

**Adoptee Rights Law Center • Gregory D. Luce
Testimony in Support of SB0743
Maryland Senate Judicial Proceedings Committee
February 25, 2020**

Dear Chairman Smith and Members of the Judicial Proceedings Committee:

My name is Gregory Luce. I am an attorney and the founder of Adoptee Rights Law Center, a law firm and nationally-recognized resource on legal issues related to adult adopted people, whether those issues relate to identity documents, original birth certificates, or securing U.S. citizenship. I am also the president of Adoptees United Inc., a national nonprofit organization dedicated to securing equal rights for all adult adopted people. Adoptees United has also submitted a joint letter to this committee from more than 30 organizations and 400 individuals, all in favor of SB0743. I have attached that letter as part of my testimony.

Personally, and on behalf of the Adoptee Rights Law Center and the adopted people I represent, I strongly support enactment of SB0743 and request that you act favorably on the bill. Please report it out as DO PASS from the Judicial Proceedings Committee, without amendment.

Maryland is not unusual in its history of sealing original birth certificates, particularly in cases of adoption and legitimation. First, as in every state, the sealing of pre-adoption birth records was intended to protect adoptive parents, the adoptee, and the newly formed adoptive family. It was not intended to permanently erase a relinquishing parent's name from an adoptee's own birth record.

The process of sealing original birth records started in California in 1935, when Assembly Member Charles Fisher introduced a bill to seal records because "unscrupulous persons have obtained access to the adoption records and have blackmailed the adoptive parents by threatening to tell the adopted child it was adopted." New York followed in 1936, though last year it fully repealed its 83-year-old secrecy law. The District of Columbia and Maryland began sealing pre-adoption birth records in 1937, though court adoption records in Maryland were public until the middle of 1947. Sealing of

pre-adoption birth records continued in other states through the 1940s and 1950s, almost always in response to national scandals involving black market trafficking of children for adoption. The reason for sealing records during this time was consistent and strong: 1) keep records from the public to avoid potential blackmail of the adoptive family; and 2) seal records to secure an adoptee's "legitimate" status within the adoptive family, primarily by preventing any future interference from birthparents. Indeed, when a committee of the US Congress considered this issue in 1954, it reiterated that the purposes of sealing records was to protect:

(1) the adoptive child, from unnecessary separation from his natural parents and from adoption by persons unfit to have such responsibility;

(2) the natural parents, from hurried and abrupt decisions to give up the child; and

(3) the adopting parents, by providing them information about the child and his background, and *protecting them from subsequent disturbance of their relationships with the child by natural parents.*

Pub. Law 392, 68 Stat. 246 (1954)(emphasis supplied). Sealing of a person's own birth certificate was never about enforcing permanent secrecy in a government record by preventing that person—the adoptee—from later obtaining an unaltered copy of the record as an adult.

This was true in Maryland and in most other states (Kansas and Alaska have never made the original birth record unavailable to an adult adoptee). Many other states did not seal original birth records until much later in the century, with Florida doing so in 1977 and Pennsylvania, one of the latest, in 1984. Most states during the middle of the century followed what was then the best practice in creating vital records after an adoption. This was first outlined in 1949-1950 by the country's child welfare and vital records experts, as more fully explained by E. Wayne Carp, one of the foremost scholars on the history of sealed pre-adoption birth records:

There is no evidence that child welfare or public health officials ever intended that issuing new birth certificates to adopted children would prevent them from gaining access to their original one. On the contrary, they specifically recommended that the birth records of adopted children should 'be seen by no one except the adopted person when of age or upon court order.' This policy, which provided adoptees with the right to view their original birth certificate, was staunchly affirmed by [U.S.]

Children's Bureau officials in 1949, who worked out guidelines for a nationwide directive on the confidential nature of birth records with members of the American Association of Registration Executives and the Council on Vital Records and Statistics. They declared that the right to inspect or secure a certified copy of the original birth certificate 'should be restricted to the registrant, if of legal age, or upon court order.'

Carp, E. Wayne, *Family Matters: Secrecy and Disclosure in the History of Adoption*, p. 55 (Harvard University Press: 1998); see also, *The Confidential Nature of Birth Records: Including the Special Registration Problems of Children Born Out of Wedlock, Children of Unknown Parentage, Legitimated Children, and Adopted Children*. Washington, D.C: Children's Bureau and National Office of Vital Statistics, Federal Security Agency, 1949.

Maryland is not alone in its current discriminatory and date-based approach to this issue, which currently limits requests for a pre-adoption birth record to adoptions finalized after January 1, 2000. But it also would not be alone in restoring an unrestricted right for all adult adoptees to obtain their own birth records. Ten other states, including New York, New Hampshire, Alabama, Colorado, Rhode Island, Oregon, Hawai'i, Alaska, Maine, and Kansas, have either restored an unrestricted right for adult adoptees to obtain their own birth record or never restricted that right in the first place (see the attached map with details). That these are diverse states with diverse populations and greatly varied political affiliations speaks directly to how this is a bipartisan and widely supported issue with no general ideological focus. No problems have been reported in these states on any issue, whether related to the impact on adoption in those states or on any other "hot button" social or political issues often used against adoptees who simply seek a basic human right to identity.

It is a mistake to assume that Maryland's sealing of original birth certificates was intended to secure permanent secrecy. This is historically and irrefutably wrong. I understand, solely at an emotional level, the repeated response of "what about birthmother privacy?" I hear it every time I discuss this issue. But privacy is vastly different from secrecy and anonymity, two concepts that are impossible to assure in an era of widespread social media and the availability of inexpensive DNA testing. More significantly, no one is suggesting that Maryland or any other state open their pre-adoption birth records to the public. SB0743 releases the original birth record to the adult adoptee at age 18, if the adoptee feels compelled to request it at all (many adoptees actually do not request an OBC).

Vague and misplaced notions of “privacy” does not justify shifting control over an adoptee’s own birth record to a person who is not the record’s specific registrant. Only conservators, guardians, or parents of minor children typically have control over another person’s birth record, with the notable exception of adopted people, whose records in a number of states are controlled by the government and, for historically inaccurate reasons, subject to permanent parental oversight. We are not minor children, nor are we incapacitated or in need of a guardian to manage our affairs. I, for one, am a 54-year-old father with a wife and two sons, whose own birth record the District of Columbia sealed a year after my birth in 1966, once my adoption by a Silver Spring, Maryland, couple was finalized.

Do the right thing in Maryland. Reject an outdated and misplaced notion of secrecy in adoption. A birth record is the registrant’s own record, to do with however he or she believes is right. Vote DO PASS on SB0743 and restore a right that all Maryland adoptees once had: the right to request and obtain their own pre-adoption birth records, free from government restrictions and alterations, and free from the stigma and humiliation of enforced permanent secrecy.

Best regards,

ADOPTEE RIGHTS LAW CENTER PLLC



Gregory D. Luce



February 20, 2020

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Health and Human Services Committee
Arizona House of Representatives

Chairman Luke Clippinger
Judiciary Committee
Maryland House of Delegates

Chairman John Lesch
Judicial Finance and Civil Law Committee
Minnesota House of Representatives

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Co-Chair Cristin McCarthy Vahey
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Chairman William C. Smith, Jr.
Judicial Proceedings Committee
Maryland Senate

Chairman Warren Limmer
Judiciary and Public Safety Finance and
Policy Committee
Minnesota Senate

Speaker Robert A. DeLeo
Speaker of the House
Massachusetts House of Representatives

Dear Honorable Chairpersons and Massachusetts House Speaker DeLeo:

We are state and national adoptee rights organizations as well as individuals and allies who are either adoptees themselves or impacted by adoption in a direct way. A bill that will restore a right once provided to all adult adopted people in this country is now pending in your committee or chamber. **Indeed, within a span of 24 hours this week, committees in three different states will hear such bills: Arizona (HB2600), Connecticut (SB113), and Maryland (HB1039).**

It is no coincidence that these bills are making their way through state legislatures across the country, from Maryland, Massachusetts, and Connecticut in the East, Mississippi in the South, Minnesota in the Midwest, and Arizona in the West/Southwest. It is past time for this legislation. It is past time to restore a right **every person** in the United States once had: to request and obtain, as adults, a copy of their own original birth certificate, free from government restrictions and alterations, and free from the stigma and humiliation of enforced permanent secrecy.

These bills are truly bipartisan and have overwhelming support from colleagues and constituents. Primary sponsors of these bills are Republicans, Democrats, liberals,

conservatives, centrists, and libertarians. Yet they have one thing in common: they “get” what it means to have your identity treated like a state secret. They get what it means to be shamed as an adult when others maintain control over your own personal vital record. They get that these bills will positively impact hundreds of thousands of constituents, whether they are adoptees, adoptive parents, birthparents, descendants, or any of the 150 million people impacted by adoption.

Many of the organizations and individuals listed below are already active in your state and working on these bills, and many are separately providing written support or testimony in your upcoming committee hearings. Please listen to these individuals and organizations.

We ask for your strong support for these bills. We ask that you and your colleagues vote to move these bills favorably toward enactment and to do what we have consistently asked of every legislator across the country: #GetItRight and #MakeItEqual. Adopted people deserve no less.

Best regards,

ADOPTees UNITED INC.

AMERICAN ADOPTION CONGRESS

CAPITOL COALITION FOR ADOPTEE RIGHTS

MARYLAND ADOPTEE RIGHTS

ACCESS MARYLAND

HERITAGE ARIZONA

ACCESS MASSACHUSETTS

MINNESOTA COALITION FOR ADOPTION REFORM

BASTARD NATION: THE ADOPTEE RIGHTS ORGANIZATION

NATIONAL CENTER ON ADOPTION AND PERMANENCY

CONCERNED UNITED BIRTH PARENTS

ADOPTEE RIGHTS LAW CENTER PLLC

ADOPTees FOR JUSTICE

TEXAS ADOPTEE RIGHTS COALITION

NEW YORK ADOPTEE RIGHTS COALITION

PEOPLE FOR ETHICAL ADOPTION REFORM (PEAR)

ADOPTIVE AND FOSTER FAMILY COALITION OF NEW YORK (AFFCNY)

POST-ADOPTION CENTER FOR EDUCATION AND RESOURCES (PACER)

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CANADA OPEN

ADOPTEE RIGHTS AUSTRALIA INC

ADOPTIEZAKEN & FAMILIERECT (NETHERLANDS)

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