

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 303

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Adoption -” and substitute “Adoption Contact Services and”; in the same line, after “to” insert “Adoption”; strike beginning with “requiring” in line 3 down through “records” in line 19 and substitute “permitting certain adopted individuals and biological parents to apply to the Director of the Social Services Administration to receive contact services under certain circumstances; prohibiting certain biological parents from applying to receive contact services under certain circumstances; requiring the Director to maintain a certain list of confidential intermediaries; requiring the Director to provide a list of confidential intermediaries to certain individuals who apply for contact services; requiring an adopted individual or a biological parent to execute a certain agreement with a confidential intermediary under certain circumstances; requiring a confidential intermediary to file certain documents and attempt to contact certain individuals under certain circumstances; authorizing a confidential intermediary to apply to the Secretary of Health and Mental Hygiene for a copy of certain birth records under certain circumstances; requiring the Secretary of Health and Mental Hygiene to give a copy of certain birth records to the confidential intermediary under certain circumstances; authorizing the Director to assist a confidential intermediary to obtain additional information under certain circumstances; requiring that if an individual contacted by the confidential intermediary consents to the disclosure of specified information, the confidential intermediary must obtain the consent in writing; prohibiting the confidential intermediary from releasing information of a person contacted if the person does not consent to the disclosure of any information; requiring the confidential intermediary to continue to attempt to contact certain individuals for a certain period of time; requiring the Director to adopt certain regulations; establishing that certain individuals may have access to certain birth records after a certain date under certain circumstances; permitting certain individuals to file certain documents to prohibit the disclosure of certain birth records under certain circumstances; authorizing the seal on certain birth records to be broken under certain circumstances; defining certain terms; providing for delayed effective dates for this Act; providing for the application of certain provisions of this Act; and generally relating to access to certain birth and adoption records”; and on pages 1 and 2, strike in

(Over)

their entirety the lines beginning with line 20 on page 1 through line 8 on page 2, inclusive, and substitute:

“BY adding to

Article - Family Law

Section 5-4B-01 through 5-4B-11, inclusive, to be under the new subtitle “Subtitle 4B.

Adoption Contact Services”; and 5-3A-01 through 5-3A-06, inclusive, to be under the new subtitle “Subtitle 3A. Open Adoption Records”

Annotated Code of Maryland

(1991 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,

Article - Family Law

Section 5-314(a)

Annotated Code of Maryland

(1991 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, without amendments,

Article - Health - General

Section 4-211(f) and 4-217 (a)

Annotated Code of Maryland

(1994 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,

Article - Health - General

Section 4-211(e) and 4-217(b)

Annotated Code of Maryland

(1994 Replacement Volume and 1996 Supplement)”.

## AMENDMENT NO. 2

On pages 2 through 10, strike in their entirety the lines beginning with line 9 on page 2 through line 17 on page 10, inclusive, and substitute:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

Article - Family Law

SUBTITLE 4B. ADOPTION CONTACT SERVICES.

5-4B-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADMINISTRATION" MEANS THE SOCIAL SERVICES ADMINISTRATION OF THE DEPARTMENT.

(C) "CONTACT SERVICES" MEANS SERVICES:

(1) TO LOCATE ADOPTED INDIVIDUALS AND BIOLOGICAL PARENTS OF ADOPTED INDIVIDUALS;

(2) TO ASSESS THE MUTUAL DESIRE FOR COMMUNICATION OR DISCLOSURE OF INFORMATION BETWEEN ADOPTED INDIVIDUALS AND BIOLOGICAL PARENTS OF ADOPTED INDIVIDUALS; AND

(3) TO ASSESS THE MUTUAL DESIRE FOR COUNSELING OR ACCESS TO COUNSELING TO ASSIST WITH COMMUNICATION OR DISCLOSURE OF INFORMATION BETWEEN ADOPTED INDIVIDUALS AND BIOLOGICAL PARENTS OF ADOPTED INDIVIDUALS.

(D) "DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

5-4B-02.

(A)(1) AN ADOPTED INDIVIDUAL 21 YEARS OF AGE OR OLDER MAY APPLY TO THE DIRECTOR TO RECEIVE CONTACT SERVICES.

(2) IF AN ADOPTED INDIVIDUAL IS 21 YEARS OF AGE OR OLDER, A BIOLOGICAL PARENT OF THE ADOPTED INDIVIDUAL MAY APPLY TO THE DIRECTOR

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TO RECEIVE CONTACT SERVICES.

(B) AN INDIVIDUAL WHO APPLIES TO THE DIRECTOR TO RECEIVE CONTACT SERVICES UNDER THIS SUBTITLE SHALL SUPPLY ANY PROOF OF IDENTITY OR OTHER RELEVANT INFORMATION REQUIRED BY THE DIRECTOR.

(C) THE DIRECTOR MAY ESTABLISH A REASONABLE ADMINISTRATIVE FEE FOR THE APPLICATION FOR CONTACT SERVICES.

(D) A BIOLOGICAL PARENT WHO HAS HAD HIS OR HER PARENTAL RIGHTS TERMINATED UNDER § 5-312 OR § 5-313 OF THIS TITLE MAY NOT APPLY TO RECEIVE CONTACT SERVICES UNDER THIS SUBTITLE.

5-4B-03.

(A) THE DIRECTOR SHALL MAINTAIN A LIST OF CONFIDENTIAL INTERMEDIARIES WHO HAVE REGISTERED WITH THE DIRECTOR FOR PURPOSES OF PROVIDING CONTACT SERVICES UNDER THE PROVISIONS OF THIS SUBTITLE.

(B) THE DIRECTOR SHALL PROVIDE A LIST OF REGISTERED CONFIDENTIAL INTERMEDIARIES TO AN INDIVIDUAL WHO HAS APPLIED FOR CONTACT SERVICES.

5-4B-04.

(A) IF AN INDIVIDUAL APPLIES FOR CONTACT SERVICES, THE INDIVIDUAL SHALL EXECUTE A WRITTEN AGREEMENT WITH THE CONFIDENTIAL INTERMEDIARY CONCERNING:

(1) THE PROVISION OF CONTACT SERVICES; AND

(2) THE FEE TO BE PAID TO THE CONFIDENTIAL INTERMEDIARY FOR CONTACT SERVICES.

(B) THE CONFIDENTIAL INTERMEDIARY SHALL PROMPTLY:

(1) FILE THE EXECUTED AGREEMENT WITH THE DIRECTOR; AND

(2) ATTEMPT TO CONTACT EITHER THE ADOPTED INDIVIDUAL OR THE BIOLOGICAL PARENT SOUGHT BY THE APPLICANT.

5-4B-05.

(A) AT THE REQUEST OF THE CONFIDENTIAL INTERMEDIARY, THE DIRECTOR MAY AUTHORIZE THE CONFIDENTIAL INTERMEDIARY TO OBTAIN INFORMATION UNDER SUBSECTION (B) OF THIS SECTION TO LOCATE AN INDIVIDUAL SOUGHT BY AN APPLICANT.

(B) PURSUANT TO THE AUTHORIZATION UNDER SUBSECTION (A) OF THIS SECTION, THE CONFIDENTIAL INTERMEDIARY MAY APPLY TO THE SECRETARY OF HEALTH AND MENTAL HYGIENE FOR A COPY OF THE FOLLOWING:

(1) THE ORIGINAL CERTIFICATE OF BIRTH OF AN ADOPTED INDIVIDUAL WHO WAS BORN IN THIS STATE;

(2) THE NEW CERTIFICATE OF BIRTH THAT WAS SUBSTITUTED FOR THE ORIGINAL CERTIFICATE OF BIRTH OF AN ADOPTED INDIVIDUAL WHO WAS BORN IN THIS STATE; AND

(3) THE REPORT OF THE DECREE OR JUDGMENT OF ADOPTION FILED BY THE CLERK OF THE COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

(C) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL GIVE THE CONFIDENTIAL INTERMEDIARY A COPY OF A RECORD REQUESTED UNDER THIS SECTION.

(D) (1) IF THE CONFIDENTIAL INTERMEDIARY REQUIRES ADDITIONAL INFORMATION TO LOCATE AN INDIVIDUAL SOUGHT BY AN APPLICANT, THE CONFIDENTIAL INTERMEDIARY MAY REQUEST ASSISTANCE FROM THE DIRECTOR.

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(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DIRECTOR HAS THE RIGHT TO ANY INFORMATION THAT IS CONTAINED IN A PUBLIC RECORD, AS DEFINED UNDER § 10-611 OF THE STATE GOVERNMENT ARTICLE.

(3) THE DIRECTOR MAY CHARGE THE INTERMEDIARY A REASONABLE FEE FOR ADDITIONAL INFORMATION UNDER THIS SUBSECTION.

5-4B-06.

(A) WITHIN 30 DAYS AFTER EXECUTING THE CONTACT SERVICES AGREEMENT UNDER § 5-4B-04 OF THIS SUBTITLE, THE CONFIDENTIAL INTERMEDIARY SHALL FILE A REPORT WITH THE DIRECTOR STATING THAT:

(1) THE INDIVIDUAL CONTACTED BY THE INTERMEDIARY CONSENTS TO THE DISCLOSURE OF SPECIFIED INFORMATION;

(2) THE INDIVIDUAL CONTACTED BY THE INTERMEDIARY DOES NOT CONSENT TO THE DISCLOSURE OF ANY INFORMATION;

(3) THE INDIVIDUAL SOUGHT BY THE INTERMEDIARY HAS NOT BEEN LOCATED; OR

(4) THE INDIVIDUAL SOUGHT BY THE INTERMEDIARY IS DECEASED.

(B) THE REPORT AND ALL DOCUMENTS FILED PURSUANT TO THIS SECTION SHALL REMAIN CONFIDENTIAL.

5-4B-07.

(A) (1) IF THE INDIVIDUAL CONTACTED BY THE INTERMEDIARY CONSENTS TO THE DISCLOSURE OF ANY INFORMATION, THE CONFIDENTIAL INTERMEDIARY SHALL OBTAIN WRITTEN CONSENT WITNESSED BY A NOTARY PUBLIC.

(2) THE WRITTEN CONSENT SHALL SPECIFY THE NATURE OF THE INFORMATION TO BE DISCLOSED.

(B) (1) IF THE CONFIDENTIAL INTERMEDIARY OBTAINS FROM THE INDIVIDUAL CONTACTED A WRITTEN CONSENT FOR THE DISCLOSURE OF INFORMATION, THE CONFIDENTIAL INTERMEDIARY SHALL DISCLOSE THE INFORMATION SPECIFIED IN THE CONSENT TO THE PERSON WHO APPLIED FOR CONTACT SERVICES.

(2) THE CONFIDENTIAL INTERMEDIARY SHALL DISCLOSE ONLY THE INFORMATION THAT HAS BEEN AUTHORIZED PURSUANT TO THE WRITTEN CONSENT.

5-4B-08.

IF THE INDIVIDUAL CONTACTED BY THE INTERMEDIARY DOES NOT CONSENT TO THE DISCLOSURE OF ANY INFORMATION, THE CONFIDENTIAL INTERMEDIARY MAY NOT DISCLOSE ANY INFORMATION CONCERNING THE INDIVIDUAL CONTACTED AND SHALL REFRAIN FROM FURTHER AND SUBSEQUENT INQUIRY WITH THE INDIVIDUAL CONTACTED AND REPORT THE REFUSAL TO THE INDIVIDUAL WHO APPLIED FOR CONTACT SERVICES.

5-4B-09.

(A) IF THE CONFIDENTIAL INTERMEDIARY FILES A REPORT UNDER § 5-4B-06 OF THIS SUBTITLE STATING THAT AN INDIVIDUAL SOUGHT HAS NOT BEEN LOCATED, THE CONFIDENTIAL INTERMEDIARY SHALL CONTINUE TO MAKE REASONABLE ATTEMPTS TO CONTACT THE INDIVIDUAL SOUGHT FOR THE PERIOD SPECIFIED IN THE CONTACT SERVICES AGREEMENT UNDER § 5-4B-04 OF THIS SUBTITLE.

(B) IF THE CONFIDENTIAL INTERMEDIARY IS UNSUCCESSFUL AT LOCATING THE INDIVIDUAL SOUGHT WITHIN THE PERIOD SPECIFIED IN THE CONTACT SERVICES AGREEMENT, THE CONFIDENTIAL INTERMEDIARY SHALL FILE A REPORT WITH THE DIRECTOR STATING THE FAILURE TO LOCATE THE INDIVIDUAL SOUGHT.

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5-4B-10.

(A) IF THE INDIVIDUAL SOUGHT BY THE CONFIDENTIAL INTERMEDIARY IS DECEASED, THE CONFIDENTIAL INTERMEDIARY MAY NOT DISCLOSE THE IDENTITY OF THE DECEASED TO THE INDIVIDUAL WHO APPLIED FOR CONTACT SERVICES.

(B) THE CONFIDENTIAL INTERMEDIARY SHALL REPORT THE FACT THAT THE INDIVIDUAL SOUGHT IS DECEASED TO THE INDIVIDUAL WHO APPLIED FOR CONTACT SERVICES.

5-4B-11.

THE DIRECTOR SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING REGULATIONS CONCERNING:

(1) THE APPLICATION PROCESS BY WHICH AN ADOPTED INDIVIDUAL OR BIRTH PARENT MAY REQUEST CONTACT SERVICES;

(2) QUALIFICATIONS FOR A CONFIDENTIAL INTERMEDIARY;

(3) ANY AGREEMENT OR AGREEMENTS FOR CONTACT SERVICES BETWEEN AN ADOPTED INDIVIDUAL OR A BIOLOGICAL PARENT AND A CONFIDENTIAL INTERMEDIARY; AND

(4) THE DELIVERY AND SCOPE OF CONTACT SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Family Law

SUBTITLE 3A. OPEN ADOPTION RECORDS.



5-3A-01.

THIS SUBTITLE SHALL APPLY TO ADOPTIONS FINALIZED ON OR AFTER  
JANUARY 1, 1999.

5-3A-02.

(A) AN ADOPTED INDIVIDUAL 21 YEARS OF AGE OR OLDER BORN IN THIS  
STATE MAY APPLY TO THE SECRETARY OF HEALTH AND MENTAL HYGIENE FOR A  
COPY OF THE FOLLOWING:

(1) THE ORIGINAL CERTIFICATE OF BIRTH OF THE ADOPTED  
INDIVIDUAL; AND

(2) THE REPORT OF THE DECREE OR JUDGMENT OF ADOPTION FILED BY  
THE CLERK OF THE COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

(B) IF AN ADOPTED INDIVIDUAL BORN IN THIS STATE IS 21 YEARS OF AGE OR  
OLDER, A BIOLOGICAL PARENT OF THE ADOPTED INDIVIDUAL MAY APPLY TO THE  
SECRETARY OF HEALTH AND MENTAL HYGIENE FOR A COPY OF THE FOLLOWING:

(1) THE ORIGINAL CERTIFICATE OF BIRTH OF THE ADOPTED  
INDIVIDUAL;

(2) THE NEW CERTIFICATE OF BIRTH THAT WAS SUBSTITUTED FOR THE  
ORIGINAL CERTIFICATE OF BIRTH OF THE ADOPTED INDIVIDUAL UNDER § 4-211 OF  
THE HEALTH - GENERAL ARTICLE; AND

(3) THE REPORT OF THE DECREE OR JUDGMENT OF ADOPTION FILED BY  
THE CLERK OF THE COURT UNDER § 4-211 OF THE HEALTH - GENERAL ARTICLE.

5-3A-03.

AN INDIVIDUAL WHO APPLIES TO THE SECRETARY OF HEALTH AND MENTAL

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HYGIENE UNDER THIS SUBTITLE SHALL:

(1) SUPPLY ANY PROOF OF IDENTITY OR OTHER RELEVANT INFORMATION REQUIRED BY THE SECRETARY; AND

(2) PAY ANY FEE FOR A COPY OF A RECORD REQUIRED UNDER TITLE 4, SUBTITLE 2 OF THE HEALTH - GENERAL ARTICLE.

5-3A-04.

(A) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, IF THE APPLICANT COMPLIES WITH § 5-3A-03 OF THIS SUBTITLE, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL GIVE THE APPLICANT A COPY OF THE REQUESTED RECORDS UNLESS A DISCLOSURE VETO HAS BEEN FILED UNDER § 5-3A-05 OF THIS SUBTITLE.

(B) IF THE APPLICANT IS AN ADOPTED INDIVIDUAL AND A DISCLOSURE VETO HAS BEEN FILED BY ONLY ONE OF THE BIOLOGICAL PARENTS, THE SECRETARY SHALL DELETE ALL INFORMATION CONCERNING THE BIOLOGICAL PARENT TO WHOM THE DISCLOSURE VETO RELATES BEFORE GIVING THE APPLICANT A COPY OF THE REQUESTED RECORDS.

5-3A-05.

(A) A BIOLOGICAL PARENT MAY FILE WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE A DISCLOSURE VETO PROHIBITING THE DISCLOSURE OF A CERTIFICATE OF BIRTH OR OTHER RECORD UNDER § 5-3A-02 OF THIS SUBTITLE.

(B) AN ADOPTED INDIVIDUAL 21 YEARS OF AGE OR OLDER MAY FILE WITH THE SECRETARY OF HEALTH AND MENTAL HYGIENE A DISCLOSURE VETO PROHIBITING THE DISCLOSURE OF A CERTIFICATE OF BIRTH OR OTHER RECORD UNDER § 5-3A-02 OF THIS SUBTITLE.

5-3A-06.

NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO PROHIBIT AN ADOPTED INDIVIDUAL OR A BIOLOGICAL PARENT FROM MAKING AN APPLICATION FOR CONTACT SERVICES UNDER SUBTITLE 4B OF THIS TITLE.

5-314.

(a) The consent of a natural parent to either an adoption or guardianship of a child is not valid unless the consent contains an express notice of:

(1) the right to revoke consent under § 5-311 or § 5-317 of this subtitle[, as the case may be]; AND

(2) THE RIGHT TO FILE A DISCLOSURE VETO UNDER § 5-3A-05 OF THIS TITLE.

Article - Health - General

4-211.

(e) (1) If a new certificate of birth is made, the Secretary shall:

(i) Substitute the new certificate of birth for any certificate then on file; and

(ii) Place the original certificate of birth and all records that relate to the new certificate of birth under seal.

(2) The seal may be broken only:

(i) On order of a court of competent jurisdiction; [or]

(ii) If it does not violate the confidentiality of the record, on written order of a designee of the Secretary; OR

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(III) IN ACCORDANCE WITH TITLE 5, SUBTITLE 4B OR SUBTITLE 3A  
OF THE FAMILY LAW ARTICLE.

(3) A certified copy of the certificate of birth that later is issued shall be a copy of the new certificate of birth, unless a court of competent jurisdiction orders the issuance of a copy of the original certificate of birth.

(f) Each clerk of court shall send to the Secretary, on the form that the Secretary provides, a report of:

(1) Each decree of adoption;

(2) Each adjudication of paternity, including the father's Social Security number; and

(3) Each revocation or amendment of any decree of adoption or adjudication of paternity that the court enters.

4-217.

(a) (1) Except as provided in subsection (b) of this section, the Secretary shall provide, on request, any person authorized by regulations adopted under this subtitle with a certified or abridged copy of a birth, death, or fetal death certificate registered under this subtitle or of the certificate of a marriage performed after June 1, 1951.

(2) (i) The Secretary shall provide on request, to any person authorized by regulation adopted under this subtitle, a commemorative birth certificate.

(ii) The Department shall set a fee for the commemorative birth certificate.

(iii) The commemorative birth certificate shall:

1. Be in a form consistent with the need to protect the integrity of vital records but suitable for display; and

2. Have the same status as evidence as the original birth certificate.

(iv) Funds collected under this paragraph shall be paid into the Children's Trust Fund.

(v) The Secretary shall adopt regulations to implement the provisions of this paragraph.

(b) (1) A certified or abridged copy of a birth certificate may be issued only:

(i) On order of a court of competent jurisdiction;

(ii) On request of the individual to whom the record relates; [or]

(iii) On request of a parent, guardian, or other authorized representative of the individual; OR

(IV) IN ACCORDANCE WITH TITLE 5, SUBTITLE 4B OR SUBTITLE 3A OF THE FAMILY LAW ARTICLE.

(2) A certified or abridged copy of a birth certificate may contain only the personal information that appears on the birth certificate and may not include any confidential medical information that appears on the birth certificate.

(3) Birth certificate information may not be given if it is to be used for commercial solicitation or private gain.

(4) A noncertified copy of a birth certificate including confidential medical information may be provided to a unit of the Department to carry out its legal mandate or to conduct Institutional Review Board (IRB) approved research or study. Any report resulting from this research or study may not contain personal identifiers unless authorized by the subject of the record or the subject's parent or authorized representative.

(5) A copy of a birth certificate may be given to the Maryland Immunization Program

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to improve childhood immunization rates.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be construed prospectively and shall only apply to adoptions finalized on or after January 1, 1999.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 1999.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect October 1, 1998.”.