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Senate Bill 860 (Substitute S-3 as passed by the Senate)  
Sponsor: Senator Michael J. Bouchard  
Committee: Families, Mental Health and Human Services

Date Completed: 7-27-98

### **CONTENT**

The bill would amend the Michigan Adoption Code to provide for the release of identifying information to the grandparent of an adoptee whose parent was deceased; allow former siblings to file statements denying (as well as consenting to) the release of information; require additional identifying information to be maintained; allow a person adopted between 1945 and 1980 to obtain a clearance reply form and a copy of his or her original birth certificate; and provide that the fee for supplying information would be governed by the Michigan Supreme Court.

#### **Identifying Information**

Under the Code, a parent or guardian, the Family Independence Agency (FIA), a child placing agency, or the court that places an adoptee must compile specific identifying information. This information includes the child's name before placement in adoption, the name of each biological parent at the time of termination of parental rights, and the names of the biological siblings at the time of termination. The bill would require the information also to include the parent's address at the time of termination, the parent's date of birth, each sibling's date of birth, and each sibling's most recent name and address.

#### **Grandparents**

The bill would allow a deceased birth parent's parent, who knew the birth name of his or her grandchild who was an adopted person, to file a statement with the central adoption registry providing notice that the former parent was deceased. A copy of the former parent's death certificate or other evidence of death would have to be attached to the statement. (The central adoption registry is maintained by the FIA and controls the release of identifying information.)

The Code requires the FIA to develop forms for former parents to use to consent to or deny, or to revoke a consent to or denial of, the release of identifying information, and forms for an adult former sibling to use to provide notice of the death of a parent and to consent to the release of the sibling's name and address to an adult adoptee. Under the bill, the FIA also would have to develop forms for a parent of a deceased former parent to use to provide notice of the former parent's death and to consent to or deny, or to revoke a consent to or denial of, the release of identifying information to an adult adopted person.

Under the Code, clearance request forms may be used by a child placing agency, the FIA, or the court to request and receive information from the central adoption registry. Upon receiving a form, the registry must transmit to the requester a clearance reply form indicating whether a former parent

has filed a statement consenting to or denying the release of identifying information or whether a former parent is deceased, or a statement from an adult former sibling consenting to the release of his or her name and address to the adult adopted person. Once the registry has received a request for information, a subsequent statement submitted by a former parent or an adult former sibling must be transmitted to the person who requested the information. The bill would extend these provisions to statements from a deceased parent's parent consenting to the release of his or her name and address to the adult adopted person.

Under the Code, within 63 days after a request for nonidentifying information is received, a child placing agency, the court, or the FIA must provide nonidentifying information to a minor adopted person's adoptive parent, adult adopted person, former parent, or adult former sibling requesting the information. The bill also would require the provision of nonidentifying information to a deceased former parent's parent.

Within 63 days after a request for identifying information about an adult adopted person is received, a child placing agency, the court, or the FIA must provide to the former parent or adult former sibling requesting the information the adult adopted person's most recent name and address if he or she has given written consent to the release of the information. The bill would require the provision of this information to a deceased former parent's parent, as well.

If the court that terminated parental rights receives from a former parent or adult former sibling a request for the identity of the agency, court, or department to which the child was committed, the court must provide the name of that agency, court, or department, if known, within 28 days after receiving the request. Under the bill, this information also would have to be given to a deceased former parent's parent.

The Code requires the FIA to develop and publish an information pamphlet explaining the release of information from adoption records. Within 14 days after it is contacted by an adopted person, adult former sibling, former parent, or adoptive parent, a child placing agency, a court, or the FIA must give that person a copy of the pamphlet, a list of adoption support groups, and information about applicable provisions of the Code. The bill also would require the provision of this information to a deceased former parent's parent.

#### Notice of Death

Under the Code, a direct descendent of a deceased adult adoptee may request information, and all information to which an adult adoptee is entitled must be released to his or her direct descendants if the adult adoptee is deceased.

The bill also provides that upon receiving notice and a death certificate or other evidence of death for an adopted person, the court or child placing agency would have to contact the central adoption registry to inquire if a statement was on file for a former parent, former adult sibling, or parent of a deceased birth parent. The court or agency would have to give written notice to each of those individuals who had a statement on file regarding the adopted person's death, including the cause of death and the adopted person's first name.

## Voluntary Terminations

The Code contains several provisions that apply specifically to adoptions in which parental rights were terminated before May 28, 1945, or on or after September 12, 1980. (Before 1980, adoption records in Michigan could be opened only with a court order for good cause shown.) These provisions require the release to an adult adoptee of identifying information (unless a former parent has filed a statement denying consent), and a copy of a clearance reply form, which the adoptee may use to obtain a copy of his or her original birth certificate. The bill would extend these provisions to adoptions in which the former parents released their parental rights or voluntarily consented to their child's adoption.

The Code also provides that, for adoptions in which the former parents' rights were terminated on or *after* May 28, 1945, and *before* September 12, 1980, a child placing agency, the court, or the FIA must release identifying information to an adult adoptee and to a confidential intermediary (someone appointed by the court to search for and contact family members and adopted persons). The bill specifies that these provisions would apply to an adult adopted person if his or her former parents released their parental rights, voluntarily consented to the adopted person's adoption, or had their parental rights terminated on or after May 28, 1945, and before September 12, 1980.

Also, for adoptions in which the former parents released their parental rights or voluntarily consented to their child's adoption on or after May 28, 1945, or before September 12, 1980, if a child placing agency, the court, or the FIA requested information from the central adoption registry, the agency, the court, or the FIA would have to deliver to the adult adopted person a copy of a clearance reply form received from the registry, if the form indicated that the registry had on file any of the following:

- Currently effective statements from both former parents consenting to release of identifying information.
- If only one former parent were listed on the registry as known, a currently effective statement from that parent consenting to the release of identifying information.
- A statement consenting to the release of identifying information from an adult former sibling or from a former parent's parent along with a notice and evidence of the former parent's death.

An adult adopted person who received a clearance reply form under these provisions could use it to obtain a copy of his or her original birth certificate.

## Fee

The Code permits a child placing agency, the court, and the FIA to require a fee for supplying nonidentifying and identifying information. The fee must be \$60 or the actual cost of supplying the information, whichever is less. The bill, instead, would require the Supreme Court to establish the maximum amount of a fee based upon a survey of those entities conducted at least every three years to determine the average cost to supply the information. A child placing agency, the court, or the FIA could not charge more than the maximum amount the Supreme Court established or the actual cost of supplying the information, whichever was less.

MCL 710.27 et al.

Legislative Analyst: S. Lowe

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State government. The Family Independence Agency does not gather data on the number of adoptees whose parents are deceased, either for wards of the State or children available for adoption in the private system. The department could incur additional costs for maintaining the central adoption system due to new forms for additional

information. Also, there could be an increase in fees, pending approval of the Supreme Court.

There appears to be no fiscal impact on local governments.

Fiscal Analyst: C. Cole