for the legislation as constituted on the date of this hearing, March 24, 2010. However, please note that if this bill is subsequently amended in any way whatsoever, I emphatically withdraw my support. It is my belief that birthparents should *never* have the right to block an adoptees' access to his own birth document. Any more restrictions on that right than are already contained in this bill would be unacceptable.

Thank you for your attention.

Very truly yours,



DARYL ROYAL