

2005 DRAFTING REQUEST

Bill

Received: 09/30/2005

Received By: gmalaise

Wanted: Soon

Identical to LRB:

For: Mark Gundrum (608) 267-5158

By/Representing: Himself

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - TPR and adoption

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gundrum@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosure to a birth parent of identifying information about his or her birth child

Instructions:

See Attached--create registry under which a birth child 21 years of age or over may file an affidavit authorizing DHFS to disclose identifying information to his or her birth parent and prohibit a birth parent from contacting a birth child who has not filed an authorizing affidavit.

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|------------------------|------------------------|-----------------|
| /? | gmalaise 09/30/2005 | csicilia 10/14/2005 | | _____ | | | S&L |
| /1 | | | rschluet 10/14/2005 | _____ | Inorthro 10/14/2005 | Inorthro 02/08/2006 | |

FE Sent For:

↳ At Intro.

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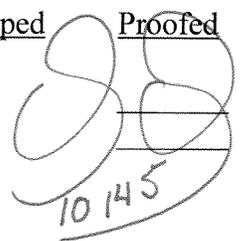
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|--------------|----------------|-----------------|--------------|---|------------------|-----------------|-----------------|
| /? | gmalaise | ↑ | cjs 10/14/05 |  | | | |

FE Sent For:

<END>

Malaise, Gordon

From: Usealman, Kevin
Sent: Tuesday, October 04, 2005 4:57 PM
To: Malaise, Gordon
Subject: RE: RESPONSE FROM DRAFTING ATTORNEY - Protecting the rights of persons affected by adoption

sounds good for now. thanks!

Kevin Usealman

*Communications and Policy Director
State Representative Mark Gundrum's Office
o: (608) 267-5158
c: (608) 215-0776*

From: Malaise, Gordon
Sent: Tuesday, October 04, 2005 4:56 PM
To: Usealman, Kevin
Subject: RE: RESPONSE FROM DRAFTING ATTORNEY - Protecting the rights of persons affected by adoption

Kevin:

Yes, I can draft the draft so that the department may not conduct a search for a birth child. Accordingly, if an affidavit from the birth child is not on file, that is it--the department may not disclose the information and may not search for the birth child.

Gordon

From: Usealman, Kevin
Sent: Tuesday, October 04, 2005 3:30 PM
To: Malaise, Gordon
Subject: FW: RESPONSE FROM DRAFTING ATTORNEY - Protecting the rights of persons affected by adoption

Hi Gordon,

Thanks for you most thorough response to our constituents questions regarding the draft relating to access of records by birth parents!

Here are our constituent's thoughts. Is there anything you can do in the language of this draft to address her concerns articulated below?

Thanks again,

Kevin U.

Rep. Gundrum's Staff

10/04/2005

From: Alisa LikesToGolf [mailto:golfing_gal2002@yahoo.com]
Sent: Monday, October 03, 2005 10:54 AM
To: Churchill, Jolene
Subject: Re: RESPONSE FROM DRAFTING ATTORNEY - Protecting the rights of persons affected by adoption

You and the staff in Rep Gundrum's office are absolutely amazing! Thank you for the quick response.

Yes, my birth and adoption were in IL; the birthparent lives in WI. Although the Agency did not provide identifying information to the birthparent, the damage is done once the birthparent's search becomes successful and the letter is received by the adopted child. Birthparents should be prohibited from doing any type of search as they terminated their parental rights long ago. Therefore, can s.48.433 prevent the agency from contacting the child at all if there is not an affidavit on file? It seems that a majority of the birthparents are the ones conducting these intrusive searches. If a child had thought about a reunion or wanting to be found, they could have the affidavit on file; if they haven't or don't want to be found, then there would be no loss by the agency being prohibited from contacting them advising them of the search and requesting permission. Can this draft please be written a little more rigidly to include this?

Again, I really appreciate the time and attention you and your staff have given this matter. Thank you so much.

Alisa A. Alfaro

"Churchill, Jolene" <Jolene.Churchill@legis.state.wi.us> wrote:

Alisa,

Here is the response we received from our drafting attorney responding to your email from Friday afternoon. - j

From: Malaise, Gordon
Sent: Friday, September 30, 2005 2:20 PM
To: Usealman, Kevin
Subject: RE: GORDON - REQUEST FOR INFO: Protecting the rights of persons affected by adoption

Kevin:

Section 48.93 (1d) provides that, subject to certain exceptions, all records and papers pertaining to an adoption proceeding shall be kept in a separate locked file and may not be disclosed. In addition, s. 48.78 provides that, subject to certain exceptions, no agency may disclose the contents of any record kept or information received about an individual in its care. Accordingly, it appears that if Midwest Adoption is a Wisconsin agency, that agency seriously breached your constituent's confidentiality.

The exception to the confidentiality of adoption records that is relevant to your constituent's situation is s. 48.433, which permits a birth parent whose parental rights were terminated in Wisconsin to file with DHFS an affidavit authorizing DHFS to disclose his or her identity and location to a birth child 21 years of age or over. If an affidavit is not on file, DHFS must search for the birth parent and give him or her an opportunity to file an authorizing affidavit. If the birth parent does not file the affidavit, DHFS may not disclose the information.

As Mark and I discussed yesterday, the draft will do two things:

1. Amend s. 48.433 to create a parallel registry under which a birth child 21 years of age or over may file

with DHFS an affidavit authorizing DHFS to disclose his or her identity and location to a birth parent.

2. Create a new subsection under s. 48.433 prohibiting a birth parent from contacting a birth child who has not filed an affidavit and prohibiting any person from providing to such a birth parent information about the identity and location of his or her birth child. This prohibition will have to be subject to s. 48.434 (3), which permits an adoptive parent of a child under 21 years of age to authorize an agency to release information to the birth parent, and to an "open adoption" arrangement in which the birth parent remains in the picture all along.

In response to the question regarding jurisdiction, if the adoption took place in Illinois, then the laws of Illinois concerning the confidentiality of adoption records would govern.

I hope this is helpful to you. If you have any further questions, please do not hesitate to contact me directly.

Gordon

Jolene --

I was unable to find anything about open records in the books but I was probably looking in the wrong place. can you please forward a copy of the current statute regarding this?

Also, if it's done on a state level, what state's law (assuming some have open book and some don't) apply in the following situation?

b-mom lives in WI; adult adoptee lives in NV but adoption took place in IL? would IL laws have jurisdiction?

thanks for your help. I greatly appreciate it!

"Churchill, Jolene" <Jolene.Churchill@legis.state.wi.us> wrote:

Yes he did! I was pleasantly surprised at the quick and personal response! I just want to make it clear that this is not an issue just about me. With over 100,000 adoptions taking place annually, that means there's 500,000 people affected by this (the adoptee, two adoptive/real parents and two birthparents) so the ramifications of an open record law are tremendous. We have been able to protect ourselves from the invasive calls of telemarketers at dinnertime -- why can't we protect ourselves from this intrusion into our privacy?

There are many registries available for those who wish to be contacted that would signify the willingness of the participants to meet and establish a connection; Therefore, the absence of being on these registries should signify your unwillingness to be contacted in any way and as such, your wishes should be honored without someone going through an agency (midwest adoption in my case; they weren't even the ones who handled my original adoption!) or, in some cases, a private investigator.

Once a birthparent terminates their rights, they should not be able to renege on that contract to satisfy their own pain and guilts. Although I have always been against this type of thing, I agreed to meet the birthparent because I thought that if all she wanted to know was that I was okay and she could go to her grave in peace then I would do it; however, that was not to be the end of it. I had no idea it would progress to what it did and I have rued my decision since. It is unfortunate that both sides are not presented nor is counseling available for either party. The 'hunter' should be required to have counseling before records are opened to ensure that they are prepared for what may happen i.e. rejection, the child is no longer 6 weeks old, the child is not what they had expected had they been the one to raise him/her, etc. The pain goes both ways - for adoptees searching for birthparents and birthparents searching for children.

I know this is a volatile issue that will strike a cord with many constituents and I do believe it should be handled on a federal level as it is truly privacy rights that are at stake. I appreciate Rep. Gundrum taking time out of his busy schedule to personally discuss this issue with me. It was a pleasant surprise.

Sincerely,

"Churchill, Jolene" <Jolene.Churchill@legis.state.wi.us> wrote:

I gave your message to Rep. Gundrum earlier this afternoon. Has he called yet?

Sincerely,

Jolene R. Churchill, Assistant
Representative Mark D. Gundrum
84th Assembly District
1-888-534-0084

Dear Honorable Representatives:

I was adopted in 1968. My birthmother hunted me down in 2000. It has been a horrible experience which I have come to rue time and time again. My birthmother has turned the world of myself and my daughter upside down. I am not alone in this situation. Please help me in closing this legal loophole allowing for intrusion on a state level, if not federal due to jurisdictional issues.

Allowing records to be opened by other party, or searches by birthparents, is an intrusion in people's lives. There are registries available for birthfamilies and adoptees that allow for this information -- there is no reason to allow records to be opened. The registries shows a

mutual interest; opening records does not - it is an intrusion. If someone is not on the registry, then one should not be able to circumvent their wishes and open records or go to an independent third party. My REAL parents were safe with the thought that the records could not be opened. They would roll over in their graves if they knew what happened. When birthparents terminate their rights, they should not be able to renege on it 30 years later just to heal their own hearts and guilt. We've got to do all we can to maintain the privacy of adoptees and birthparents alike. Please help me in doing so.

I strongly urge you to reconsider any legislation allowing for open records. At the very least, if you insist on allowing these intrusions to occur, background checks and counseling should be made mandatory. Based on my own personal experience and reading of others' journals on line, it appears that there is a honeymoon period of about 2 years, after that, it's downhill. Meanwhile, the problems that linger are much greater. Please, I urge you, do not allow these records to be opened.

Sincerely,



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3766/7

GMM

By 10/14

Handwritten initials and marks

SAV
x-rob

Gen cat.

1 AN ACT ...; relating to: the disclosure to a birth parent whose parental rights to
2 his or her birth child were terminated of identifying information about the birth
3 child, ~~making an appropriation~~ and providing a penalty.

before February 1, 1982

in this state at any time

Analysis by the Legislative Reference Bureau

Current law provides a procedure by which a person whose birth parent's parental rights to that person have been terminated, or who has been adopted, in this state, (birth child) may request the Department of Health and Family Services (DHFS), or a county department of human services or social services or a child welfare agency that has contracted with DHFS to administer the Adoption Search Program (agency), to provide the birth child, after he or she reaches 21 years of age, with any information that is available to DHFS or the agency regarding the identity and location of his or her birth parents. DHFS or the agency may provide the identity and location of a birth parent only if DHFS or the agency has on file an unrevoked affidavit from the birth parent authorizing DHFS or the agency to disclose that information. If DHFS or the agency does not have on file an unrevoked affidavit from each known birth parent, DHFS or the agency must search for each birth parent who has not filed an affidavit. Upon locating a birth parent, DHFS must give the birth parent an opportunity to file an affidavit. If a known birth parent cannot be located, DHFS or the agency may disclose identifying information concerning that birth parent if the other birth parent has filed an unrevoked affidavit. If a birth parent who has not filed an affidavit is known to be deceased, DHFS or the agency may not provide the identity of that birth parent but may provide the identity and location of the other birth parent if the other birth parent has filed an unrevoked affidavit and if one year has elapsed since the death of the birth parent.

may not

the

his or her

This bill establishes a similar procedure by which a birth parent may request DHFS or an agency to provide the birth parent, after the birth child reaches 21 years of age, with any information that is available to DHFS or the agency regarding the identity and location of ~~any birth child of the birth parent~~. DHFS or the agency may provide that information with respect to a birth child only if DHFS or the agency has on file an unrevoked affidavit from ~~that~~ birth child authorizing the disclosure of that information. To file an affidavit, a birth child must be 21 years of age or over. If DHFS or an agency does not have on file an unrevoked affidavit from a birth child, DHFS or the agency ~~must~~ search for the birth child and ~~upon locating the birth child, must give the birth child an opportunity to file an affidavit. If a known birth child cannot be located, DHFS or the agency~~ may not disclose identifying information concerning the birth child. If a birth child who has not filed an affidavit is known to be deceased, DHFS or the agency must so inform the requester and provide the requester with the identity of that birth child.

The bill also prohibits a birth parent from contacting a birth child who has not filed an unrevoked affidavit and a person from providing such a birth parent with any information about the identity or location of the birth child, except that that prohibition does not apply if, before the birth child reaches 21 years of age, the adoptive parents of the birth child authorized the release of that information to the birth parent. Any person who contacts a birth child in violation of the bill or who provides information to a birth parent in violation of the bill may be required to forfeit not more than \$5,000 for each violation.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.435 (3) (jj) of the statutes is amended to read:
 2 20.435 (3) (jj) *Searches for birth parents and birth children and adoption record*
 3 *information; foreign adoptions.* The amounts in the schedule for paying the cost of
 4 searches for birth parents under ss. 48.432 (4) and 48.433 (6) and birth children
 5 under s. 48.433 (6) and for paying the costs of reviewing, certifying^(j) and approving
 6 foreign adoption documents under s. 48.838 (2) and (3). All moneys received as fees
 7 paid by persons requesting a search under s. 48.432 (3) (e) or (4), 48.433 (6) or 48.93

(2)

1 (1r) and paid by persons for the review, certification, and approval of foreign adoption
2 documents under s. 48.838 (2) and (3) shall be credited to this appropriation.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322, 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 306, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510.

3 SECTION 2. 48.433 (title) of the statutes is amended to read:
4 48.433 (title) Access to identifying information about birth parents and
5 birth children.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

6 SECTION 3. 48.433 (1) (a) of the statutes is amended to read:
7 48.433 (1) (a) "Agency" ~~has the meaning given under s. 48.432 (1) (ag) means~~
8 a county department or a licensed child welfare agency that has contracted with the
9 department under sub. (11) to administer this section.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

10 SECTION 4. 48.433 (1) (am) of the statutes is created to read:
11 48.433 (1) (am) "Birth child" means a person whose birth parent's parental
12 rights to the person have been terminated in this state at any time or who has been
13 adopted in this state with the consent of his or her birth parent or parents before
14 February 1, 1982.

15 SECTION 5. 48.433 (2) of the statutes is amended to read:
16 48.433 (2) Any birth parent whose parental rights to his or her birth child have
17 been terminated in this state at any time, or who has consented to the adoption of
18 his or her birth child in this state before February 1, 1982, may file with the
19 department, or an agency ~~contracted with under sub. (11)~~, an affidavit authorizing
20 the department or agency to provide the birth child with a copy of his or her original
21 birth certificate and with any other available information about the birth parent's

1 identity and location. An affidavit filed under this subsection may be revoked at any
2 time by notifying the department or agency in writing.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

3 **SECTION 6.** 48.433 (2m) of the statutes is created to read:

4 48.433 (2m) Any birth child 21 years of age or over may file with the
5 department or an agency an affidavit authorizing the department or agency to
6 provide his or her birth parent with any available information about the birth child's
7 identity and location. An affidavit filed under this subsection may be revoked at any
8 time by notifying the department or agency in writing.

9 **SECTION 7.** 48.433 (3) (intro.) of the statutes is amended to read:

10 48.433 (3) (intro.) Any ~~person~~ birth child 21 years of age or over whose birth
11 ~~parent's rights have been terminated in this state or who has been adopted in this~~
12 ~~state with the consent of his or her birth parent or parents before February 1, 1982,~~
13 ~~may request the department, or an agency contracted with under sub. (11), to provide~~
14 ~~the person~~ birth child with all of the following:

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

15 **SECTION 8.** 48.433 (3) (a) of the statutes is amended to read:

16 48.433 (3) (a) ~~The~~ A copy of the person's original birth certificate.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

17 **SECTION 9.** 48.433 (3m) of the statutes is created to read:

18 48.433 (3m) Any birth parent of a birth child who is 21 years of age or over at
19 the time of the request may request the department or an agency to provide the birth
20 parent with any available information regarding the identity and location of the
21 birth child.

22 **SECTION 10.** 48.433 (4) of the statutes is amended to read:

1 48.433 (4) Before acting on ~~the~~ a request under sub. (3) or (3m), the
2 department, or agency ~~contracted with under sub. (11)~~, shall require the requester
3 to provide adequate identification.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

4 SECTION 11. 48.433 (5) (intro.) of the statutes is amended to read:

5 48.433 (5) (intro.) The department, or agency ~~contracted with under sub. (11)~~,
6 shall disclose the ~~requested~~ information requested under sub. (3) in either of the
7 following circumstances:

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

8 SECTION 12. 48.433 (5) (a) of the statutes is amended to read:

9 48.433 (5) (a) The department, or agency ~~contracted with under sub. (11)~~, has
10 on file unrevoked affidavits filed under sub. (2) from both birth parents.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

11 SECTION 13. 48.433 (5) (b) of the statutes is amended to read:

12 48.433 (5) (b) One of the birth parents was unknown at the time of the
13 proceeding for termination of parental rights or the consent to adoption and the
14 known birth parent has filed an unrevoked affidavit under sub. (2).

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

15 SECTION 14. 48.433 (5m) of the statutes is created to read:

16 48.433 (5m) The department or agency shall disclose to a birth parent who
17 requests information under sub. (3m) any available information concerning the
18 identity and location of any of the requester's birth children who has filed an
19 unrevoked affidavit under sub. (2m).

20 SECTION 15. 48.433 (6) (a) of the statutes is amended to read:

21 48.433 (6) (a) If the department, or agency ~~contracted with under sub. (11)~~ (does
22 not have on file an unrevoked affidavit under sub. (2) from each known birth parent,
23 it the department or agency shall, within 3 months after the date of the original

(plan)
space

The department or agency may not disclose to a birth parent who requests information under sub. (3m) any information concerning the identity and location of any birth child of the requester who has not filed an unrevoked affidavit under sub. (2m) and may not search for that birth child.

under
Sub. (3)

~~may not disclose any identifying information
concerning the identity and location of that birth
child and may not~~

1 request, undertake a diligent search for each birth parent who has not filed an
 2 affidavit under sub. (2). ~~If the department or agency does not have on file an~~
 3 ~~unrevoked affidavit under sub (2m) from a requester's birth child, the department~~
 4 ~~or agency shall, within 3 months after the date of the original request, undertake a~~
 5 ~~diligent search for that birth child.~~ The search shall be completed within 6 months
 6 after the date of the request, unless the search falls within one of the exceptions
 7 established by the department by rule. If any information has been provided under
 8 sub. (5) ~~or (5m), whichever is applicable~~, the department or agency is not required
 9 to conduct a search.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 16. 48.433 (6) (c) of the statutes is amended to read:

11 48.433 (6) (c) Employees of the department and any agency conducting a search
 12 under this subsection may not inform any person other than the birth parents or
 13 birth child of the purpose of the search.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 17. 48.433 (6) (d) of the statutes is amended to read:

15 48.433 (6) (d) The department, or agency ~~contracted with under sub. (11)~~, shall
 16 charge the requester a reasonable fee for the cost of the search. When the
 17 department or agency determines that the fee will exceed \$100 for either birth
 18 parent, ^{then comma} ~~it or for a birth child~~ the department or agency shall notify the requester.
 19 No fee in excess of \$100 per birth parent ~~or birth child~~ may be charged unless the
 20 requester, after receiving notification under this paragraph, has given consent to
 21 proceed with the search. ✓

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 18. 48.433 (7) (a) (intro.) of the statutes is amended to read:

22

1 48.433 (7) (a) (intro.) The department or agency conducting the search shall,
2 upon locating a birth parent or birth child, make at least one verbal contact and
3 notify him or her of the following:

4 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 19. 48.433 (7) (a) 3. of the statutes is amended to read:

5) 48.433 (7) (a) 3. The fact that the birth parent ~~has the right to~~ or birth child
6 may file with the department the affidavit under sub. (2) or (2m), whichever is
7 applicable.

8 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 20. 48.433 (7) (b) of the statutes is amended to read:

9 48.433 (7) (b) Within 3 working days after contacting a birth parent ~~or birth~~
10 ~~child~~, the department, or agency ~~contracted with under sub. (11)~~, shall send the birth
11 parent ~~or birth child~~ a written copy of the information specified under par. (a) and
12 a blank copy of the applicable affidavit, under sub. (2) ✓

13 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 21. 48.433 (7) (c) of the statutes is amended to read:

14 48.433 (7) (c) If the birth parent files the affidavit under sub. (2), the
15 department, or agency ~~contracted with under sub. (11)~~, shall disclose the requested
16 information if permitted under sub. (5). ~~If the birth child files the affidavit under sub.~~
17 ~~(2m), the department or agency shall disclose the requested information if permitted~~
18 ~~under sub. (5m).~~ (stat)

19 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 22. 48.433 (7) (d) of the statutes is amended to read:

20 48.433 (7) (d) If the department or an agency has contacted a birth parent ~~or~~
21 ~~birth child~~ under this subsection, and the birth parent ~~or birth child~~ does not file the
22 ~~applicable~~ affidavit, the department or agency may not disclose the requested
23 information.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

under sub. (2)

keep as typed but make changes shown in green

1 SECTION 23. 48.433 (7) (e) of the statutes is amended to read:

2 48.433 (7) (e) If, after a search under this subsection, a known birth parent
3 cannot be located, the department, or agency ~~contracted with under sub. (11)~~, may
4 disclose the requested information if the other birth parent has filed an unrevoked
5 affidavit under sub. (2). ~~If, after a search under this subsection, a known birth child~~
6 ~~cannot be located, the department or agency may not disclose the requested~~
7 ~~information.~~

8 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

8 SECTION 24. 48.433 (7) (f) of the statutes is amended to read:

9 48.433 (7) (f) The department or agency conducting a search under this
10 subsection may not contact a birth parent or birth child again on behalf of the same
11 requester until at least 12 months after the date of the previous contact. Further
12 contacts with a birth parent or birth child under this subsection on behalf of the same
13 requester may be made only if 5 years have elapsed since the date of the last contact.

14 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

14 SECTION 25. 48.433 (8) (a) (intro.) of the statutes is amended to read:

15 48.433 (8) (a) (intro.) If a birth parent is known to be dead deceased and has
16 not filed an unrevoked affidavit under sub. (2), the department, or agency ~~contracted~~
17 ~~with under sub. (11)~~, shall so inform the requester. The department or agency may
18 not provide the requester with a copy of his or her original birth certificate or with
19 the identity of that birth parent, but shall provide the requester with any available
20 information ~~it that the department or agency~~ has on file regarding the identity and
21 location of the other birth parent if both of the following conditions exist:

22 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

22 SECTION 26. 48.433 (8) (b) of the statutes is amended to read:

23 48.433 (8) (b) If a birth parent is known to be dead deceased, the department,
24 or agency ~~contracted with under sub. (11)~~, in addition to the information provided

1 under par. (a), shall provide the requester with any nonidentifying social history
2 information about the deceased birth parent that is on file with the department or
3 agency. ✓

4 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 27. 48.433 (8) (c) of the statutes is created to read:

5 48.433 (8) (c) If a birth child is known to be deceased, the department or agency
6 shall so inform the requester and shall provide the requester with the identity of that
7 birth child.

8 **SECTION 28.** 48.433 (8m) of the statutes is amended to read:

9 48.433 (8m) If the department, or agency ~~contracted with under sub. (11)~~, may
10 not disclose the information requested under ~~this section~~, it sub. (3), the department
11 or agency shall provide the requester with any nonidentifying social history
12 information about either of the birth parents that it has on file.

13 History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

SECTION 29. 48.433 (9m) of the statutes is created to read:

14 48.433 (9m) (a) Subject to par. (b), no birth parent may contact a birth child who
15 has not filed an unrevoked affidavit under sub. (2m) and no person may provide such
16 a birth parent with any information about the identity or location of the birth child. ✓

Insert
9-12

17 (b) Paragraph (a) does not apply if, before the birth child reaches 21 years of
18 age, the adoptive parents of the birth child, under s. 48.434 (3) or otherwise
19 authorized the release of the information specified in par. (a) to the birth parent. ✓

20 (c) Subject to sub. (10), any person who violates par. (a) may be required to
21 forfeit not more than \$5,000 for each violation.

22 **SECTION 30. Nonstatutory provisions.**

23 (1) NOTICE TO BIRTH CHILDREN. The department of health and family services
24 shall, no later than 3 months after the effective date of this subsection, publish in the

an affidavit

1 official state newspaper designated under section 985.04 of the statutes a notice
2 informing birth children, as defined in section 48.433 (1) (am) of the statutes, as
3 created by this act, of their right to file with that department or an agency, as defined
4 in section 48.433 (1) (a), as affected by this act, under section 48.433 (2m) of the
5 statutes, as created by this act, authorizing the disclosure to their birth parents, as
6 defined in section 48.433 (1) (b) of the statutes, of information about their identity
7 and location.

5

(END)

of the statutes

(Insert 9-12)

Section #. 48.433 (9) of the statutes is amended to read:

48.433 (9) The requester may petition the circuit court to order the department or agency ~~designated by the department~~ to disclose any information that may not be disclosed under this section. The court shall grant the petition for good cause shown.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27.

(end of insert)

Emery, Lynn

From: Emery, Lynn
Sent: Thursday, January 19, 2006 11:17 AM
To: Usealman, Kevin
Subject: LRB 05-3766/1 (attached as requested)

Attachments: 05-3766/1



05-37661.pdf (36
KB)

Lynn Emery
Program Assistant
Legislative Reference Bureau
(608) 266-3561

Emery, Lynn

From: Usealman, Kevin
Sent: Thursday, January 26, 2006 11:29 AM
To: Emery, Lynn
Subject: LRB 3766/1

Lyn,

Can you send me an electronic copy of the above referenced draft as soon as possible?

Thanks!

Kevin Usealman
Communications and Policy Director
State Representative Mark Gundrum's Office
o: (608) 267-5158
c: (608) 215-0776

Emery, Lynn

From: Emery, Lynn
Sent: Thursday, January 26, 2006 11:31 AM
To: Usealman, Kevin
Subject: LRB 05-3766/1 (attached as requested)

Attachments: 05-3766/1



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Lynn Emery
Program Assistant
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Northrop, Lori

From: Usealman, Kevin
Sent: Wednesday, February 08, 2006 10:22 AM
To: LRB.Legal
Subject: Please jacket LRB 3766 for introduction - thank you

Kevin Usealman
Communications and Policy Director
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