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**REPORT
OF THE
GOVERNOR'S COMMISSION
TO STUDY
THE ADOPTION LAWS**



**Gordon S. Livingston, M.D.
Chairman**

January, 1980

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REPORT OF
THE GOVERNOR'S COMMISSION
TO STUDY
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I. MEMBERSHIP

Appointed by the Governor

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Chairman

Child Psychiatrist,
Adoptee, adoptive parent

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Associate Professor,
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Judge, Seventh Judicial
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Former President, Barker
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Attorney

Appointed by the President of the Senate

Honorable Victor L. Crawford

20th District, Montgomery
County, Senate Budget and
Taxation Committee, adoptive
parent

Honorable Clarence M. Mitchell, III

38th District, Baltimore
City, Senate Judicial Pro-
ceedings Committee

Honorable Jerome F. Connell, Sr.

31st District, Anne Arundel
County, Vice-Chairman,
Senate Judicial Proceedings
Committee

Appointed by the Speaker of the House

Honorable Jerry Hyatt

15th District, Montgomery
County, House Judiciary
Committee

Honorable Anne S. Perkins

39th District, Baltimore
City, House Judiciary
Committee

Honorable Anne E. Baker

14th District, Howard
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County, House Constitu-
tional and Administrative
Law Committee, Adoptee

Commission Counsel

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State Department of
Legislative Reference

II. PROCEDURES

This Commission was created by Senate Joint Resolution 42 in response to the controversy in previous sessions which had surrounded the introduction of legislation to open sealed adoption records to adult adoptees.

The approach the Commission took to its work was as follows:

1. Although it is clear that there are other issues of adoption reform that require further study, a unanimous decision was made to limit the Commission's purview to the "sealed records" question.
2. Articles comprising the background literature of research and opinion on this subject were reproduced and circulated to the Commission members.
3. An effort was made to publicize the objectives of the Commission and to contact all parties who had expressed an interest in or had previously testified on these matters. A public hearing was held and testimony was received from twenty-seven citizens representing themselves as well as various organizations and agencies. (see Appendix)
4. Questionnaires were sent to all public and private adoption agencies in Maryland soliciting their experience and opinions on the subject. (see Appendix)
5. Similar inquiries were sent to the Departments of Public Welfare of all fifty states.

6. A survey of the Maryland Circuit Courts was undertaken to determine their experience with this issue.
7. The Commission deliberated at length in reaching its recommendations.

III. BACKGROUND

The institution of adoption has been the traditional means of providing permanent homes for children whose biological parents were unable or unwilling to care for them. Legal regulation of adoption in this country dates to the mid-nineteenth century; there was no precedent in English Common Law.¹ It is only since the 1940's, however, that the records of adoption proceedings have been "sealed" by the law and inaccessible except by court order.² In 1945, a nine member Commission To Study Revision of Adoption Laws of the State of Maryland was appointed by the Governor pursuant to a resolution passed by the House of Delegates. Over nine months the Commission wrote a comprehensive licensing and adoption statute which became Senate Bill 7, was passed by the Legislature, and became law on June 1, 1947. Section 85S specified that:

"Records and papers in adoption proceedings, from and after the filing of the petition shall be sealed and opened to inspection only upon an order of the Court; provided, that in any proceeding in which there has been an entry of a final decree before June 1st, 1947, and in which the records have not already been sealed, the records and papers shall be sealed on motion of one of the parties to the proceeding." 3

While no supportive testimony or research accompanied the 1947 report, the decision to seal the records was apparently taken by the Legislature for several reasons:

1. To remove from the child the stigma of "illegitimacy" by issuing a new birth certificate which made it appear that the child had, in fact, been born to the adoptive parents.
2. To protect the adoptive family from unwarranted interference from a birthparent.
3. To provide all parties with a new beginning. In particular it was felt to be in the best interest of the (usually unwed) birthmothers to conceal all record of this event.⁴
4. To create within the adoptive home a situation as similar as possible to that which would have obtained had the adopted child been born into that family. This was in accord with social work thinking at the time which, among other things, attempted to "match" children as closely as possible to the adoptive parents.⁵

5. To prevent unauthorized public access to the records.⁶

There have been drastic changes in societal attitudes, social work theory, and adoption practice in the 32 years since the records were sealed in this state.

The most significant change is in the dramatic decrease in the number of infants available for adoption.⁷ This situation is the result of the increased availability of contraception and abortion, as well as the diminished societal stigma attaching to mothers of children born out of wedlock; many of these mothers now elect to keep and raise their children. Agencies, therefore, are faced with long waiting lists of potential adoptive parents. The children now available are generally older, handicapped or otherwise "hard to place". In the case of an older child sealed records obviously provide no confidentiality since the child is aware of who his parents have been.

Another change affecting both public and professional opinion has been a growing awareness of the importance of people's connections to the past-- their "roots". This issue has been articulated most persistently by adult adoptees who have, in increasing numbers, been asserting a desire to know information about themselves, heretofore kept secret by the sealed records adoption practice. Often, this felt need has been translated into searches for birth-parents on the part of adoptees, who have been successful in

a surprisingly large proportion of these quests in spite of minimal help from agencies and most courts.⁸ Some of these reunions have generated considerable publicity, stimulating interest among other adoptees who have formed organizations to assist in searches and lobby for removal of legal restrictions to access to birth records. Efforts to assert a constitutional right to this information have met with little success in the courts so that state legislatures have become the arenas in which the matter is raised with increasing urgency⁹.

Reservations concerning the opening of adoption records seem to come primarily from two sources, adoptive parents and social agencies, with a great diversity of opinion within these groups. The major arguments raised in support of the sealed records practice are that:

1. There exists the potential for an unwanted and potentially destructive intrusion into the life of the birthmother who was promised perpetual anonymity at the time she relinquished her child.
2. There is a fear of a damaging effect on the institution of adoption brought about by a reluctance of birthmothers to give up their children who might seek them out and embarrass them years later.

3. There is a strong feeling on the part of many agencies that the integrity and confidentiality of their records is at stake as is the commitment to birthmothers to keep their identities forever secret.
4. Some adoptive parents have felt that they would be only "long-term foster parents" whose children, on reaching adulthood, would transfer allegiance to their birthparents.
5. There exists the possibility that the putative father may have been misidentified on the official record.

IV. NEEDS, RIGHTS AND FEARS

The Commission considered these arguments and tried to examine the situation from the point of view of each of the parties to adoption in the light of current experience and research.

A. The Adult Adoptee

There was no sentiment on the Commission for the release to minor adopted children of identifying information regarding biological parents. The protection of the adoptive family from potential intrusion from birthparents was felt to be sound practice and consistent with the effort

to provide a stable family environment for each adopted child during his or her formative years.

The situation changes drastically with the adopted person's attainment of adulthood. It is at this point that adoptees are asserting their "right to know". Whether the desire of some adult adoptees to have more information concerning their biological backgrounds constitutes a "right" in the legal sense has been the subject of considerable disagreement.¹⁰ The argument in favor of such a position hinges on a belief that it is unjust and discriminatory to deny adoptees access to basic information about themselves: their nationalities, their family medical histories, the physical, intellectual, and emotional characteristics of their forebears, the circumstances of their birth, in short, all those facts about oneself that constitute one's biological heritage, and which represent significant components of one's self-concept or "identity". The bulk of the current psychiatric literature affirms the legitimacy of the need to know this information.¹¹ Some courts have also supported this view. In opening the records of an adult adoptee, Judge Wade S. Weatherford, Jr., of the Seventh Judicial Circuit of South Carolina said:

"A law that imposes secrecy forfeits the truth and in a free society must always have an unfavored status...."

Children who are adopted belong to a special class. They are entitled to equal treatment under the law, including the pursuit of truth as to heritage, history or whatever.... The Court has carefully considered this case. It finds that the emotional distress, anxiety and the earnest desire for the truth constitute good cause under the Statute. Petitioner is now of legal age and fully vested with the Constitutional rights of a citizen of the United States....

To deprive him of the truth will be to sentence his life to a period of darkness, and it is doubtful that the law has the prerogative to do this under the circumstances of this case.

The law must be consonant with life. It cannot and should not ignore broad historical currents of history. Mankind is possessed of no greater urge than to try to understand the age-old questions: "Who am I?" "Why am I?" Even now the sands and ashes of continents are being sifted to find where we made our first step as man. Religions of mankind often include ancestor worship in one way or another. For many the future is blind without a sight of the past. Those emotions and anxieties that generate our thirst to know the past are not superficial and whimsical. They are real and they are "good cause" under the law of man and God."¹²

In theory it would seem that the knowledge sought might be available from agency files and could be provided in a non-identifying way. In fact this may or may not be true. Agencies vary widely in the completeness of their information collection systems as well as their willingness to

disclose what they do have. These files are 20, 30, 40 or more years old and, in the absence of continued contact with the biological parent, even basic medical data are outdated. In addition, some biological mothers have reported giving false or distorted information to the agency, for example, exaggerating the background of the biological father in the belief that this would result in a better placement for their child. All of these factors render agency records an unreliable source of the information sought. The basic position advanced by adult adoptees, then, is that they are being unfairly discriminated against by being the only group in society which is by law denied access to their geneology. While experience in those countries in which adoption records are open to inspection suggests that only a small minority of adopted adults chooses to search, those who do so express a very powerful need to know more about themselves¹³.

Rather than become embroiled in a legal argument over whether this need constitutes a "right", the Commission prefers simply to acknowledge the existence and legitimacy of a deeply felt desire on the part of some adoptees to have knowledge of their biological heritage.

Even though the age of legal adulthood in this state is 18 years, it is the feeling of the Commission that 21 should be established as the age of sufficient maturity to undertake

the decisions implied in the proposed legislation. This distinction has precedent in other areas of Maryland law and is congruent with age of majority at the time most of the adoptions in question occurred¹⁴.

B. The Birthparent

Although many have presumed to speak for them, birthparents have traditionally been a silent group - for obvious reasons. In recent years some birthmothers have begun publicly to take a position supporting the efforts to open records to adult adoptees.¹⁵ There is now a national birthparents organization which has taken such a stand. Four birthmothers testified before the Commission; others wrote or called, some anonymously. Most told strikingly similar stories of illegitimate births, family and agency pressure to surrender the child for adoption and the accompanying advice to "forget about this mistake and get on with your life". None were so easily able to forget the child they had borne and all continued to live with varying degrees of guilt and curiosity about what had been their baby's fate. All birthmothers who presented their views said that they would welcome a reunion. This conforms to a study of completed reunions which showed that 82% of birthmothers who were found welcomed the searching adoptee while only 10% reacted adversely.¹⁶ Other birthparent surveys (e.g. by the

Child Welfare League) disclose that only 5-15% of birthmothers would object to being found. It is significant that in the Commission's survey only three of the 24 Maryland agencies responding reported any birthparent requests in the last 5 years for continued anonymity. This compares with the experience of ten agencies which reported about 100 requests from birthparents for further information about their surrendered children.

Even if we grant, however, that only a minority of birthparents wish continued concealment of their identities, cannot those who do legitimately invoke a "right to privacy" in their efforts to keep adoption records sealed? Clearly they can, and this is the issue which was most difficult for the Commission to resolve. The majority view endorses the position taken by the Model Adoption Legislation and Procedures Advisory Panel of the U.S. Department of Health, Education, and Welfare:

"Finally, where the rights of parties to the adoptive process are in conflict, the best interests of the minor adoptee, or the rights of the adult adoptee, should prevail. These principles are most consistent with the legislative purpose of using adoption as means of serving children in need of families."¹⁷

C. Adoptive Parents

It is the sense of the Commission that the protection provided by sealed records is necessary for adoptive

families while children are minors, and that during this time it is a parental prerogative to decide what information about the adoption is given to the child. After the child reaches adulthood parents should no longer expect to exert control over the adoptee's desire to search out his or her biological background, any more than parents have a right to govern other life decisions of their grown children. One can understand and sympathize with adoptive parents who are made anxious by their (adult) children's questioning or searches; the law, however, should not be used as a means of relief for these apprehensions. The experience of completed reunions has demonstrated that adoptees are seeking information about themselves, not a new set of parents. In fact, it has been shown that adoptive parent support of these efforts has resulted in a strengthened relationship with their children.¹⁸

D. Social Agencies

As parties at interest in the adoption process, and as the repositories of much of the information sought by adult adoptees, agencies wish to have a voice in resolving the sealed records controversy. It is a divided voice. Many agencies surveyed felt that opinion on this issue was changing and reported that they now advise birthmothers

that they can no longer promise perpetual anonymity. One agency in Maryland, Baltimore City Department of Social Services, has already established a program to provide information to inquiring adoptees and effect desired reunions when the birthmother agrees (17 of the 18 mothers contacted over the last 15 months did agree). Results of these reunions are described as "uniformly positive".¹⁹

Agency reservations concerning the opening of records center on the "covenants of confidentiality" made with the birthmother at the time of relinquishment. These "promises" or "contracts" are felt to be binding, even though:

1. A central party to the contract, the adopted child, had no ability to consent; and
2. The birthmother herself had no choice about future contact with her relinquished child.

Secrecy was not offered her, it was required by the agency as a condition of the adoption. In addition, agencies almost uniformly terminate all contact with the birthmother at the time of relinquishment which casts doubt upon their assessment of her later desires in this matter.

Another justification for agency reluctance to open

records lies in the fact that some material exists in these records that is irrelevant, interpretive, or might cause embarrassment or invasion of privacy, particularly for the adoptive parents. The Commission accepts this reservation and suggests that disclosure of information concerning the adoptive parents not be required, and that the agency retain discretion (subject to court review) in releasing anything that would be a violation of privacy.

V. THE USE OF AN INTERMEDIARY

The usual compromise effort to protect and balance the potentially conflicting rights and needs of adoptees and birthparents involves the establishment of an intermediary to obtain desired information from the birthparent or to solicit the birthparent's consent to a reunion. Social agencies are the entities most commonly suggested to play this role. Indeed, in Baltimore there have been a number of agency-mediated reunions pursuant to court decisions on petitions of adult adoptees.²⁰

Reunion studies have indicated relatively little danger to any party in "unsupervised" contacts between adoptees and birthparents²¹. The Commission has concluded,

however, that for those adoptions which have occurred during the time the records have been sealed, some mechanism is appropriate to screen adoptee requests for identifying information. Accordingly, we are proposing that, in the case of past adoptions, a petition to the court be required to open the records with the presumption that disclosure would follow unless an investigation by the court revealed clear and convincing evidence that significant harm to the birthparent would result. It would not be expected that this mechanism would allow a simple "birthparent veto" to identity disclosure.

VI. RETROACTIVITY

The above proposal involves a clear differentiation between future adoptions and those which have occurred over the last 32 years - the period during which records have been sealed. While it has reservations about thus creating two classes of adoptees, the Commission recognizes that such a distinction may have a rational basis. It is reasonable to suppose that the assumptions and expectations of parties to adoption during the time records were sealed would be different than those which would obtain if perpetual secrecy was not expected. It is the Commission's feeling that future adoptions should proceed on the

assumption that on reaching the age of 21 the adoptee is entitled to all information contained in the records of the adoption - including the identities of his or her birth relatives. There is, however, as noted in an attachment to this report, a division of opinion within the Commission on this matter with a minority of the membership believing that opening of records in future adoptions should be handled through the courts using the same mechanism as that suggested above for past adoptions.

VII. EXPERIENCE IN OTHER STATES ²²

Alabama and Kansas allow adult adoptees to obtain on request their original birth certificates. Minnesota, Connecticut and North Dakota have provided controlled access to this information with birthparent consent. In the remaining states "good cause shown" as established before a court remains the grounds for opening adoption records. As has been the case in Maryland, this situation has led to variable judicial interpretation and contradictory rulings.

There have been a number of state legislative initiatives undertaken to establish clear standards and procedures for information disclosure; there have also been some efforts made to restrict access to records.

The following chart, compiled by Joseph D. Harrington, summarizes the status of significant state bills introduced over the last 3 years:

SIGNIFICANT STATE BILLS
CONCERNING ADOPTION RECORDS
1976 --- 79

STATE	APPROACH	STATUS
California	access on demand	defeated 1979
Connecticut	access with consent	enacted 1977
District of Columbia	access with consent	defeated 1979
Indiana	access on demand	shelved
Louisiana	access only for compelling reasons	enacted 1978
Maine	registry system	passed 1979
Massachusetts	multiple	pending
Michigan	access with consent	pending
Minnesota	access with consent	enacted 1977
Missouri	access on demand	defeated 1979
Nebraska	access on demand	pending
New Mexico	access with consent	defeated 1979
New York	access with consent	defeated 1979
North Dakota	access with consent	enacted 1979
Oklahoma	access with consent	defeated 1979
Oregon	access with consent (2 similar bills)	shelved; pending
Pennsylvania	limiting of access	defeated 1978
South Carolina	access with consent	defeated 1979
Tennessee	access with consent	pending
Virginia	limiting of access	enacted 1976-77
Washington	access with consent	defeated 1979

A 1977 task force study in California recommended release of identifying information concerning birthparents subject to their consent.

The survey questionnaire sent by the Commission received

responses from 33 states. The information obtained from these discloses that:

1. There is an increasing, though modest, number of requests for both identifying and non-identifying information coming from adult adoptees, adoptive parents, and birthparents; most of the interest comes from adoptees.
2. Very few birthparents contact agencies with requests for continued anonymity.
3. The large majority of relinquishing mothers come to agencies after the 1st trimester of pregnancy when abortion is no longer an option.
4. Of the few completed reunions that agencies were aware of, almost all had positive outcomes. There were no reported disasters.
5. Most responses indicated that attitudes of all parties seemed to be changing in the direction of "greater openness".

VIII. OPENING SEALED BIRTH RECORDS IN ENGLAND AND WALES

In November 1976, it became possible for adopted adults, 18 or older, in England and Wales to apply to the Registrar

General for access to the original record of his birth. A counseling session is made available to all adoptees seeking their original birth records, whether prospectively or retrospectively, but counselling was made mandatory for those adopted prior to passage of the Childrens Act 1975.

For the adult adoptee, the process is as follows:

The adoptee must file an application form giving details necessary for tracing the original birth record, and also specifying where he or she prefers to meet with the counsellor. The Registrar General will then send the counsellor most of the information from the adoption order. Upon request, the counsellor can tell the adoptee his/her original name, the name of the birth mother, and, if available, the name of the birth father. The adoptee can then use the information from the counsellor to apply for an original birth record which provides, in addition, the date and place of birth and the birth mother's address at the time of relinquishment.

Parliament was attempting to reduce differences between English and Scottish family law; the original birth records have never been sealed from adult adoptees 17 or older in Scotland. The Scots apparently felt quite strongly

that they should not be forced to seal these records. The Scottish history of open records also made possible a limited but excellent study of adoptee searches by John Triseliotis of Edinburgh University. This study essentially found that adoptees preferred the truth, even an ugly truth, to the fantasies which some of them have had. It should be noted that just about every objection to opening records here in Maryland was also raised and considered in the deliberations of Parliament.

Fears that the change in the law would lead to wholesale tracing and public exposure of birthparents proved to be unfounded. In fact, less than 2% of the potential applicants in England and Wales have actually applied for their birth records. Speaking of those who have done so, Alfred Leeding said in his report to the Association of British Adoption and Fostering Agencies: "They were generally mature in their outlook, appreciative of the difficulties of both natural and adoptive parents, and grateful for the proffered help in their inquiry..."²³

VIII. CONCLUSIONS AND RECOMMENDATIONS

The Commission believes that the thirty-two year experiment in sealing adoption records in this State has outlived its usefulness. We reject the idea that the integrity

of the adoption process is dependent on promises of perpetual secrecy which have the effect of concealing the biological background of adopted people, including medical, genetic, and social histories which may be essential to their physical and emotional development. We conclude that adult adoptees are as entitled to this information about themselves as are people who are not adopted. It is clear that some adoptees are choosing to search for their birthparents as the only current and reliable sources of the information they seek. A large proportion of these searches, even now, are successful so that the State currently is in the position of impeding but not preventing this minority of its citizens from obtaining their biological histories. The risk to any party of such undertakings is considered to be minimal, but in the case of adoptions which have occurred during the time when records were sealed the Commission recommends that a court petition by the adoptee be used to obtain information which would identify a birthparent. Unless clear and convincing evidence of potential harm to the birthparent is adduced, it is recommended that the records be opened. In the case of future adoptions the majority of the Commission suggests that records be available as a matter of course to adoptees upon reaching the age of 21, and that all parties be so informed at the time of relinquishment and adoption.

A further recommendation is that courts and agencies be required to preserve all adoption records for 75 years.

One of the most powerful rationales for change is the fact that under the current statute there is great variability in interpretation on the part of the judiciary. There now exists a situation in which some judges open adoption records almost routinely while others will not even consider a petition. This clearly inequitable situation cries out for legislative direction.

The Commission wishes to note that in its hearings and deliberations it became evident that this is an issue about which many people have strong feelings. We have found this to be a delicate and complex question involving life's most fundamental relationships - parents with children, and people with their pasts. We have heard moving stories of love and loss. We have found no villains to castigate and no willful attempts to deny basic rights to anyone. What we have found are many good people - adoptive parents, adoptees, social workers, birthparents - responding to a complicated situation as best they can in the light of their own needs, perceptions, and sense of what is right and fair. Our own conclusions are summarized above and are embodied in the suggested legislation which accompanies this report and which the Commission earnestly commends to the consideration of the Governor and the Legislature.

FOOTNOTES

1. Clark, H., The Law of Domestic Relations; 603 (1968).
2. Small, J., "Discrimination Against the Adoptee" in Public Welfare, vol. 37, no. 3, Summer 1979, p. 38.
3. Report of the Commission to Study Revision of Adoption Laws of The State of Maryland, 1947.
4. Lupack, P. G., "Sealed Records in Adoptions: The Need for Legislative Reform", 21 Catholic Lawyer, Summer 1975, p. 212.
5. Burgess, L. C., The Art of Adoption, Acropolis Books, p. 14 (1976).
6. Ibid., p. 138.
7. Watson, K. W., "Who is the Primary Client?" in Public Welfare, vol. 37, no. 3, Summer 1979, p. 13.
8. See, for example: Fisher, F., The Search for Anna Fisher, Arthur Fields (1973)
Lifton, B. J., Twice Born: Memoirs of an Adopted Daughter, McGraw-Hill (1975).
9. See, for example: The Alma Society, et. al, v. Irving Mellon, Director of Vital Research of the City of New York, et. al., 459 F. Supp. 912 (1978); Matter of Linda, New York Law Journal, Oct. 30, 1978, 409 NY Supp. 2d 638.
10. See notes 9 above and 12 below. Also, Mills v. Atlantic City Dept. of Vital Statistics, N.J. 372 A 2d 646; also Levin, M., "The Adoption Trilemma", University of Baltimore Law Review, vol. 8, no. 3 (1979) p.496.
11. See: Kirk, H.D., Shared Fate, Free Press (1966)
Sorosky, A. D., Baran, A., Pannor, R., The Adoption Triangle, Anchor Press/Doubleday (1978).
Schechter, M. and Holter F. R., "Adopted Children in Their Adoptive Families", Pediatric Clinics of North America, vol. 22, no. 3, August 1975.
12. Bradey v. The Children's Bureau of South Carolina, 7th Judicial Circuit, South Carolina, Decided April 9, 1979.

13. Triseliotis, J., In Search of Origins: The Experiences of Adopted People, London: Routledge and Kegan Paul (1973)
Leeding, A., "Access to Birth Records", a report to the Association of British Adoption and Fostering Agencies, 1977.
14. e.g. in cases requiring Juvenile Court supervision; and in the consumption of certain alcoholic beverages
15. Campbell, L., Understanding the Birthparent, Boston CUB Development Fund (1977)
16. Sorosky, op. cit., p. 195
17. Draft Report of Model Adoption and Procedures Advisory Panel, U. S. Department of Health Education and Welfare, p.2
18. Sorosky, op. cit., p. 196.
19. Questionnaire response to this Commission, Baltimore City Department of Social Services.
20. Testimony of Judge Robert B. Watts.
21. See notes 13 and 16 above.
22. For a more comprehensive review of this subject see Harrington, J.D., "Legislative Reform Moves Slowly", in Public Welfare, vol. 37, no. 3 Summer 1979.
23. Leeding, op. cit.

STATE OF MARYLAND
COMMISSION TO STUDY THE ADOPTION LAWS

A Minority Report

The composition of the membership of this Commission to Study the Adoption Laws as appointed by Governor Harry Hughes, made the likelihood of differences of opinion as to the Commission's final conclusions and recommendations fully predictable. The Chairman of the Commission and several of its members have been active in the effort of some adoptees to open adoption records. Also, several members of the Commission have opposed the opening of adoption records. The fact that the Commission was unable to achieve unanimous agreement should not be unexpected. The Commission's report represents a compromise--some members would go farther and others would not change the existing law.

Despite differences of opinion, the mutual opportunity to meet and exchange ideas over a prolonged period of time with persons of different persuasions has proved beneficial. The respective parties have achieved a better understanding of the position of the "other side" and have, through association, acquired respect for the persons holding contrary views. The concluding paragraph in the Majority Report is a significant statement.

There are several difficulties in dealing with the primary question addressed by the Commission. We have a situation where for some thirty-two years adoptive records in the State of Maryland have been sealed. The proponents for open records state that there is no evidence to indicate that harm would come to birth parents should the seals be broken. The Commission's report indicates that the results of meetings between adoptees and birth parents are almost always favorable. However, there appear to be few statistically significant, systematic studies on the matter.

Proponents of opening records note that the proposed legislation would produce obviously beneficial results, such as providing genetic and medical background data for the adoptees which unquestionably is relevant and material to adopting parents, as well as to adoptees and their children. The fact is, in most cases, the necessary data can be obtained without revealing identifying information concerning the birth parents. Indeed, if Maryland would tighten its adoption laws and eliminate adoptive placements through unlicensed individuals, such data would be available in virtually all cases.

Through the process of debate, discussion and compromise, the Commission is recommending proposed legislation which deals with adoptions made prior to January 1, 1981, and those after that date. With respect to adoptions prior to January 1, the Commission unanimously recommends that the adoptee, upon reaching age twenty-one, petition the court for the names and addresses of his or her birth parents. Thereupon, the court has the obligation to serve notice on the birth parents of the request and is required to give the birth parents an opportunity to come forward and to present evidence as to why disclosure of their identities would cause them serious physical or psychological injury. If the birth parents fail to come forward or are unable to sustain that burden, the court will decree that the record be opened. It should be emphasized that the protection afforded the birth parents for the past thirty-two years would no longer exist and, instead, the burden is placed upon them to show that they would be seriously injured should the seals be broken. The Commission has not considered exactly how this burden shall be met.

As for future adoptive placements (those after January 1, 1981), the Majority of the Commission feels that records should be opened upon mere application of the adoptee upon reaching age twenty-one. The Minority feels that, should the birth parents be able to persuade a court that they would suffer serious physical or psychological injury by the opening of the records, they should be protected from disclosure. Simple human decency dictates as much. It should be kept in mind that twenty-one years will go by after the placement of an infant, and in that time, many things can happen which are totally unpredictable at the time of placement--marriages will occur, other children will be born, health status will change. Birth parents must be afforded a very minimal safeguard and an opportunity to protect themselves against "serious physical or psychological harm" in the event the adoptee seeks to have the seal removed.

The Minority, therefore, recommends that the proposed legislation be amended so as to provide the same procedure for breaking the seal on adoptive records in post - January 1, 1981 placements as is provided in pre-January 1, 1981 adoptions.

The Minority feels that should the proposed legislation be enacted into law in any form, broad publicity must be given to notify birth parents of the change in law so that they may do what is needed to protect their interests.

Respectfully submitted,

Michael P. Bentzen

Jerome F. Connell, Sr.

Victor L. Crawford

Jerry H. Hyatt

Anne S. Perkins

Persons Testifying Before The Governor's Commission
To Study The Adoption Laws
September 20, 1979

Judge Marshall Levin	Supreme Bench, Baltimore City
Judge Robert Watts	Supreme Bench, Baltimore City
Irene Wasserkrug	Adoptive parent, Adoption Connection Exchange (ACE)
The Honorable David Scull	18th District Montgomery County
Charles Cahn	Health & Welfare Council of Central Maryland
Mrs. Gladieux	Associated Catholic Charities
Kathleen Redmond	Birthparent
Karen Curreri	Adoptee
Marie Coshnear	Maryland Children's Aid & Family Service Society
Sherry Simas	Adoptive Parent Families Adopting Children Everywhere (FACE)
Mary Rauh	Family & Childrens Society
Paul Gezon	Executive Director, Family & Children Society
Virginia Rader	Birthmother, Concerned United Birthparents (CUB)
Joseph Harrington	Adoptee, Adoptees in Search (AIS), Adoptees Liberty Movement Association (ALMA)
Fern Blake	Adoption Program Specialist, Maryland Department of Human Resources
Cheryl Smith	Adoptive Parent, Chairman, Foster Parent Review Board, Anne Arundel County
Nancy Schmitt	Adoptee

Camille Wheeler	Director, Baltimore County D.S.S.
Robert Scheffman	Adoptee
Deborah Sweet	Wife of Adoptee
Martha Talbott	Adoption Connection Exchange (ACE)
Mary Blumenthal	Adoptive Parent
Sherry McGuire	Birthmother
Joseph Saba	Adoptee, Adoptees in Search (AIS)
Jane Reiffler	Adoptee, Adoption Connection Exchange (ACE)
Carol Satela	Birthmother
Anne Pickett	Birthmother

**SAMPLE
TESTIMONY**

Testimony of Carol Satela
9/20/79

The station wagon pulled away, down the driveway of the Florence Crittenden Home for Unwed Mothers, and with it went part of my life, 15 yet I felt 50! Fifteen years-old, yet making the supreme sacrifice of my entire life....that sacrifice, my son! Have I forgotten him? I've loved him though my heart almost stopped beating and my eyes ran dry, through time and in spite of it. For the love of a mother for her child has its roots in eternity and cannot fall victim to time or death, though I know not if my child still lives. My love for him has no shame, no pride. It is only what it is, always has been, and always will be, unselfish mother love.

It is in unselfish love that I come before you today. It is unselfishly that I ask you to give my birthson the dignity of choice. Let him alone decide to know his heritage or reject it, not the State of Maryland.

In a day and age when a woman can choose life or death for her unborn child without interference from the state, it sickens me that I am not entitled to know if my child is dead or alive. If our society can create a space for abortion to be, yet deny the child that I chose life for, then our society and its laws are warped. Yet I feel society has changed with the times; being the child of an unwed parent no longer carries the stigma of years gone by. Now is the time for the laws in this state to change with the times. Now is the time to open birth records to all. Now is the time to make adoption the act of love it is meant to be, no longer need it be an experience which causes pain, only love.

My name is Carol, I am a birthparent, I desire not protection, but the opportunity to one day extend the hand of friendship to my birthson, as one adult to another. I have no wish to rival or threaten the relationship of my birthson and his adoptive parents, for they are

his real and true parents in the most meaningful sense. However, it saddens me to think that, in relinquishing my rights to parent my child, I relinquished his basic human right to know the truth behind his very existence. The pain I feel for my birthson being denied his human right to make this decision for himself is a pain that defies description, for the signing of a paper may have nullified my legal rights to my son, but that signing cannot nullify my feelings, nor should it nullify the human rights of my child. Again I say to you that it is no longer the state of Maryland's place to make this choice for anyone.

To this panel and to all the fine people who have taken children into their hearts and homes I would like to share the following:

There is a child, born of me to grow with you,
Nurtured in my womb as he is nurtured in your home.
Yours, yet not a gift from me, I did not seek to lose him.
Yours, yet not a gift from God;
Agency, document, privilege, punishment, these are the inventions
of man.
But, if you love this child, then know that he will bless
you as a child will bless his parents. This alone in
heaven's way is your abiding treasure.
And if he ever loves me too, someday...maybe never, I would ask
you to let him be, love him always, set him free.
For here there is a child.

Thank you

FAMILIES ADOPTING CHILDREN EVERYWHERE
P.O. Box 102
Bel Air, Maryland 21014

Southern Chapter
6902 Nashville Road
Lanham, Maryland 20801

My name is Sherry Simas. I am an adoptive parent, a co-founder of the Southern Chapter of Families Adopting Children Everywhere, co-chairperson of the Prince George's County Citizen's Advisory Committee on Adoption, and a member of the Joint Council on International Children's Services of North America.

Today I am speaking on behalf of Families Adopting Children Everywhere, an adoptive parents organization with a membership of nearly three hundred. One of our most dedicated members, Pat Shirley, had hoped to be here today to testify on the need to expand the scope of this commission to study the many aspects of adoption in addition to that of sealed versus open records. Unfortunately, Mrs. Shirley is in the hospital recovering from surgery she underwent yesterday after a month of illness. As soon as she is able, she will communicate directly with the members of this commission. However, she has asked that I mention the following points:

First, anyone concerned with adoption in the state of Maryland should be aware that the Children's Adoption Resource Exchange, the only adoption exchange actively serving Maryland, has recently ceased operation for lack of funds. Now there is no way to identify readily those children in Maryland who are legally free but still in need of permanent homes.

Second, members of Families Adopting Children Everywhere receive several calls each day, week in and week out, from people of all races, including black families, who want to adopt a child from abroad...while eleven thousand children are waiting in Maryland. Across the nation, some five hundred thousand children are waiting in out-of-home care. They will continue to wait until Departments of Social Services across the state are willing to study families for children not directly in their care. Right now the only hope for these children is the occasional family able to spend five or six hundred dollars to have

a private homestudy done. In the Baltimore area, Catholic Charities is the only United Fund agency currently studying families for these children. In the less populous counties, there is some willingness to do such studies, but areas such as Baltimore City, Baltimore County, Montgomery and Prince George's Counties are inclined to do studies only for children in their care.

Another major concern of ours is with the lack of pre- and post-adoptive services. Adoptive parent groups are springing up all over the country to fill this void; through the efforts of groups such as ours agencies are slowly improving communication and services to adoptive families and the children who wait.

We, therefore, formally request that the mandate for this commission be extended, perhaps with additional or replacement members, to take up a complete study of adoption in the state of Maryland.

To return to the issue of sealed versus open records...as adoptive parents of children from both the United States and abroad, we are concerned with learning as much as we can about the origins of our children and with collecting as many facts as we can about the birth families of our children so we can share this with them when they reach adulthood.

The sealed records controversy seems ironic to a parent who spends thousands of dollars and travels half-way around the world to locate her child's birth mother. Such a parent is thinking not only of the four-year-old she is raising but also of the adult that child will become. Whether the child will ever use that information to go to meet her birth family is not important; having the information available is what counts.

In United States adoptions there is an unfortunate dichotomy. For the child born in this state who is adopted as an infant, there is little hope of his ever finding identifying information on his birth family; for the child who spends many years

in foster care before being adopted, all such information is more readily available. This inequity exists primarily as a result of the age of the child at the termination of parental rights; the younger child who has no memory of his birth family needs adult advocates to seek out and save information to share with him when he is older. Also, while the adoptee is still a child, there must be a recognized system for facilitating communication between the child's birth parents and adoptive parents, especially in cases of medical emergency.

To resolve this inequity we need a new approach to dealing with adoption records. First, we must break the stereotype of adoptive parents as fearful and jealous persons. Second, we must all remember that adopted children become adults and that adults have the right to know their origins. Third, agency philosophy should be expanded to accommodate the changes in attitude among many adoptive families.

With a few basic safeguards, records could be unsealed in this state. What is needed is the education of adoptive parents and agency personnel to appreciate the value of such a system to the adoptee when he reaches adulthood. As adoptive parents, we learn to allow our children to grow up; we can also learn to allow our children to know their origins.

9/19/79

To whom it may concern:

My name is Karen Curreri, and I am a twenty-six year old adult adoptee. Today, I am a stable married mother of a one year old daughter.

However, this lifestyle did not come without much anxiety and severe identity crisis. caused by the stress of being denied my biological origins, and the secrecy of the whole mystery that surrounded them. I was expected to lead a dual existence. I was to pretend my adoptive parents, brother, grandparents ect., were my blood relatives. Knowing I was much different both mentally and physically then they, this was not within my realm of possibility. I knew these people loved me very much and I loved them in return, but I nevertheless knew there was a world of difference between us.

I spent much of my life building a fantasy surrounding my "roots". Many tears were shed due to lack of understanding from others concerning my emotions. I spent five long years searching and struggling for my roots only to find doors being closed in front of me.

Finally, the week before Christmas 1977, I found my biological family. My biological parents are happily married to each other and living in Connecticut only forty minutes from ^Were I had lived for two years. I have three full blooded sisters and two full blooded brothers. The day after Christmas I ventured to Connecticut, and we had

our first family reunion.

The reunion did not completely meet my fantasy, as one never can completely fulfill a fantasy. However, it certainly served as a maturing experience for my adoptive and biological parents, as well as myself. This experience was totally necessary for all of us to come to terms with our past, face our future, and to be the mature adults we are today.

At my wedding both my biological and adoptive families sat together: tying the knot to a past that had been sealed along with the dark sealed record held by the courts.

Now the record has been unsealed and two families may live as real people, their secret having been brought to life.

Most Sincerely,



Karen A. Curreri

Testimony of Camille B. Wheeler

**Director
Baltimore County Department of Social Services**

Commission on Maryland's Adoption Laws

September 20, 1979

Thank you for the opportunity to speak before this Commission on Maryland's Adoption Laws. The question before this Commission is whether an adoptee can have access to his records to find out the identify of his natural parents. The position of our agency is that adoptees should have that right, if they desire it.

Adoption is a procedure which establishes the legal relationship of child and parent between persons who are not biologically related. The new parents are responsible for the physical and intellectual growth of the child. As the parents provide the daily care for the child, the child becomes as completely theirs as if he had been born to them naturally. If the adoptive parents have an understanding and acceptance of the adoption process and their child's needs, and the parent-child relationship is a healthy one, the adoptees need to inquire about his past will not be threatening.

In the last five years, our agency has placed an average of 17 children a year. During that same time, we have had a total of 33 inquiries from adoptees for more information about their background. Our policy is to tell the adoptee all but the most confidential information, which in most cases, means the name of the natural parents. To our knowledge, only one person has gone to court in that time period for more information.

At the present time, we feel our adoption procedures go about as far as we can within the law to allow the adoptee to find out about his background, and at the same time to protect the rights and interests of the adoptive and natural parents. When prospective adoptive parents come to us, we, of course, assess their ability to be good parents. One way we do this is by group meetings with others who hope to adopt. At this meeting we go over what is required of them and we raise the possibility that some day their adopted children may have the desire and right to meet with their natural parents. After a child has been placed, the family is given an information sheet containing medical information and the background of the child, the child's family, as well as the reasons for adoption.

There are two problems social service agencies will face if adoption records are opened. More will be required of the agency in post-placement procedures. Presently, our agency has a very limited role after the actual adoption. Our staff will have to do more to maintain up-to-date information on the natural parents with open records. Presently, we have some records which are ten to twenty years old and there has been no contact with natural parents in that time.

Prior to releasing the name of a natural parent to his child, we believe it important to make some effort to contact that parent and obtain permission if possible, or, at least notify them of their child's search. This caution grows out of the former practice in adoptions of promising adoptive parents anonymity.

We also believe that the information on the natural family is best given in an interview with the adoptee. Because of the sensitivity of the issues involved, we would be uncomfortable with anything less personal.

In advocating the opening up of adoption records, we realize the necessity of balancing the interests of the child, the natural parents, and the adoptive parents. Social service agencies can and should take an active role in seeing that everyone involved is prepared for this eventuality. Hopefully, the opening up of adoption records can produce results from which all can benefit.

At this point though, I should point out one note of caution to this Commission. This is in the area of private adoptions. Many of these are handled by private agencies or physicians and no records are kept for the adoptee. The question of how to handle private adoptions is one that deserves this Commission's attention.

HEALTH AND WELFARE COUNCIL OF CENTRAL MARYLAND, INC.

22 Light Street
Baltimore, Maryland 21202
752-4146

September 10, 1979

Testimony before the Governor's Commission
on Adoption Laws

Mr. Chairman and Members of the Governor's Commission:

The Health and Welfare Council of Central Maryland has been involved for many years with social service issues including the problems of adoption. In 1973 our Board of Directors authorized a study of and adopted a report on "Adoption Services in Maryland." In addition, our staff has actively participated on the Social Service Administration's Advisory Committee on Adoption.

After study of 1978 proposed legislation on adoption issues, the HWC Board of Directors adopted a position on open adoption records and presented testimony before Senate and House Committees during the 1978 and 1979 sessions of the General Assembly. We are here today to reaffirm that position which is:

1. We oppose any open records legislation made retroactive in effect. In the past, adoption agencies made covenants of confidentiality, often mandated by the law, with the natural parents and the adoptive parents. To abrogate retroactively these covenants of confidentiality would violate the moral, ethical, and perhaps legal commitments made by the agencies.
2. We favor legislation which would facilitate access to adoption information by employment of a properly qualified intermediary who could make discreet inquiry of parties participating in the adoption as to their willingness to disclose identifying information. We agree with the decision of Judge Pollack^{1/} of the United States District Court for the Southern District of New York who stated in a case seeking the opening of adoption records

^{1/} The Alma Society, et al v. Irving Mellon, Director of Vital Research of the City of New York, et al, 459 F. Supp. 912 (1978).

and in which he declined to order such records opened, "No constitutional or personal right is unconditional and absolute to the exclusion of the rights of all other individuals." We believe, therefore, that, unless demonstrated good cause requires otherwise, any party to the adoption act should have the right to veto the disclosure of identifying information. However, because of the importance of genetic and medical information to the adoptee, and because the disclosure of such information would not violate seriously the covenant of confidentiality with regards to disclosing identities, we would favor legislation requiring disclosure of such information through the intermediary upon request.

Consideration also should be given to the negative impact, if any, on the availability of adoptable children that could result from legislation making future adoption records open.

We recognize that the issue of open adoption records is only one of many issues before this Commission, such as:

1. Establishment of a viable resource exchange system.
2. Facilitation of the adoption of eligible children including mechanisms for earlier release of children for adoption, subsidization of adoptions of children with special needs, and incentives for an improved adoption service.
3. Generation of a comprehensive and current data system for adoption service planning.
4. Development of a genuine partnership between governmental and voluntary agencies with delineation of responsibilities and accountabilities.

Although we have not spoken to these issues today, HWC is willing to provide this Commission with consultative assistance on these or other adoption issues as they may arise.

The following organizations have notified us of their general support for our stated position on open adoption records:

Associated Catholic Charities of Baltimore

Barker Foundation

Catholic Charities, Archdiocese of Washington

Family and Child Services of Washington, D.C.

Family and Children's Society, Baltimore

Jewish Family and Children's Service, Baltimore

Latter Day Saints Social Services

Lutheran Social Services of Maryland

Lutheran Social Services of the National Capitol Area

Maryland Children's Aid and Family Service Society

Pierce-Warwick Adoption Services of the Washington Home for Foundlings

SAMPLE QUESTIONNAIRE
AND
RESPONSES FROM MARYLAND AGENCIES



STATE OF MARYLAND
 EXECUTIVE DEPARTMENT
 ANNAPOLIS, MARYLAND 21404

HARRY HUGHES
 GOVERNOR

COMMISSION TO STUDY THE ADOPTION LAWS
 Gordon S. Livingston, M.D., Chairman

I. The number of children placed for adoption by your agency:

<u>Year</u>	<u>Under 1 Year</u>	<u>1 to 4 Years</u>	<u>5 to 12 Years</u>	<u>Over 12</u>	<u>Total</u>
1975					
1976					
1977					
1978					
1979					

Comments:

II. Number of inquiries for confidential information over last 5 years:

<u>From</u>	<u>Identifying Information</u>	<u>Medical Information</u>	<u>Other</u>	<u>Granted by Agency Court</u>	<u>Denied by Agency Court</u>
Adoptees					
Adoptive Parents					
Birth Parents					
Doctors/ Medical					

Others

Comments:

III. How many requests by birth parents have you received for continued anonymity during the past 5 years? _____

How did you handle these requests?

IV. How have you handled, over the past 5 years, the issue of confidentiality of the following records with your relinquishing parents?

Identity

Medical Records

Personal/Social
Records

Comments:

V. How have you handled the question of abortion with potential relinquishing mothers?

How many expecting mothers come for counseling in the first trimester? _____ second or third trimester? _____

Comments:

VI. During the past 5 years, how many requests have you received for contact between adult adoptees and birth parents? _____

How did you handle them?

How many contacts took place?

What were the results?

What problems were encountered?

Comments:

VII. Has your agency encouraged or discouraged birth parents from maintaining contact with the agency after relinquishing their child for purposes of up-dating the record regarding the following information?

Location

Social or personal information

Medical

Other

What response have you had?

VIII. Do you have any information on change of attitudes toward anonymity or agency records over the years after the adoptive placement by the following parties to adoption?

Birth
Parents

Adoptive
Parents

Adoptees

Comments:

IX. What contacts have you received regarding pending legislation to open sealed records for adult adoptees?

Comments:

X. What concrete experiences has your agency or anyone you know had with reunions between adoptees and their birth parents?

Comments:

QUESTIONNAIRE RESPONSES - MARYLAND AGENCIES

<u>AGENCY</u>	<u>FIVE YEAR PLACEMENTS</u>	<u>REQUESTS FOR IDENT.</u>	<u>INFORMATION NON-IDENT.</u>	<u>CONTACT WITH BIRTHPARENTS</u>	<u>BIRTHPARENT REQUESTS FOR ANONYMITY</u>	<u>CHANGED ATTITUDES</u>
Worcester	15	1 adoptee	1 Birthparent	No	None	No, desire to continue anonymity
Anne Arundel	92	4 (adoptees looking for sibs 2 birth-parents)	6 Adoptees 3 Ad. parents	Encouraged in last 3 yrs.	1	Yes, more open
Allegany	24	3 Adoptees 2 Birthparents		No	None	Yes, more open
Queen Anne's	18	"several preliminary inquiries"		Encouraged in last year	None	No
Carroll	20	2 Adoptees	2 Ad. parents	No	None	No
Montgomery	165	22 Adoptees 8 Ad. Parents 24 Birthparents	10 Adoptees 20 Ad. Parents	No	10(est.)	Yes, more open to idea of further contact
Frederick	70	1 (Adoptee looking for sib)		No	None	Yes, most birth-parents expressing interest in contact with child at maturity
Garrett	14	None		No	None	Unknown
Harford	64	2 Adoptees		No	None	Yes
Somerset	7	None		Encouraged in last year	None	No
Balt. City	295	35 Adoptees 10 Ad. Parents 25 Birthparents	4 Adoptees 5 Ad. Parents	Encouraged in last 4 years	Unknown	Yes

<u>AGENCY</u>	<u>FIVE YEAR PLACEMENTS</u>	<u>REQUESTS FOR INFORMATION</u>		<u>CONTACT WITH BIRTHPARENTS</u>	<u>BIRTHPARENT REQUESTS FOR ANONYMITY</u>	<u>CHANGED ATTITUDES</u>
		<u>IDENT.</u>	<u>NON-IDENT.</u>			
Caroline	17	1 Birthparent		No (discouraged)	None	No
Wicomico	44	1 Adoptee 1 Birthparent	4 Adoptees 2 Ad.Parents	No (discouraged)	None	No
Calvert	18		1 Ad.Parent	No	None	Yes
Talbot	7	None		No	None	No
Dorchester	7	1 Birthparent	1 Ad.Parent	No	None	No
Lutheran S.S.	9	1 Adoptee	2 Ad.Parents	No	4 statements of willingness to be contacted	No
J.F.C.S.	7	None		No	None	
Episcopal S.S.	312 (majority foreign)	6 Adoptees 8 Ad.Parents 2 Birthparents	2 Ad.Parents	No	None	Yes, more requests for information
Catholic Char.	233	65 Adoptees 24 Birthparents	17 Ad.Parents	Encourage but little response	4	Yes, preparing for open records

PROPOSED LEGISLATION
OF
THE GOVERNOR'S COMMISSION TO
STUDY THE ADOPTION LAWS

By: (The Governor's Commission to Study the Adoption Laws)	26
A BILL ENTITLED	29
AN ACT concerning	33
Adoption - Open Records	36
FOR the purpose of permitting certain adopted persons in this State to have access to certain information concerning their adoption and birthparents under certain circumstances; providing for the collection, retention, and release of certain information to adopted persons and adoptive parents by adoption agencies; providing a penalty for the failure of an adoption agency to comply with the provisions for retention of records; providing for access by adopted persons to their original birth certificates; providing for the procedure through which certain adopted persons may obtain certain information through the court and the procedure to be utilized by the courts in providing for the release of adoption information; providing that an adopted person may seek judicial review for the deletion or denial of certain information by an adoption agency; providing jurisdiction to a court of equity over the release of certain records and information subsequent to an adoption; making certain technical changes; clarifying language; and generally relating to the release of adoption information to an adopted person.	40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55
BY adding to	57
Article 16 - Chancery	59
Section 89 to be under the new subtitle "Subsequent Release of Adoption Information"	61 62
Annotated Code of Maryland	63
(1973 Replacement Volume and 1979 Supplement)	64
BY repealing	67
Article 88A - Social Services Administration	70
Section 27A	73
Annotated Code of Maryland	74
(1979 Replacement Volume and 1979 Supplement)	75

 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 Numerals at right identify computer lines of text.

BY adding to	89
Article 88A - Social Services Administration	81
Section 27A, 27B, and 27C	84
Annotated Code of Maryland	85
(1979 Replacement Volume and 1979 Supplement)	86
BY repealing and reenacting, with amendments,	89
Article 43 - Health	92
Section 19	95
Annotated Code of Maryland	96
(1971 Replacement Volume and 1979 Supplement)	97
BY repealing and reenacting, with amendments,	100
Article - Courts and Judicial Proceedings	103
Section 3-601	106
Annotated Code of Maryland	107
(1974 Volume and 1979 Supplement)	108
Preamble	111
In 1947, adoption records in Maryland were sealed.	114
Since then, there have been changes in public attitudes as	115
well as in social work theory and practice in response to	116
the felt need on the part of an increasing number of	
adoptees to know more about their biological backgrounds.	117
Other jurisdictions have provided for full or partial access	118
to adoption records without apparent damage to either the	119
institution of adoption or to the parties involved. This	120
Act is intended to facilitate the access of adoptees to	
information about their heritage, consistent with the rights	121
of birthparents; now, therefore,	122
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF	124
MARYLAND, That section(s) of the Annotated Code of Maryland	125
be repealed, amended, or enacted to read as follows:	126
Article 16 - Chancery	128
SUBSEQUENT RELEASE OF ADOPTION INFORMATION	130
89.	134
(A) (1) IN THE CASE OF AN ADOPTION DECREE ISSUED	135
BEFORE JANUARY 1, 1981, AN ADOPTEE 21 YEARS OLD OR OLDER MAY	136
PETITION THE COURT FOR THE RELEASE OF INFORMATION WHICH MAY	137
LEAD TO THE IDENTIFICATION OF THE ADOPTEE'S BIRTHPARENTS.	138
IN SUCH AN ACTION:	139

(I) THE ADOPTION AGENCY, SOCIAL SERVICES ADMINISTRATION, OR THE COURT SHALL NOTIFY THE BIRTHPARENT OF THE ADOPTEE'S REQUEST FOR INFORMATION WHICH WILL IDENTIFY THE BIRTHPARENT; AND

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(II) THE COURT SHALL ORDER THE RELEASE OF IDENTIFYING INFORMATION FROM THE ADOPTION AGENCY WHICH PLACED THE PERSON FOR ADOPTION OR THE CUSTODIAN WHICH HAS POSSESSION OF THE INFORMATION, UNLESS AN OBJECTION IS FILED BY THE BIRTHPARENT WITHIN THE TIME SPECIFIED IN THE NOTICE.

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(2) (I) IF AN OBJECTION IS FILED BY THE BIRTHPARENT, THE COURT SHALL GRANT THE BIRTHPARENT AN EX PARTE HEARING WITHIN 180 DAYS OF THE FILING OF THE OBJECTION. THE PETITION TO RELEASE THE INFORMATION SHALL BE GRANTED, UNLESS AT THE HEARING THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT IRREPARABLE HARM TO THE BIRTHPARENT WILL RESULT.

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(II) IF AN OBJECTION IS NOT FILED, OR IF THE BIRTHPARENT CANNOT BE LOCATED AFTER REASONABLE EFFORTS HAVE BEEN MADE TO DO SO, THE COURT SHALL GRANT THE PETITION TO RELEASE THE INFORMATION.

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(III) A PETITION GRANTED UNDER THIS SUBSECTION IS FINAL AND THE RESULTING ORDER IS APPEALABLE; HOWEVER, THE RECORDS SHALL REMAIN SEALED PENDING THE APPEAL.

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(B) IN THE CASE OF AN ADOPTION IN WHICH THE FINAL DECREE WAS ISSUED ON OR AFTER JANUARY 1, 1981:

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(1) UPON THE REQUEST OF AN ADOPTEE WHO IS 21 YEARS OLD OR OLDER, AN ADOPTION AGENCY OR THE SOCIAL SERVICES ADMINISTRATION SHALL PROVIDE ANY INFORMATION IN ITS POSSESSION CONCERNING THE ADOPTEE OR THE ADOPTEE'S BIRTHPARENTS, AND ANY OTHER INFORMATION IN ITS POSSESSION WHICH WOULD ASSIST THE ADOPTEE IN LOCATING THE BIRTHPARENTS AND RELATIVES; AND

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(2) THE COURT SHALL ALLOW FOR INSPECTION BY THE ADOPTEE AT ANY TIME AFTER THE ADOPTEE'S TWENTY-FIRST BIRTHDAY OF THE FINAL DECREE OF A PROCEEDING FOR ADOPTION, A DECREE OF GUARDIANSHIP WITH THE RIGHT TO CONSENT TO ADOPTION, OR A DECREE OF LONG-TERM CARE SHORT OF ADOPTION, AND ANY OTHER INFORMATION CONTAINED IN THE RECORDS OF SUCH PROCEEDINGS WHICH WOULD ASSIST THE ADOPTEE IN LOCATING HIS BIRTHPARENTS.

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(C) ANY INFORMATION RELEASED BY AN ADOPTION AGENCY, SOCIAL SERVICES ADMINISTRATION, OR THE COURT IN ANY PETITION OR REQUEST MADE PURSUANT TO THIS SECTION MAY DELETE MATERIAL WHICH, IF DISCLOSED, WILL VIOLATE THE PRIVACY OF ANOTHER PERSON. INFORMATION CONCERNING ADOPTIVE PARENTS NEED NOT BE DISCLOSED.

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(D) IN ANY CASE IN WHICH THERE ARE DELETIONS TO OR DENIAL OF ANY INFORMATION REQUESTED OR ORDERED FOR RELEASE, THE ADOPTEE MAY SEEK JUDICIAL REVIEW.	183 184 185
Article 88A - Social Services Administration	187
[27A.	190
(a) Any institution, agency, society, licensee or person authorized to place a minor for adoption shall, whenever possible, compile and make available to the adoptive parent or parents, a pertinent medical history of the minor's natural parents.	193 194 195 196 197
(b) A medical history compiled under this section may not contain any information that may disclose or permit disclosure of the names or identity of the natural parents.]	199 200 201
27A.	204
(A) IN SECTIONS 27B AND 27C OF THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.	205 207
(B) "ADOPTEE" MEANS A PERSON AS TO WHOM A FINAL DECREE OF ADOPTION HAS BEEN ISSUED, OR A PERSON AS TO WHOM AN ORDER HAS BEEN ISSUED GRANTING TO AN ADOPTION AGENCY GUARDIANSHIP WITH RIGHT TO CONSENT TO EITHER ADOPTION OR LONG-TERM CARE SHORT OF ADOPTION OR BOTH.	208 209 210 211 212
(C) "ADOPTION AGENCY" INCLUDES ANY AGENCY, SOCIETY, LICENSEE, OR PERSON AUTHORIZED TO PLACE A MINOR FOR ADOPTION UNDER THIS SUBTITLE.	213 214 215
(D) "ADULT ADOPTEE" MEANS AN ADOPTEE WHO IS 21 YEARS OLD OR OLDER.	216 217
(E) "BIRTHPARENT" INCLUDES THE PLURAL AND MEANS THE NATURAL OR BIOLOGICAL PARENT OF THE ADOPTED PERSON.	218 220
(F) "CUSTODIAN" MEANS ANY CHILD PLACEMENT AGENCY, PUBLIC OR PRIVATE AGENCY, SOCIETY, HOME, INSTITUTION, LICENSEE, COURT, INDIVIDUAL, OR ADOPTION AGENCY WHICH HAS IN ITS POSSESSION ADOPTION RECORDS, PROCEEDINGS, FILES, IDENTIFYING, OR NONIDENTIFYING INFORMATION.	221 222 223 225
(G) "IDENTIFYING INFORMATION" MEANS INFORMATION, OTHER THAN NONIDENTIFYING INFORMATION, INCLUDING THE NAMES, ADDRESSES, OR BIRTH DATES WHICH MAY LEAD TO THE IDENTIFICATION OF THE BIRTHPARENT.	226 227 228 229
(H) "NONIDENTIFYING INFORMATION" INCLUDES INFORMATION ABOUT THE BIRTHPARENT, EITHER PERSONAL OR OTHERWISE, WHICH DOES NOT LEAD TO THE IDENTIFICATION OF THE BIRTHPARENT.	230 231 233

27B.	235
(A) AN ADOPTION AGENCY SHALL MAKE REASONABLE EFFORTS TO COMPILE THE FOLLOWING NONIDENTIFYING INFORMATION:	236 238
(1) A DETAILED MEDICAL HISTORY OF THE ADOPTEE'S BIRTHPARENTS;	239 240
(2) A DETAILED PERSONAL HISTORY OF THE ADOPTEE'S BIRTHPARENTS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:	241 243
(I) THE AGE OF THE BIRTHPARENT AT THE TIME OF THE ADOPTION;	244 245
(II) THE NATIONALITY, ETHNIC BACKGROUND, RACE, AND RELIGION OF THE BIRTHPARENT;	246 247
(III) THE EDUCATIONAL BACKGROUND AND ANY TALENTS, HOBBIES, OR SPECIAL INTERESTS OF THE BIRTHPARENTS;	248 249
(IV) THE GENERAL PHYSICAL APPEARANCE OF THE BIRTHPARENT, INCLUDING HEIGHT, WEIGHT, COLOR OF HAIR, EYES, SKIN, AND ANY OTHER GENERALLY DESCRIPTIVE FEATURES;	251 252 253
(V) ANY OTHER CHILD OR CHILDREN BORN TO THE BIRTHPARENT PRIOR TO THE ADOPTION; AND	254 255
(VI) THE REASON FOR THE RELINQUISHMENT OF THE ADOPTEE, INCLUDING A LETTER FROM THE BIRTHPARENT, IF THE BIRTHPARENT SO DESIRES.	256 257 258
(B) THE ADOPTION AGENCY SHALL ENCOURAGE, RECEIVE, AND MAINTAIN IN ITS FILES, UPDATED MEDICAL AND PERSONAL INFORMATION FROM BIRTHPARENTS, ADOPTIVE PARENTS, AND ADOPTEES, WHICH MAY INCLUDE ADDRESSES AND COMMUNICATIONS.	259 260 261 262
(C) THE NONIDENTIFYING INFORMATION COMPILED UNDER SUBSECTIONS (A)(1) AND (2) OF THIS SECTION SHALL BE MADE AVAILABLE BY THE ADOPTION AGENCY TO THE ADOPTIVE PARENT AT THE TIME OF ADOPTION OR TO THE ADULT ADOPTEE UPON REQUEST.	263 264 265
THE ADOPTION AGENCY MAY NOT DISCLOSE ANY IDENTIFYING INFORMATION WHEN PROVIDING INFORMATION UNDER THIS SUBSECTION. HOWEVER, IDENTIFYING INFORMATION SHALL BE RELEASED TO AN ADULT PURSUANT TO ARTICLE 16, SECTION 89(B) OF THE CODE.	266 267 268
(D) SUBSEQUENT TO AN ADOPTION, THE ADOPTION AGENCY SHALL MAKE AVAILABLE UPDATED MEDICAL AND NONIDENTIFYING INFORMATION TO THE BIRTHPARENT, ADOPTIVE PARENT, OR ADOPTEE AS DEEMED APPROPRIATE BY THE AGENCY FOR THE WELFARE OF THE PARTIES.	269 270 271 272
(E) THE SOCIAL SERVICES ADMINISTRATION MAY PRESCRIBE FORMS FOR USE IN COMPILING THE INFORMATION ENUMERATED IN THIS SECTION.	273 274 275

(F) IF AN ADOPTION AGENCY IS NOT INVOLVED IN THE ADOPTION, AND IF NEITHER ADOPTIVE PARENT IS RELATED TO EITHER BIRTHPARENT BY BLOOD OR MARRIAGE, THE COURT SHALL DESIGNATE AN AGENCY TO GATHER THE INFORMATION REQUIRED BY SUBSECTION (A) OF THIS SECTION AND TO DISCHARGE THE DUTIES OF AN ADOPTION AGENCY UNDER THIS SECTION.

27C.

(A) AN ADOPTION AGENCY THAT PLACED A CHILD FOR ADOPTION OR A CUSTODIAN SHALL RETAIN ALL INFORMATION PERTAINING TO ADOPTION FOR NOT LESS THAN 75 YEARS FOLLOWING THE DATE OF THE ADOPTION.

(B) IF AN ADOPTION AGENCY TERMINATES ITS OPERATIONS IN THIS STATE OR OTHERWISE CEASES TO EXIST, IT SHALL TRANSFER ALL ITS RECORDS RELATING TO ADOPTIONS TO THE SOCIAL SERVICES ADMINISTRATION FOR RETENTION.

(C) ANY ADOPTION AGENCY OR CUSTODIAN WHICH MUTILATES, OBLITERATES, OR OTHERWISE DESTROYS RECORDS REQUIRED TO BE RETAINED BY THIS SECTION IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION, SHALL BE FINED \$500 FOR EACH ACT OF DESTRUCTION.

Article 43 - Health

19.

(a) (1) A certificate or record registered under this subtitle, may be amended only in accordance with this subtitle and any regulations thereunder by the [State Board] DEPARTMENT of Health and Mental Hygiene to protect the integrity and accuracy of vital records.

(2) In the event of an alteration of any certificate of birth or death the facts shall be properly certified to the [State Board] DEPARTMENT of Health and Mental Hygiene and entered in red ink with the date of the amendment and over the signature or initials of an authorized representative of the [State Board] DEPARTMENT of Health and Mental Hygiene.

(3) Upon receipt of a court order or a certified copy [thereof] OF A COURT ORDER changing the name of a person born in this State and upon request of [such] THE person or his parent, guardian, or legal representative, the [State Board] DEPARTMENT of Health and Mental Hygiene or its authorized agent shall amend the certificate of birth to reflect the new name.

(b) (1) A new certificate of birth shall be made for a person whenever the Department of Health and Mental Hygiene receives proof [satisfactory to it] THAT:

(i) [That the] THE previously unwed	331
parents of the person have [intermarried] MARRIED subsequent	332
to the birth of [such] THE person; [or that a court of	334
competent jurisdiction has entered a judgment order or	
decree relating to the parentage or nonparentage or adoption	335
of the person.]	336
(II) A COURT OF COMPETENT JURISDICTION HAS	337
ENTERED A JUDGMENT, ORDER, OR DECREE RELATING TO THE	338
LEGITIMATION, PATERNITY, OR ADOPTION OF THE PERSON, OR OTHER	339
JUDGMENT, ORDER, OR DECREE RELATING TO THE BIRTH OF THE	
PERSON;	340
[(ii) That, when] (III) WHEN no father is	342
named on the certificate of birth, the father of the person	343
has acknowledged himself, by affidavit, to be the father and	344
the mother of the person has consented by affidavit to this	
acknowledgment[.]; OR	346
[(iii) That the] (IV) THE person was born	348
in Maryland and the legitimation, adoption or other court	349
action specified in paragraphs (i) and (ii) above took place	350
in Maryland or outside of Maryland. In its discretion the	351
Department of Health and Mental Hygiene may also issue new	
certificates of birth for persons born outside of the United	352
States if the legitimation, adoption or other court action	353
specified in paragraphs (i) and (ii) above took place in	354
Maryland.	355
[(2) No new certificate of birth shall be	357
established, if so requested by the court decreeing the	358
adoption, or the adoptive parents, or by the adopted person,	359
if of legal age.]	360
[(3)] (2) The new certificate shall be in the	362
form prescribed by the [State Board] DEPARTMENT of Health	363
and Mental Hygiene, and shall be prepared on the following	364
basis: [Such] THE person shall be treated as having had at	365
birth the status subsequently acquired or established and of	366
which proof is submitted; where [such] THE person is	367
illegitimate and paternity has been established by legal	368
proceedings the name of [such] THE father shall be inserted;	369
where [such] THE person has been adopted the name of [such]	
THE child shall be that fixed by the decree of adoption and	370
the [foster] ADOPTIVE parents shall be recorded as the	371
parents of [such] THE child.	372
(3) A NEW CERTIFICATE OF BIRTH MAY NOT BE	373
ESTABLISHED IF REQUESTED BY THE COURT DECREERING THE	374
ADOPTION, THE ADOPTIVE PARENTS, OR THE ADOPTEE, IF OF LEGAL	375
AGE.	376

(4) (I) When a new certificate of birth is made,	378
the [State Board] DEPARTMENT of Health and Mental Hygiene	379
shall [substitute such]:	380
1. SUBSTITUTE THE new certificate of	381
birth for the certificate then on file, if any[. The State	382
Board of Health and Mental Hygiene shall place];	384
2. PLACE the original certificate of	385
birth and all papers pertaining to the new certificate of	386
birth under seal[. Such seal shall not be broken except by	387
order of a court of competent jurisdiction or on written	388
order of the authorized agent of the State Board of Health	
and Mental Hygiene. Thereafter, when a certified copy of the	389
certificate of birth of such a person is issued, it shall be	390
a copy of the new certificate of birth, except when an order	391
of a court of competent jurisdiction shall require the	392
issuance of a copy of the original certificate of birth.];	
AND	393
3. ISSUE AS A CERTIFIED COPY OF THE	394
CERTIFICATE OF BIRTH A COPY OF THE NEW CERTIFICATE UNLESS A	395
COURT OF COMPETENT JURISDICTION REQUIRES THE ISSUANCE OF A	396
CERTIFIED COPY OF THE ORIGINAL CERTIFICATE OF BIRTH.	397
(II) A CERTIFIED COPY OF THE ORIGINAL	398
CERTIFICATE OF BIRTH PLACED UNDER SEAL UNDER SUBSECTION	399
(B)(4)(I)2. OF THIS SECTION MAY NOT BE OBTAINED, EXCEPT:	400
1. BY WRITTEN ORDER OF THE	401
AUTHORIZED AGENT OF THE DEPARTMENT OF HEALTH AND MENTAL	402
HYGIENE; OR	403
2. BY ORDER OF A COURT OF COMPETENT	404
JURISDICTION, EXCEPT THAT AN ADOPTEE 21 YEARS OLD OR OLDER	405
MAY OBTAIN A CERTIFIED COPY OF THE ORIGINAL CERTIFICATE OF	406
BIRTH WITHOUT A COURT ORDER IF THE ADOPTION WAS DECREED	
AFTER JANUARY 1, 1981.	407
(5) It shall be the duty of the clerks of the	409
several equity courts of this State to transmit to the	410
[State Board] DEPARTMENT of Health and Mental Hygiene	411
[upon], ON forms to be supplied by the [said Board]	412
DEPARTMENT, a report of each decree of adoption or	413
adjudication of paternity and a report of the revocation or	414
amendment of any such decree.	415
Article - Courts and Judicial Proceedings	417
3-601.	421
A circuit court sitting in equity has jurisdiction	422
[in]:	423

(1) IN an action for adoption;	425
(2) IN AN ACTION FOR THE RELEASE OF ADOPTION INFORMATION BY AN ADOPTED PERSON 21 YEARS OLD OR OLDER WHOSE ADOPTION WAS DECREED PRIOR TO JANUARY 1, 1981; AND	426 427 428
(3) FOR THE REVIEW OF THE DENIAL OF A REQUEST FOR ORDER OR THE DELETION OF INFORMATION BY AN AGENCY OR THE SOCIAL SERVICES ADMINISTRATION UNDER ARTICLE 16, SECTION 89(D) OF THE CODE.	429 430 431 432
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1980.	435