



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2007 Assembly Bill 489

**Assembly
Amendment 1**

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Assembly Bill 489 creates an adoption search for birth parents to locate birth children who have been adopted and prohibits birth parents from otherwise contacting birth children who have been adopted.

Current Law

Under current law, a person 18 years of age or older whose birth parent's rights have been terminated in Wisconsin or who has been adopted in Wisconsin before February 1, 1982, may request the Department of Health and Family Services (DHFS), or a county department or licensed child welfare agency (hereinafter, "agency") with whom DHFS contracts for this purpose, to provide the person with information concerning his or her birth parents. A birth parent may file an affidavit authorizing DHFS, or an agency, to provide the child with his or her original birth certificate and with any other available information about the birth parent's identity and location.

DHFS must disclose information relating to a birth parent that is requested by the person who was adopted if DHFS has on file unrevoked affidavits from **both** birth parents, unless one of the birth parents was unknown at the time of the consent for the adoption. If DHFS does not have on file an affidavit from each known birth parent, it must undertake a diligent search for each birth parent who has not filed an affidavit.

The person who was adopted and is requesting information about his or her birth parents may petition the circuit court to order DHFS to disclose any information that may not be disclosed under current law, and the court may grant the petition for good cause shown.

Assembly Bill 489

Assembly Bill 489 creates a similar procedure to permit birth parents to request information relating to a birth child. However, under the bill, DHFS or an agency may not search for a birth child who has not filed an affidavit consenting to the release of information to the birth parent.

Under the bill, any birth parent of a child who is 18 years of age or older at the time of the request may request DHFS or an agency to provide the birth parent with any available information regarding the history and location of the birth child. The bill defines “birth child” as a person whose birth parent’s parental rights have been terminated in Wisconsin at any time or who has been adopted in Wisconsin with the consent of his or her birth parent or parents before February 1, 1982.

DHFS or an agency must disclose to a birth parent who requests information regarding a birth child any available information concerning the identity and location of any of the requester’s birth children who has filed an unrevoked affidavit. DHFS or an agency may not disclose any information concerning the identity or location of any birth child who has not filed an unrevoked affidavit and may not search for that birth child.

As under current law for birth children, a birth parent may petition the circuit court to order DHFS to disclose any information that may not be disclosed under the bill.

The bill also provides that no birth parent may contact a birth child who has not filed an unrevoked affidavit, as described above, and no person may provide a birth parent with any information about the identity or location of the birth child. Any person who violates this provision may be required to forfeit not more than \$5,000 for each violation.

Assembly Amendment 1

Assembly Amendment 1 does the following:

- Changes the definition of “birth parent” under current law so that it corresponds with the definition of “birth child” for purposes of adoption searches.
- Clarifies that DHFS or an agency may not disclose to a birth parent any information other than the identity and location of a birth child.
- Deletes language permitting a birth parent to petition the circuit court to order the disclosure of additional information relating to a birth child.
- Prohibits a person acting on behalf of a birth parent, as well as a birth parent, from contacting a birth child who has not filed an affidavit with DHFS or an agency.

Legislative History

Representative Townsend offered Assembly Amendment 1. On February 21, 2008, the Assembly Committee on Children and Family Law unanimously voted to recommend adoption of the amendment and passage of the bill, as amended.

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