

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.68b Definitions; petition to appoint confidential intermediary to search for and contact former family member; approval; training; oath of confidentiality; duties of confidential intermediary; acceptance of money or other value; failure to contact former family member.

Sec. 68b.

(1) As used in this section:

(a) "Former family member" means a parent, grandparent, or adult sibling related to the adult adoptee through birth or adoption by at least 1 common parent, regardless of whether the adult adoptee ever lived in the same household as the former family member.

(b) "Petitioner" means an individual on whose behalf a confidential intermediary is appointed pursuant to subsection (2).

(2) An adult adoptee, an adoptive parent of a minor adoptee, or an adult child of a deceased adoptee may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact a former family member. A former family member may petition the court in which the final order of adoption was entered to appoint a confidential intermediary to search for and contact an adult adoptee or an adult child of a deceased adoptee. Upon receipt of a petition under this section, the court shall contact the central adoption registry to determine whether there is currently on file a statement from the individual being sought that denies consent to the release of identifying information. If no denial of consent is currently on file for that individual, the court shall by written order appoint as confidential intermediary an individual who meets the requirements of subsection (3). The court shall provide the confidential intermediary with a certified copy of the order of appointment. The court may dismiss an intermediary if the intermediary engages in conduct that violates professional or ethical standards.

(3) An individual may serve as a confidential intermediary if he or she is approved by the court after completing training and files an oath of confidentiality with the court. The oath of confidentiality shall be substantially as follows:

"I,, signing under penalty of perjury, affirm all of the following:

(a) I will not disclose to a petitioner, directly or indirectly, any identifying information in sealed records without written consent of the individual to whom the information pertains.

(b) I will conduct a reasonable search for an individual being sought. I will make a discreet and confidential inquiry as to whether the individual consents to the release of information to the petitioner, or to meeting or communicating with the petitioner, and I will report to the petitioner and the court the results of my search and inquiry.

(c) If the petitioner and the individual being sought consent in writing to meet or communicate with each other, I will act in accordance with the instructions of those persons and, if applicable, the instructions of the court to facilitate any meeting or communication between them.

(d) I will not charge or accept any fee for my services except for reimbursement from the petitioner for actual expenses incurred in performing my services, or as authorized by the court.

(e) I recognize that I may be subject to contempt of court sanctions and dismissal by the court if I permit the release of confidential information without authorization."

(4) A confidential intermediary shall make a reasonable search for an individual whose identity is sought by a petitioner under this section. The confidential intermediary shall first search the court records. If it is necessary to obtain information from an agency or the department, the confidential intermediary shall provide a certified copy of the order of appointment to the agency or the department before requesting the records. If the confidential intermediary locates the individual being sought, the intermediary shall discreetly and confidentially contact the individual to ascertain whether the individual is willing to release information to the petitioner or to meet or communicate with the petitioner. If the individual consents in writing to the release of information, the intermediary shall release the information to the petitioner. Upon the mutual written consent of the petitioner and the individual, the intermediary may facilitate a meeting or other communication between the petitioner and the individual. If the individual refuses to authorize the release of information sought by the petitioner, the intermediary shall report the refusal to the petitioner and the court. If an individual sought under this section is deceased, the intermediary shall report that fact to the petitioner and the court.

(5) Except for a reasonable fee approved by the court and reimbursement for actual expenses incurred in performing services, a confidential intermediary shall not request or accept any money or other thing of value for serving as a confidential intermediary.

(6) If a confidential intermediary appointed under this section has failed to contact a former family member within 6 months after his or her appointment, the adult adoptee may petition the court for release of information

described in section 27(3) and any additional information obtained by the confidential intermediary. Before a hearing on the petition, the confidential intermediary shall submit a written report to the court describing all efforts made to locate the former family member and all information obtained. After the hearing, the court shall do 1 of the following:

- (a) Order the confidential intermediary to search for another 6-month period.
- (b) Appoint a new confidential intermediary to search for a 6-month period.
- (c) Release to the adult adoptee the identifying information described in section 27(3) and any other information that the court considers appropriate, if the court finds that a diligent search has been made and that there is good cause to release the information. The court's finding shall be made on the record.

History: Add. 1994, Act 202, Eff. Jan. 1, 1995 ;-- Am. 1994, Act 373, Eff. Jan. 1, 1995

Popular Name: Probate Code