

NYAAFF

New York Attorneys for Adoption and Family Formation

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Ladies and Gentlemen:

The New York Association for Adoption and Family Formation (NYA AFF) respectfully submits this Memorandum of Support for the following legislation: "An act to amend the domestic relations law and the public health law, in relation to adoptee rights," A2901C and S05964-B.

The proposed legislation would amend the Domestic Relations Law to enable an adult adoptee to have access to his or her original birth certificate, but also provides protections for birth parents who would prefer that their identifying information not be shared with the adoptee. The legislation attempts to strike a balance between a birth parent's privacy wishes and the interests of the adult adoptee.

While NYA AFF has several concerns, some of which are enumerated below, NYA AFF believes that the legislation as a whole is an important step bringing New York into line with the clear trend among states recognizing the importance to adult adoptees in being able to have tangible documentation of their original, pre-adoptive identity.

The legislation provides that an adult adoptee may receive a certified copy of their original Birth Certificate ("OBC") upon the satisfaction of a number of specific steps and safeguards. The legislation provides a mechanism for birth parents to be notified of the adoptee's request for their OBC, and to prohibit their identity from being shared with the adoptee.

While reasonable stakeholders may disagree with whether the birth parents' consent should be a prerequisite for the release of this information, the requirement appears to be a reasoned compromise, leaving the ultimate determination to a court in the jurisdiction where the adoption was finalized.

NYAAFF also welcomes the opportunity for birth parents to update the health information to be provided to the adoptee – medical events subsequent to the adoption may be of great importance to the adoptee, but has heretofore been unobtainable.

An issue of concern to NYAAFF is that the legislation provides for the release of a certified, long-form copy of the OBC. NYAAFF believes that the document provided to the adoptee should have a clear indication that it has been superseded by a later birth certificate, to avoid any issue of the OBC being mis-used for identification purposes.

An additional concern to NYAAFF is that the legislation requires the adoptee's request for the OBC to be made to the court where the adoption was finalized or to the Supreme Court. An adoptee who was adopted many years ago, or who is estranged from his adoptive parents, may not know where in New York their adoption was completed. An adoptee who was born in New York but whose adoption was finalized in another state will be excluded from the benefits of this legislation. While there is no requirement that the adoptee be represented by counsel, it is likely that many adoptees will be unable to navigate the intricacies of the process without legal assistance, which will impose an additional burden on the adoptees. Moreover, the requirement will impose more work on the courts, when it is really the Department of Health which is tasked with the significant responsibilities to publicize the legislation, notify birth parents of the adoptee's request for the OBC, and ultimately provide the document to the court, for distribution to the adoptee. Finally, the legislation should clearly note that the consent of, or notice to, a deceased birth parent would not be required.

Despite these concerns, NYAAFF supports this legislation. Adoption has evolved over the last several decades, moving from a time when it was shrouded in secrecy, where birth and adoptive families knew nothing about each other, to a new reality today in which the vast majority of infant adoptions are "open," meaning the two families have some level of ongoing relationship. For many adoptees, though, access to their original birth certificate offers a tangible connection to their birth history.

NYAAFF believes that access to original birth certificates allows for more complete identity formation through knowledge of their roots, as well as treating adoptees equally to any other person who may obtain a copy of their birth certificate without question or impediment.

Sincerely,



Anne Reynolds Copps

ARC.cmws