

HOUSE BILL No. 5517

January 28, 1998, Introduced by Reps. Brater, Hale, Gire, Willard, Scott and Gubow and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled

"An act to revise and consolidate the statutes relating to certain aspects of the organization and jurisdiction of the probate court of this state, the powers and duties of such court and the judges and other officers thereof, certain aspects of the statutes of descent and distribution of property, and the statutes governing the change of name of adults and children, the adoption of adults and children, and the jurisdiction of the juvenile division of the probate court; to prescribe the powers and duties of the juvenile division of the probate court, and the judges and other officers thereof; to prescribe the manner and time within which actions and proceedings may be brought in the juvenile division of the probate court; to prescribe pleading, evidence, practice, and procedure in actions and proceedings in the juvenile division of the probate court; to provide for appeals from the juvenile division of the probate court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties for the violation of this act,"

by amending sections 27 and 68 of chapter X (MCL 710.27 and 710.68), section 27 as amended by 1994 PA 208 and section 68 as amended by 1994 PA 373, and by adding section 68c to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER X

2 Sec. 27. (1) Before placement of a child for adoption, a
3 parent or guardian, a child placing agency, the department, or
4 the court that places the child shall compile and provide to the
5 prospective adoptive parent a written document containing all of
6 the following nonidentifying information that is not made confi-
7 dential by state or federal law and that is reasonably obtainable
8 from the parents, relatives, or guardian of the child; from any
9 person who has had physical custody of the child for 30 days or
10 more; or from any person who has provided health, psychological,
11 educational, or other services to the child:

12 (a) Date, time, and place of birth of the child including
13 the hospital, city, county, and state.

14 (b) An account of the health and genetic history of the
15 child, including an account of the child's prenatal care; medical
16 condition at birth; any drug or medication taken by the child's
17 mother during pregnancy; any subsequent medical, psychological,
18 psychiatric, or dental examination and diagnosis; any psychologi-
19 cal evaluation done when the child was under the jurisdiction of
20 the court; any neglect or physical, sexual, or emotional abuse
21 suffered by the child; and a record of any immunizations and
22 health care the child received while in foster or other care.

23 (c) An account of the health and genetic history of the
24 child's biological parents and other members of the child's
25 family, including any known hereditary condition or disease; the
26 health of each parent at the child's birth; a summary of the

1 findings of any medical, psychological, or psychiatric evaluation
2 of each parent at the time of placement; and, if a parent is
3 deceased, the cause of and the age at death.

4 (d) A description of the child and the child's family of
5 origin, including all of the following:

6 (i) Given first name of the child at birth.

7 (ii) The age and sex of siblings of the child.

8 (iii) The child's enrollment and performance in school,
9 results of educational testing, and any special educational
10 needs.

11 (iv) The child's racial, ethnic, and religious background,
12 and a general description of the child's parents, including the
13 age of the child's parents at the time of termination of parental
14 rights, and the length of time the parents had been married at
15 the time of placement.

16 (v) An account of the child's past and existing relationship
17 with any relative, foster parent, or other individual or facility
18 with whom the child has lived or visited on a regular basis. The
19 account shall not include names and addresses of individuals.

20 (vi) The levels of educational, occupational, professional,
21 athletic, or artistic achievement of the child's family.

22 (vii) Hobbies, special interests, and school activities of
23 the child's family.

24 (viii) The circumstances of any judicial order terminating
25 the parental rights of a parent for abuse, neglect, abandonment,
26 or other mistreatment of the child.

1 (ix) Length of time between the termination of parental
2 rights and adoptive placement and whether the termination was
3 voluntary or court-ordered.

4 (x) Any information necessary to determine the child's eli-
5 gibility for state or federal benefits, including financial, med-
6 ical, or other assistance.

7 (2) Information required by subsection (1) that is unobtain-
8 able before temporary placement shall be submitted by the time of
9 formal placement if reasonably obtainable. The information
10 required by subsection (1) shall be supplemented by other noni-
11 dentifying background information that the parent or guardian,
12 child placing agency, department, or court considers
13 appropriate.

14 (3) A parent or guardian, the department, a child placing
15 agency, or a court that places an adoptee under this chapter
16 shall compile all of the following identifying information if
17 reasonably obtainable:

18 (a) Name of the child before placement in adoption.

19 (b) Name of each biological parent at the time of termina-
20 tion of parental rights.

21 (c) The most recent name and address of each biological
22 parent.

23 (d) Names of the biological siblings at the time of
24 termination.

25 (4) The information required by subsections (1) to (3) shall
26 be maintained by the child placing agency, department, or court
27 that places the child or, in the case of a direct placement by a

1 parent or guardian, by the court that approves the placement. In
2 a direct placement, the parent or guardian shall transmit the
3 information required under subsections (1) to (3) to the court
4 before the termination of parental rights. An employee or agent
5 of a child placing agency, the court, or the department who
6 intentionally destroys information required to be maintained
7 under this section is guilty of a misdemeanor.

8 (5) If a child placing agency ceases to operate, the
9 agency's adoption records shall be forwarded to the department.
10 A branch or associate agency of a child placing agency that
11 ceases to operate shall forward its records to the central agency
12 of the branch or associate agency. A CHILD PLACING AGENCY THAT
13 IS REQUIRED TO FORWARD RECORDS UNDER THIS SUBSECTION SHALL NOT
14 FORWARD THOSE RECORDS UNTIL THE AGENCY DOES BOTH OF THE
15 FOLLOWING:

16 (A) RESPONDS TO EACH REQUEST FOR INFORMATION UNDER SECTION
17 68 OF THIS CHAPTER THAT IS RECEIVED BEFORE THE AGENCY'S DECISION
18 TO CEASE OPERATIONS.

19 (B) NOTIFIES EACH INDIVIDUAL WHO IS THE SUBJECT OF A RECORD
20 THAT IS TO BE FORWARDED UNDER THIS SUBSECTION, AND WHO HAS CON-
21 TACTED THE AGENCY REGARDING THAT RECORD, THAT REQUESTS FOR INFOR-
22 MATION FROM THE RECORD AFTER THE DATE THE RECORD IS FORWARDED
23 MUST BE MADE TO THE DEPARTMENT.

24 (6) This section does not apply to a stepparent adoption or
25 to the adoption of a child related to the petitioner within the
26 fifth degree by marriage, blood, or adoption.

1 (7) This section does not prevent a parent or guardian and
2 prospective adoptive parent from exchanging identifying
3 information or meeting pursuant to sections 23a and 23b OF THIS
4 CHAPTER.

5 Sec. 68. (1) ~~Within~~ SUBJECT TO SECTION 68C OF THIS CHAP-
6 TER, WITHIN 63 days after a request for nonidentifying informa-
7 tion is received, a child placing agency, a court, or the depart-
8 ment shall provide in writing to the adoptive parent, adult
9 adoptee, former parent, or adult former sibling requesting the
10 information all of the nonidentifying information described in
11 section 27(1) and (2) of this chapter.

12 (2) ~~Within~~ SUBJECT TO SECTION 68C OF THIS CHAPTER, WITHIN
13 63 days after a request for identifying information about an
14 adult adoptee is received, a child placing agency or court or the
15 department shall provide in writing to the former parent or adult
16 former sibling requesting the information the adult adoptee's
17 most recent name and address if the adult adoptee has given writ-
18 ten consent to release of the information pursuant to this
19 chapter. If the adult adoptee has not given written consent to
20 the release of information, the child placing agency, the court,
21 or the department shall, upon presentation of a certified copy of
22 the order of appointment, give the adult adoptee's name and
23 address to a confidential intermediary appointed pursuant to
24 section 68b of this chapter, together with any other information
25 in its possession that would help the confidential intermediary
26 locate the adult adoptee. At the option of agency or the

1 department, the information may be released to the court for
2 release to the confidential intermediary.

3 (3) If the department or a child placing agency receives a
4 request for adoption record information in its possession from an
5 adult adoptee, former parent, or adult former sibling, the
6 department or child placing agency shall provide the individual
7 requesting the information with the identity of the court that
8 confirmed the adoption within 28 days after receipt of the
9 request. If a court receives such a request, the court shall
10 provide the individual requesting the information with the iden-
11 tity of the child placing agency that handled the adoption.

12 (4) If the court that terminated parental rights receives
13 from the former parents or adult former siblings of the adult
14 adoptee a request for the identity of the agency, court, or
15 department to which the child was committed, the court shall pro-
16 vide in writing the name of that agency, court, or department, if
17 known, within 28 days after receipt of the request.

18 (5) Upon receipt of a written request for identifying infor-
19 mation from an adult adoptee, a child placing agency, a court, or
20 the department, if it maintains the adoption file for that adopt-
21 ee, shall submit a clearance request form to the central adoption
22 registry. Within 28 days after receipt of a clearance reply form
23 from the central adoption registry, the child placing agency,
24 court, or department shall notify the adoptee in writing of the
25 identifying information to which the adoptee is entitled under
26 subsection (6) or (7), or, if the identifying information cannot
27 be released pursuant to those subsections, the reason why the

1 information cannot be released. The child placing agency, court,
2 or department shall retain a copy of the notice sent to the adult
3 adoptee.

4 (6) For adoptions in which the former parents' rights were
5 terminated on or after May 28, 1945 and before September 12,
6 1980, a child placing agency, a court, or the department shall
7 release to an adult adoptee or to a confidential intermediary
8 appointed under section 68b of this chapter the identifying
9 information described in section 27(3) of this chapter and other
10 identifying information on file with the central adoption regis-
11 try as specified in section 27b of this chapter, in the following
12 manner:

13 (a) All of the identifying information described in
14 section 27(3) of this chapter shall be released to the adult
15 adoptee, if both former parents have on file with the central
16 adoption registry a statement consenting to release of the iden-
17 tifying information.

18 (b) The identifying information described in
19 section 27(3)(b) and (c) of this chapter about 1 of the former
20 parents and the identifying information described in
21 section 27(3)(a) and (d) of this chapter shall be released to the
22 adult adoptee if that former parent has on file with the central
23 adoption registry a statement consenting to release of identify-
24 ing information.

25 (c) The identifying information described in
26 section 27(3)(b) and (c) of this chapter about 1 of the former
27 parents and the identifying information described in

1 section 27(3)(a) and (d) of this chapter shall be released to the
2 adult adoptee if that parent is deceased.

3 (d) All of the identifying information described in
4 section 27(3) of this chapter on both former parents shall be
5 released to the adult adoptee, if both former parents are
6 deceased.

7 (e) Upon presentation of a certified copy of the order of
8 appointment, all of the identifying information described in
9 section 27(3) of this chapter shall be released to a confidential
10 intermediary appointed pursuant to section 68b of this chapter,
11 together with additional information to assist the confidential
12 intermediary to locate former family members. At the option of
13 the agency or the department, the information may be released to
14 the court for release to the confidential intermediary.

15 (7) For all adoptions in which the former parents' rights
16 were terminated before May 28, 1945 or on or after September 12,
17 1980, a child placing agency, a court, or the department shall
18 release to an adult adoptee the identifying information described
19 in section 27(3) of this chapter and any additional information
20 on file with the central adoption registry as specified in sec-
21 tion 27b of this chapter, except that if a former parent has
22 filed a statement currently in effect with the central adoption
23 registry denying consent to have identifying information
24 released, the identifying information specified in
25 section 27(3)(b) and (c) of this chapter shall not be released
26 about that parent. For purposes of this subsection, a denial of
27 consent is not effective after the death of the former parent.

1 (8) Upon receipt of a written request from an adult adoptee
2 for the name and address of an adult former sibling, a child
3 placing agency, a court, or the department, if it maintains the
4 adoption file for that adoptee, shall submit a clearance request
5 form to the central adoption registry. Within 28 days after
6 receipt of a clearance reply form from the central adoption reg-
7 istry, the child placing agency, court, or department shall
8 notify the adoptee in writing of the name and address of an adult
9 former sibling whose statement was forwarded by the central adop-
10 tion registry.

11 (9) If a child placing agency or court or the department
12 requests information from the central adoption registry and if
13 the clearance reply form from the central adoption registry indi-
14 cates that neither of the former parents has on file with the
15 central adoption registry a statement currently in effect denying
16 consent to have identifying information released, the child plac-
17 ing agency, court, or department shall deliver to the adult
18 adoptee a copy of the clearance reply form it received from the
19 central adoption registry. The clearance reply form may be used
20 by the adult adoptee to obtain a copy of his or her original cer-
21 tificate of live birth pursuant to section 2882 of the public
22 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
23 ~~tion 333.2882 of the Michigan Compiled Laws~~ 1978 PA 368, MCL
24 333.2882. This subsection applies to all adoptions in which the
25 parents' rights were terminated before May 28, 1945 or on or
26 after September 12, 1980.

1 (10) If a child placing agency, a court, or the department
2 receives written information concerning a physician-verified
3 medical or genetic condition of an individual biologically
4 related to an adoptee and a request that the information be
5 transmitted to the adoptee because of the serious threat it poses
6 to the adoptee's life, the child placing agency, court, or
7 department shall send a written copy of the information by
8 first-class mail within 7 days after the request is received to
9 the adoptee at his or her last known address. If the adoptee is
10 less than 18 years of age, the information shall be sent by
11 first-class mail within 7 days after the request is received to
12 the adoptive parents at their last known address.

13 (11) If the information described in subsection (10) is
14 returned undelivered, the agency, court, or department shall make
15 a reasonable effort to find the most recent address of the
16 adoptee or minor adoptee's parents and shall again send the
17 information by first-class mail within 21 days after receiving
18 the returned letter.

19 (12) If a child placing agency, a court, or the department
20 receives written information concerning a physician-verified med-
21 ical or genetic condition of a person biologically related to an
22 adoptee, and the condition is not life-threatening to the adopt-
23 ee, the child placing agency, court, or department shall place
24 the information in its adoption files. If the child placing
25 agency, court, or department receives a written request for the
26 information from the adult adoptee or minor adoptee's adoptive
27 parents, it shall release a written copy of the information to

1 the adult adoptee or to the minor adoptee's adoptive parents
2 within 63 days after the request for the information was made.

3 (13) If a child placing agency, a court, or the department
4 receives written information concerning a physician-verified med-
5 ical or genetic condition that threatens the life of an adoptee
6 and for which a biologically related person could give
7 life-saving aid, and receives a request from or on behalf of the
8 adoptee that the information be transmitted, the child placing
9 agency, court, or department shall send a written copy of the
10 information by first-class mail within 7 days after the request
11 is received to the biological parents or adult biological sib-
12 lings of the adoptee at their last known address.

13 (14) If the information described in subsection (13) is
14 returned undelivered, the agency, court, or department shall make
15 a reasonable effort to find the most recent address of the bio-
16 logical parents or adult biological siblings and shall again send
17 the information by first-class mail within 21 days after receiv-
18 ing the returned letter.

19 (15) If a child placing agency, a court, or the department
20 provides an adoptee with the name of 1 of the adoptee's former
21 parents, that child placing agency, court, or department shall
22 notify the department of public health of that fact. Upon
23 receipt of notification by the child placing agency, court, or
24 department, the department of public health shall insure that the
25 original birth certificate on file for the adoptee has been
26 sealed and that a new birth certificate has been prepared in
27 conformance with section 67 of this chapter.

1 (16) An employee or agent of a child placing agency, a
2 court, or the department, who intentionally releases identifying
3 information in violation of this section, is guilty of a
4 misdemeanor.

5 (17) This section also applies to a stepparent adoption and
6 to the adoption of a child related to the petitioner within the
7 fifth degree by marriage, blood, or adoption.

8 (18) As used in this section, "adult adoptee" means an indi-
9 vidual who was adopted as a child who is now 18 years of age or
10 older or an individual who was 18 years of age or older at the
11 time of adoption.

12 (19) A child placing agency, a court, and the department may
13 require a fee for supplying information under this section. The
14 fee shall be \$60.00 or the actual cost of supplying the informa-
15 tion, whichever is less. The child placing agency, court, or
16 department may waive a part or all of the fee in case of indi-
17 gency or hardship.

18 (20) A direct descendant of a deceased adult adoptee may
19 request information pursuant to this section. All information to
20 which an adult adoptee is entitled pursuant to this section shall
21 be released to the adult adoptee's direct descendants if the
22 adult adoptee is deceased.

23 (21) IF A CHILD PLACING AGENCY THAT DECIDES TO CEASE OPERA-
24 TIONS RECEIVES A REQUEST FOR INFORMATION DESCRIBED IN THIS SEC-
25 TION, THE CHILD PLACING AGENCY SHALL RESPOND TO THAT REQUEST AS
26 REQUIRED BY SECTION 27 OF THIS CHAPTER.

1 (22) ~~-(21)-~~ A child placing agency, a court, or the
2 department shall permit the children's ombudsman to inspect
3 adoption records in its possession in connection with an investi-
4 gation authorized under the children's ombudsman act, ~~Act~~
5 ~~No. 204 of the Public Acts of 1994, being sections 722.921 to~~
6 ~~722.935 of the Michigan Compiled Laws~~ 1994 PA 204, MCL 722.921
7 TO 722.935. The ombudsman shall not disclose information
8 obtained by an inspection under this section. If the children's
9 ombudsman requires further information from an individual whose
10 identity is protected in closed adoption records, the ombudsman
11 shall contact the individual discreetly and confidentially. The
12 ombudsman shall inform the individual that his or her participa-
13 tion in the ombudsman's investigation is confidential, is
14 strictly voluntary, and will not alter or constitute a challenge
15 to the adoption. The ombudsman shall honor the individual's
16 request not to be contacted further. As used in this subsection,
17 "children's ombudsman" or "ombudsman" means the ombudsman
18 appointed pursuant to section 3 of ~~Act No. 204 of the Public~~
19 ~~Acts of 1994, being section 722.923 of the Michigan Compiled~~
20 ~~Laws~~ THE CHILDREN'S OMBUDSMAN ACT, 1994 PA 204, MCL 722.923, or
21 his or her designee.

22 SEC. 68C. (1) IF THE DEPARTMENT OR CHILD PLACING AGENCY IS
23 UNABLE TO RESPOND TO A REQUEST FOR INFORMATION THAT IS SUBJECT TO
24 THE 63-DAY TIME LIMIT UNDER SECTION 68(1) OF THIS CHAPTER, THE
25 DEPARTMENT OR CHILD PLACING AGENCY MAY SEEK PERMISSION FROM THE
26 REQUESTING INDIVIDUAL TO EXTEND THAT TIME PERIOD FOR UP TO 28
27 DAYS. THE TIME LIMIT IS EXTENDED IF THE REQUESTING INDIVIDUAL

1 SIGNS A WAIVER OF THE LIMIT, WHICH WAIVER STATES THE ADDITIONAL
2 AMOUNT OF TIME WITHIN WHICH THE DEPARTMENT OR CHILD PLACING
3 AGENCY MUST RESPOND. IF THE DEPARTMENT OR CHILD PLACING AGENCY
4 FAILS TO RESPOND WITHOUT JUST CAUSE TO THE REQUEST WITHIN THE
5 63-DAY TIME LIMIT OR AN EXTENSION OF UP TO 28 DAYS, THE INDIVID-
6 UAL MAY SEEK FROM THE CIRCUIT COURT A WRIT OF MANDAMUS TO COMPEL
7 THE DEPARTMENT OR A COURT ORDER TO COMPEL THE CHILD PLACING
8 AGENCY TO RESPOND.

9 (2) A COURT SHALL AWARD REASONABLE ATTORNEY FEES AND COURT
10 COSTS TO AN INDIVIDUAL REQUESTING INFORMATION AS DESCRIBED IN
11 SUBSECTION (1) IF THE COURT ISSUES A WRIT OF MANDAMUS OR OTHER
12 COURT ORDER ORDERING A RESPONSE TO THE INDIVIDUAL'S REQUEST.

13 (3) THIS SECTION APPLIES TO A REQUEST SUBMITTED TO THE
14 DEPARTMENT UNDER SECTION 68(1) OF THIS CHAPTER AFTER OCTOBER 1,
15 1998.