

Proponent Testimony on House Bill 61

House Judiciary Committee

March 13, 2013

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Chairman Butler and the members of the House Judiciary Committee:

My name is Betsie Norris and I am founding Executive Director of Adoption Network Cleveland. Adoption Network Cleveland is a non-profit educational, support, and advocacy organization for all those touched by adoption – adoptees, birthparents, adoptive parents, foster parents, foster children and former foster children, and the professionals who serve them. Founded in 1988, Adoption Network Cleveland has a support base of approximately 700 individuals, families, and organizations. For the past 25 years our membership has grown to include individuals and organizations from all over Ohio, and we are proud to serve constituents of many of the members of this committee. I am also co-author of the book *Journeys After Adoption: Understanding Lifelong Issues* (Bergin & Garvey, 2002), co-chair of the Ohio Adoption Planning Group, and an Ohio adoptee.

I have been intimately involved in each of the iterations of this legislation as it has been proposed over the last 24 years, and have studied closely the evolution of thought on this issue, and what has been implemented in other states and how it has worked. From this perspective, I am happy to answer any questions you might have. In my oral testimony I plan to try to only cover important points that have not yet been brought up.

I am happy to be here before you to speak to the provisions in House Bill 61 which are important issues to the State of Ohio. The decision making criteria in adoption, as we know it, is designed to promote the “best interests of the child.” The proposals in this bill are completely consistent with that principle, and support the “best interests of the child” as they grow up into an adult adoptee.

Before I get started, I’d like to answer a question that you asked, Mr. Chairman. You asked in the sponsor testimony hearing how many adoptees are affected by this bill. It turns out that no one keeps a count of total adoptions in the state for those years. Based on births in Ohio 1964-1996 I would venture an estimate of 225,000-280,000 people were adopted, with their birth certificates amended, during the years in question.¹

¹ Approximately 2% of the U.S. population is adopted, although the 1960s and 1970s were peak years for adoption. This issue includes step-parent adoptees as well, which doubles the numbers. There were 5,568,007 births in Ohio during these years. At 4% of the population this equals 222,720 adoptees. At 5% it equals 278,500.

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Current Situation

As you know, Ohio currently has an inequitable, three-tiered, system of access to original birth certificates for adult adoptees, depending on their year of birth. Adoptees adopted prior to 1964 enjoy access upon request, adoptees from January 1, 1964 to September 18, 1996 can only earn access by court order, and in adoptions after September 18, 1996 the adoptive parents can obtain the original birth certificate on request when the adoptee is 18 and the adoptee can request it directly at age 21.

In adoptions from 1964-1996 – Ohio’s “closed” period – my experience has been that very few adoptees are granted court approval to their original birth certificate. There are two mechanisms available, and both have challenges.

The first method is that an adoptee can **motion** the court to attempt to show good cause to open the record. If the judge agrees there is good cause, he/she has the ability to open the record to the adoptee. From my observation, many courts don’t really have an established procedure on how (or even if) to handle these. I’ve seen a record opened for medical reasons, but only in one instance. On the other hand, I have seen a case where an adoptee had leukemia, was in remission, and wanted to establish a relationship with relatives in case her cancer returned and she needed a bone marrow transplant. She was denied her record and told she should “come back if she got sick again.”

The other option is for the adoptee to check the Ohio Reunion Registry. However, ironically, the adoptee cannot register. They must **petition** the court to see if their birthparent or sibling registered – and the birthparent or sibling cannot be told the information they need to know to fill out the form to register if they don’t happen to know it (some of the information, such as dates and names, is considered “identifying” under Ohio law). The registry is convoluted and in the 25 years that I’ve been working with adult adoptees seeking information, not once have I seen a match be made through it. See the attached schematic for details.

Common Concerns

I would like to address a few of the misunderstandings I commonly run into on this issue. You will likely hear about these in other testimony as well as they have also come up in other states’ legislative attempts. They are:

CONCERN: Birthparents were promised anonymity at the time of adoption.

FACTS: There were no legal promises of anonymity made. Ohio government should not be involved in maintaining a “promise” that it never made. This can be shown through:

- The 1964 Ohio law sealing the records also allows a probate judge to open the record to an adoptee upon showing of good cause.
- Ohio has never sealed records upon birthparent relinquishment, only upon adoption – a child can be relinquished but not adopted, in which case the original birth certificate would stand as public record.

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- A review of relinquishment forms birthparents signed in Ohio and across the country has not yielded even one form that addresses the privacy of the birthparent.
- Under Ohio law, adoptive parents can choose not to have their child's birth certificate amended, which would result in the birthparent's name staying on the birth certificate.

CONCERN: Adoptees need their original birth certificate to conduct a search for their birthparent(s).

FACT: Access to records for adoptees is not about search. Adoptees can and often do search with or without access to their birth certificate. Access to these documents is about the fundamental right to know core facts about oneself, and enjoy the same rights and privileges as other citizens.

CONCERN: If the records are "opened" who knows who might see them.

FACT: What is proposed is that the adult adoptee, and only the adult adoptee, would be able to confidentially access their own original birth certificate upon request. No records would be open to the public in any way.

CONCERN: The records are closed because birthparents don't want to be found.

FACT: Birthparents from the era in question, 1964-1996, were not offered openness at the time of the adoption. Adoptions were set up as "closed" because that was the only option offered, not because birthparents requested it. Studies and experience show that 95% or more of birthparents accept contact by their adult child. Birthparents who do not wish to meet their children can indicate that on the proposed Contact Preference Form. In states that have implemented the Contact Preference Form, many more birthparents use it to express desire for contact, than for no contact. In fact in these states, only about 1 in 2,000 eligible birthparents request not to be contacted.

CONCERN: Women facing an untimely pregnancy might not consider adoption if they think they might be found by their child when the child reaches adulthood.

FACTS: Statistics do not support this, neither does anecdotal evidence.

- The vast majority of women choosing adoption today are choosing openness in their adoption – 95% according to the Evan B. Donaldson Report entitled *Openness in Adoption: From Secrecy and Stigma to Knowledge and Connections* (2012).
- States that have legislated access to records have seen adoption rates stay strong or even go up, and abortion rates stay steady or decrease.

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- Crisis pregnancy center counselors tell us that women are not asking about this or concerned about this as they consider their options.
- Sealed records do not keep birthparents from being found – successful searches take place despite sealed records. With the internet, searches are getting easier and easier.
- And, this legislation does not affect current adoption practice – all affected by this legislation were born 17-49 years ago.

Mr. Chairman, you also asked in the Sponsor Testimony hearing what percentage of eligible birthparents have filed Contact Preference Forms in the states that provide this system. As in Ohio, it is difficult to get total numbers of past adoptions in most states. Therefore it appears impossible to give an accurate answer. I can tell you that by looking at the experiences in those states – Oregon, New Hampshire, Maine and Rhode Island – that fewer birthparents file a Contact Preference Form than adoptees who request access to their original birth certificates. While one can postulate that both adoptees and birthparents need to know the law has changed to take the action – for birthparents to file a Contact Preference Form, or for adoptees to request their birth certificate – there are other reasons that birthparents may be less likely to take this action.

It has been my experience working with birthparents who relinquished a child for adoption during the period in question, that many feel that when they gave up their parental rights that they also pledged that they would not do anything to “interfere” with their child’s life – that they should take no future action regarding the child. My own birthmother, although she reacted with “I’ve been praying for this call for 26 years!” upon my call, and had been married to my birthfather since 18 months after relinquishing me for adoption, had not registered her interest. She had the form for the same independent reunion registry that I had entered. Her brother, a genealogist, had given her the form and she had saved it, but never filled it out and sent it in. She felt that she had relinquished all of her rights and didn’t even have the right to take this simple step. I would venture to say, given my 25 years of work with birthparents from this past era, that many birthparents feel that they should “let the chips fall where they may” and not be the one to take action, even by doing something as simple as filling out a Contact Preference Form.

For birthparents who do want to take action, the contact Preference Form gives them a voice and avenue to express their wishes about being contacted that they do not currently have. I know you will hear testimony from birthparents on this bill, and I encourage you to listen closely, as the voice of the birthparents is often the one left out or misunderstood in discussions about adoption.

Historical Context

I would like to share with you a personal story, which I think illustrates a very important point to be considered relating to this bill. I was born and adopted in 1960, and as such was able to get a copy of my original birth certificate upon my request. My (adoptive) parents completely supported my personal quest in my 20’s to seek more information about my background. After my reunion with my birthparents I was struck by the inequity in Ohio law – that birth certificates

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were closed to adoptees just a few years younger than me – and I got involved in promoting legislation similar to what is before you today to rectify this disparity. While at that time no other state had yet passed a similar bill (although several were hearing similar bills) the pursuit ended up with multiple futile attempts from 1989 through the mid-1990's when finally the 1996 law was passed to at least stop having the State seal records into the future.

During this time my (adoptive) father came to me and confessed that he was one of the original authors of the bill that closed the records in 1964. As a young adoptive parent in the early 1960s, he had stumbled upon the fact that the adoptee's original birth certificate was open to the public with a direct link to the amended birth certificate. Wanting to shield adoptive families from public scrutiny, he, along with some other adoptive parents, wrote language, contacted legislators, and got a bill passed to rectify the situation. When watching what we were going through on this issue in the early 1990s, he realized that his efforts had led to the sealing of the record to the adult adoptee as well as the general public – an unintended consequence of the action taken by adoptive parents which has since been misconstrued as something that birthparents wanted.

Please see his attached testimony on this issue from January 18, 1994 to the Ohio House Human Resources Committee. Sadly, my dad passed away in 2006, otherwise he would be here today to present this testimony to you personally.

I quote from his testimony: "The 1964 law has not worked out in the way it was originally intended and it should be changed by the passage of a new law such as HB 457. As you can imagine, I feel strongly about this not only because of my part in the early history for the present closed records law, but also because the resulting secrecy has not benefited, rather it has hurt the most innocent parties in the process, the adoptees."

The legislation at hand, House Bill 61, seeks to treat adoptees just like everyone else in the State of Ohio. Please pass this bill as written. It is the right thing to do.

Chairman Butler, thank you for allowing me to present testimony. I would be happy to answer any questions you or the committee might have.