

HOUSE BILL No. 5129

October 2, 2001, Introduced by Reps. Julian, Lemmons, Toy, Rivet, Pappageorge, Zelenko, Ruth Johnson and Birkholz and referred to the Committee on Family and Children Services.

A bill to amend 1939 PA 288, entitled "Probate code of 1939," by amending sections 67 and 68 of chapter X (MCL 710.67 and 710.68), as amended by 1994 PA 373.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER X

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Sec. 67. (1) Except as otherwise provided in subsection ~~(4)~~ (5) or in section 68 of this chapter, records of proceedings in adoption cases, including a notice filed under section ~~33(1)~~ 33 of this chapter ~~,~~ and a petition filed under section ~~34(1)~~ 34 of this chapter, and the papers and books relating to the proceedings shall be kept in separate locked files and shall not be open to inspection or copy except upon order of a court of record for good cause shown expressly permitting inspection or copy. Except as otherwise provided in subsection ~~(4)~~ (5) or in

1 section 68 of this chapter, the court, after 21 days following
2 entry of the final order of adoption, shall not permit copy or
3 inspection of the adoption proceedings, except upon a sworn peti-
4 tion setting forth the purpose of the inspection or copy. The
5 court may order notice and a hearing on the petition. The court
6 shall grant or deny the petition in writing within 63 days after
7 the petition is filed, except that for good cause the court may
8 grant or deny the petition after the 63-day period but not later
9 than 182 days after the petition is filed.

10 (2) A person in charge of adoption records shall not dis-
11 close the names of the biological or adoptive parents of an
12 adopted person, unless ordered to do so by a court of record or
13 as provided in subsection (4) or in section 68 of this chapter,
14 except to meet requirements of the director of ~~public~~ THE
15 DEPARTMENT OF COMMUNITY health for the purpose of creating a new
16 certificate of birth in the adoptive name and sealing the origi-
17 nal certificate of birth.

18 (3) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4) OR UNLESS THE
19 STATE REGISTRAR WAS REQUESTED TO NOT ESTABLISH A NEW BIRTH CER-
20 TIFICATE UNDER SECTION 2831 OF THE PUBLIC HEALTH CODE, 1978
21 PA 368, MCL 333.2831, THE director of ~~public~~ THE DEPARTMENT OF
22 COMMUNITY health shall furnish to the adopting parent or parents
23 a certified copy of the new birth certificate that shall not dis-
24 close the adoption of the person. A birth certificate issued to
25 an adopted person shall not refer to adoption and shall conform
26 as nearly as possible to the appearance of birth certificates
27 issued in other cases.

1 (4) IN A STEPPARENT ADOPTION, AT THE WRITTEN REQUEST OF THE
2 CHILD'S BIRTH PARENT, THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY
3 HEALTH SHALL FURNISH TO THE CHILD'S PARENTS A CERTIFIED COPY OF A
4 NEW BIRTH CERTIFICATE THAT IDENTIFIES BOTH THE ADOPTING STEPPAR-
5 ENT AND THE CHILD'S OTHER BIRTH PARENT, BUT ONLY IF THE OTHER
6 BIRTH PARENT IS DECEASED. THE BIRTH PARENT MAKING A REQUEST
7 UNDER THIS SUBSECTION SHALL SUBMIT WITH THE REQUEST A COPY OF THE
8 OTHER BIRTH PARENT'S DEATH CERTIFICATE OR OTHER EVIDENCE OF THAT
9 PARENT'S DEATH.

10 (5) ~~(4)~~ After an order of adoption has been entered under
11 section 56 OF THIS CHAPTER, the court shall permit the children's
12 ombudsman to inspect closed adoption records in connection with
13 an investigation authorized under the children's ombudsman act,
14 ~~Act No. 204 of the Public Acts of 1994, being sections 722.921~~
15 ~~to 722.935 of the Michigan Compiled Laws~~ 1994 PA 204,
16 MCL 722.921 TO 722.935. The ombudsman shall not disclose infor-
17 mation obtained by an inspection under this subsection. If the
18 children's ombudsman requires further information from an indi-
19 vidual whose identity is protected in closed adoption records,
20 the ombudsman shall contact the individual discreetly and
21 confidentially. The ombudsman shall inform the individual that
22 his or her participation in the ombudsman's investigation is con-
23 fidential, is strictly voluntary, and will not alter or consti-
24 tute a challenge to the adoption. The ombudsman shall honor the
25 individual's request not to be contacted further. As used in
26 this subsection, "children's ombudsman" or "ombudsman" means the
27 ombudsman appointed ~~pursuant to~~ UNDER section 3 of ~~Act No. 204~~

1 of the ~~Public Acts of 1994, being section 722.923 of the Michigan~~
2 ~~Compiled Laws~~ THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204,
3 MCL 722.923, or his or her designee.

4 Sec. 68. (1) Within 63 days after a request for nonidenti-
5 fying information is received, a child placing agency, a court,
6 or the department shall provide in writing to the adoptive
7 parent, adult adoptee, former parent, or adult former sibling
8 requesting the information all of the nonidentifying information
9 described in section 27(1) and (2) of this chapter.

10 (2) Within 63 days after a request for identifying informa-
11 tion about an adult adoptee is received, a child placing agency
12 or court or the department shall provide in writing to the former
13 parent or adult former sibling requesting the information the
14 adult adoptee's most recent name and address if the adult adoptee
15 has given written consent to release of the information ~~pursuant~~
16 ~~to~~ AS PROVIDED IN this chapter. If the adult adoptee has not
17 given written consent to the release of information, the child
18 placing agency, the court, or the department shall, upon presen-
19 tation of a certified copy of the order of appointment, give the
20 adult adoptee's name and address to a confidential intermediary
21 appointed ~~pursuant to~~ UNDER section 68b of this chapter,
22 together with any other information in its possession that would
23 help the confidential intermediary locate the adult adoptee. At
24 the option of agency or the department, the information may be
25 released to the court for release to the confidential
26 intermediary.

1 (3) If the department or a child placing agency receives a
2 request for adoption record information in its possession from an
3 adult adoptee, former parent, or adult former sibling, the
4 department or child placing agency shall provide the individual
5 requesting the information with the identity of the court that
6 confirmed the adoption within 28 days after receipt of the
7 request. If a court receives such a request, the court shall
8 provide the individual requesting the information with the iden-
9 tity of the child placing agency that handled the adoption.

10 (4) If the court that terminated parental rights receives
11 from the former parents or adult former siblings of the adult
12 adoptee a request for the identity of the agency, court, or
13 department to which the child was committed, the court shall pro-
14 vide in writing the name of that agency, court, or department, if
15 known, within 28 days after receipt of the request.

16 (5) Upon receipt of a written request for identifying infor-
17 mation from an adult adoptee AND IF IT MAINTAINS THE ADOPTION
18 FILE FOR THAT ADOPTEE, a child placing agency, a court, or the
19 department ~~, if it maintains the adoption file for that~~
20 ~~adoptee,~~ shall submit a clearance request form to the central
21 adoption registry. Within 28 days after receipt of a clearance
22 reply form from the central adoption registry, the child placing
23 agency, court, or department shall notify the adoptee in writing
24 of the identifying information to which the adoptee is entitled
25 under subsection (6) or (7), or, if the identifying information
26 cannot be released ~~pursuant to~~ UNDER those subsections, the
27 reason why the information cannot be released. The child placing

1 agency, court, or department shall retain a copy of the notice
2 sent to the adult adoptee.

3 (6) For adoptions in which the former parents' rights were
4 terminated on or after May 28, 1945 and before September 12,
5 1980, a child placing agency, a court, or the department shall
6 release to an adult adoptee or to a confidential intermediary
7 appointed under section 68b of this chapter the identifying
8 information described in section 27(3) of this chapter and other
9 identifying information on file with the central adoption regis-
10 try as specified in section 27b of this chapter, in the following
11 manner:

12 (a) All of the identifying information described in
13 section 27(3) of this chapter shall be released to the adult
14 adoptee ~~—~~ if both former parents have on file with the central
15 adoption registry a statement consenting to release of the iden-
16 tifying information.

17 (b) The identifying information described in
18 section 27(3)(b) and (c) of this chapter about 1 of the former
19 parents and the identifying information described in
20 section 27(3)(a) and (d) of this chapter shall be released to the
21 adult adoptee if that former parent has on file with the central
22 adoption registry a statement consenting to release of identify-
23 ing information.

24 (c) The identifying information described in
25 section 27(3)(b) and (c) of this chapter about 1 of the former
26 parents and the identifying information described in

1 section 27(3)(a) and (d) of this chapter shall be released to the
2 adult adoptee if that parent is deceased.

3 (d) All of the identifying information described in
4 section 27(3) of this chapter on both former parents shall be
5 released to the adult adoptee, if both former parents are
6 deceased.

7 (e) Upon presentation of a certified copy of the order of
8 appointment, all of the identifying information described in
9 section 27(3) of this chapter shall be released to a confidential
10 intermediary appointed ~~pursuant to~~ UNDER section 68b of this
11 chapter, together with additional information to assist the con-
12 fidential intermediary to locate former family members. At the
13 option of the agency or the department, the information may be
14 released to the court for release to the confidential
15 intermediary.

16 (7) For all adoptions in which the former parents' rights
17 were terminated before May 28, 1945 or on or after September 12,
18 1980, a child placing agency, a court, or the department shall
19 release to an adult adoptee the identifying information described
20 in section 27(3) of this chapter and any additional information
21 on file with the central adoption registry as specified in sec-
22 tion 27b of this chapter, except that if a former parent has
23 filed a statement currently in effect with the central adoption
24 registry denying consent to have identifying information
25 released, the identifying information specified in
26 section 27(3)(b) and (c) of this chapter shall not be released

1 about that parent. For purposes of this subsection, a denial of
2 consent is not effective after the death of the former parent.

3 (8) Upon receipt of a written request from an adult adoptee
4 for the name and address of an adult former sibling, a child
5 placing agency, a court, or the department, if it maintains the
6 adoption file for that adoptee, shall submit a clearance request
7 form to the central adoption registry. Within 28 days after
8 receipt of a clearance reply form from the central adoption reg-
9 istry, the child placing agency, court, or department shall
10 notify the adoptee in writing of the name and address of an adult
11 former sibling whose statement was forwarded by the central adop-
12 tion registry.

13 (9) If a child placing agency or court or the department
14 requests information from the central adoption registry and if
15 the clearance reply form from the central adoption registry indi-
16 cates that neither of the former parents has on file with the
17 central adoption registry a statement currently in effect denying
18 consent to have identifying information released, the child plac-
19 ing agency, court, or department shall deliver to the adult
20 adoptee a copy of the clearance reply form it received from the
21 central adoption registry. The clearance reply form may be used
22 by the adult adoptee to obtain a copy of his or her original cer-
23 tificate of live birth ~~pursuant to~~ UNDER section 2882 of the
24 public health code, ~~Act No. 368 of the Public Acts of 1978,~~
25 ~~being section 333.2882 of the Michigan Compiled Laws~~ 1978
26 PA 368, MCL 333.2882. This subsection applies to all adoptions

1 in which the parents' rights were terminated before May 28, 1945
2 or on or after September 12, 1980.

3 (10) If a child placing agency, a court, or the department
4 receives written information concerning a physician-verified med-
5 ical or genetic condition of an individual biologically related
6 to an adoptee and a request that the information be transmitted
7 to the adoptee because of the serious threat it poses to the
8 adoptee's life, the child placing agency, court, or department
9 shall send a written copy of the information by first-class mail
10 within 7 days after the request is received to the adoptee at his
11 or her last known address. If the adoptee is less than 18 years
12 of age, the information shall be sent by first-class mail within
13 7 days after the request is received to the adoptive parents at
14 their last known address.

15 (11) If the information described in subsection (10) is
16 returned undelivered, the agency, court, or department shall make
17 a reasonable effort to find the most recent address of the
18 adoptee or minor adoptee's parents and shall again send the
19 information by first-class mail within 21 days after receiving
20 the returned letter.

21 (12) If a child placing agency, a court, or the department
22 receives written information concerning a physician-verified med-
23 ical or genetic condition of a person biologically related to an
24 adoptee, and the condition is not life-threatening to the adopt-
25 ee, the child placing agency, court, or department shall place
26 the information in its adoption files. If the child placing
27 agency, court, or department receives a written request for the

1 information from the adult adoptee or minor adoptee's adoptive
2 parents, it shall release a written copy of the information to
3 the adult adoptee or to the minor adoptee's adoptive parents
4 within 63 days after the request for the information was made.

5 (13) If a child placing agency, a court, or the department
6 receives written information concerning a physician-verified med-
7 ical or genetic condition that threatens the life of an adoptee
8 and for which a biologically related person could give
9 life-saving aid, and receives a request from or on behalf of the
10 adoptee that the information be transmitted, the child placing
11 agency, court, or department shall send a written copy of the
12 information by first-class mail within 7 days after the request
13 is received to the biological parents or adult biological sib-
14 lings of the adoptee at their last known address.

15 (14) If the information described in subsection (13) is
16 returned undelivered, the agency, court, or department shall make
17 a reasonable effort to find the most recent address of the bio-
18 logical parents or adult biological siblings and shall again send
19 the information by first-class mail within 21 days after receiv-
20 ing the returned letter.

21 (15) If a child placing agency, a court, or the department
22 provides an adoptee with the name of 1 of the adoptee's former
23 parents, that child placing agency, court, or department shall
24 notify the department of ~~public~~ COMMUNITY health of that fact.
25 Upon receipt of notification by the child placing agency, court,
26 or department, the department of ~~public~~ COMMUNITY health shall
27 insure that the original birth certificate on file for the

1 adoptee has been sealed and that a new birth certificate has been
2 prepared in conformance with section 67 of this chapter. THIS
3 SUBSECTION DOES NOT APPLY IF A NEW BIRTH CERTIFICATE WAS ISSUED
4 UNDER SECTION 67(4) OF THIS CHAPTER OR IF THE STATE REGISTRAR WAS
5 REQUESTED TO NOT ESTABLISH A NEW BIRTH CERTIFICATE UNDER SECTION
6 2831 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.2831.

7 (16) An employee or agent of a child placing agency, a
8 court, or the department, who intentionally releases identifying
9 information in violation of this section, is guilty of a
10 misdemeanor.

11 (17) This section also applies to a stepparent adoption and
12 to the adoption of a child related to the petitioner within the
13 fifth degree by marriage, blood, or adoption.

14 (18) As used in this section, "adult adoptee" means an indi-
15 vidual who was adopted as a child who is now 18 years of age or
16 older or an individual who was 18 years of age or older at the
17 time of adoption.

18 (19) A child placing agency, a court, and the department may
19 require a fee for supplying information under this section. The
20 fee shall be \$60.00 or the actual cost of supplying the informa-
21 tion, whichever is less. The child placing agency, court, or
22 department may waive a part or all of the fee in case of indi-
23 gency or hardship.

24 (20) A direct descendant of a deceased adult adoptee may
25 request information ~~pursuant to~~ UNDER this section. All infor-
26 mation to which an adult adoptee is entitled ~~pursuant to~~ UNDER

1 this section shall be released to the adult adoptee's direct
2 descendants if the adult adoptee is deceased.

3 (21) A child placing agency, a court, or the department
4 shall permit the children's ombudsman to inspect adoption records
5 in its possession in connection with an investigation authorized
6 under the children's ombudsman act, ~~Act No. 204 of the Public~~
7 ~~Acts of 1994, being sections 722.921 to 722.935 of the Michigan~~
8 ~~Compiled Laws~~ 1994 PA 204, MCL 722.921 TO 722.935. The ombuds-
9 man shall not disclose information obtained by an inspection
10 under this section. If the children's ombudsman requires further
11 information from an individual whose identity is protected in
12 closed adoption records, the ombudsman shall contact the individ-
13 ual discreetly and confidentially. The ombudsman shall inform
14 the individual that his or her participation in the ombudsman's
15 investigation is confidential, is strictly voluntary, and will
16 not alter or constitute a challenge to the adoption. The ombuds-
17 man shall honor the individual's request not to be contacted
18 further. As used in this subsection, "children's ombudsman" or
19 "ombudsman" means the ombudsman appointed ~~pursuant to~~ UNDER
20 section 3 of ~~Act No. 204 of the Public Acts of 1994, being sec-~~
21 ~~tion 722.923 of the Michigan Compiled Laws~~ THE CHILDREN'S
22 OMBUDSMAN ACT, 1994 PA 204, MCL 722.923, or his or her designee.