



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2493/1
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2015 SENATE BILL 386

November 12, 2015 – Introduced by Senators OLSEN, DARLING, MARKLEIN, NASS and RINGHAND, cosponsored by Representatives NOVAK, BALLWEG, BOWEN, E. BROOKS, R. BROOKS, CZAJA, HORLACHER, JACQUE, KITCHENS, A. OTT, ROHRKASTE and STEFFEN. Referred to Committee on Health and Human Services.

1 **AN ACT** *to repeal* 48.433 (8) (a) 2.; *to consolidate, renumber and amend*
2 48.433 (8) (a) (intro.) and 1.; *to amend* 48.432 (4) (a); and *to create* 48.432 (3)
3 (a) 4m. and 48.433 (8r) of the statutes; **relating to:** access by a birth parent
4 whose parental rights have been terminated in this state to identifying
5 information about his or her child and access to medical and genetic
6 information about such a birth parent.

Analysis by the Legislative Reference Bureau

Introduction

This bill: 1) permits a person 18 years of age or over whose birth parent's parental rights have been terminated in this state to file an affidavit with the Department of Children and Families (DCF) authorizing DCF to provide the person's birth parent with identifying information about the person; and 2) makes certain changes with regard to access to medical and genetic information about such a birth parent.

Access to identifying information

Under current law, DCF administers an adoption search program under which a person 18 years of age or over whose birth parent's parental rights have been terminated in this state may request DCF to provide the person with any information that is available to DCF regarding the identity and location of the person's birth

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parents. DCF may provide the identity and location of a birth parent only if DCF has on file an unrevoked affidavit from each known birth parent authorizing DCF to disclose that information. If DCF does not have on file an unrevoked affidavit from each known birth parent, DCF must search for each birth parent who has not filed an affidavit and, upon locating a birth parent, must give the birth parent an opportunity to file an affidavit. If a known birth parent cannot be located, DCF may disclose the requested information 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, DCF 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 deceased birth parent.

This bill requires DCF to disclose the identity of a birth parent who is known to be deceased, including the requester's original birth certificate if both parents are deceased or if one parent is deceased and the other has an affidavit on file authorizing the release of the original birth certificate.

Current law does not include a comparable procedure under which a birth parent, or a person who may be a biological parent and whose parental rights to a person have been terminated (possible parent), may obtain identifying information about a person who was, or may have been, his or her child. This bill establishes such a procedure.

Specifically, the bill: 1) permits any person 18 years of age or over whose birth parent's or possible parent's parental rights have been terminated in this state to file with DCF an affidavit authorizing DCF to provide the birth parent or possible parent with any available information about the identity and location of the person; 2) permits any birth parent or possible parent whose parental rights have been terminated in this state to request DCF to provide the birth parent or possible parent with any available information about the identity and location of any person 18 years of age or over who was, or may have been, his or her child; and 3) requires DCF to disclose the requested information if DCF has on file an unrevoked affidavit authorizing that disclosure. In disclosing that information, DCF may not disclose any information that would reveal the identity or location of a birth parent or possible parent other than the birth parent or possible parent requesting the information.

Access to medical and genetic information

Under current law, any birth parent whose parental rights have been terminated in this state may file with DCF any relevant medical or genetic information about the birth parent or his or her child and DCF must disclose that information on the request of the child, if 18 years of age or over; the adoptive parent, guardian, or legal custodian of the child; any offspring of the child, if 18 years of age or over; or any agency or social worker who is providing services to the child. If DCF does not have that information on file, the requester may request DCF to conduct a search for the birth parents to obtain that information. Such a request must be accompanied by a statement from a physician certifying either that the child has or may have acquired a genetically transferable disease or that the child's medical condition requires access to the information (physician's statement).

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This bill eliminates the requirement that a birth parent search request be accompanied by a physician's statement. The bill also permits the parent, guardian, or legal custodian of an offspring of a person whose birth parent's parental rights have been terminated in this state to request medical and genetic information about that person or his or her birth parents if that person is deceased and the offspring is under 18 years of age.

For further information see the *state* 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.** 48.432 (3) (a) 4m. of the statutes is created to read:

2 48.432 (3) (a) 4m. The parent, guardian, or legal custodian of an offspring of
3 a deceased individual or adoptee, if the offspring is under 18 years of age.

4 **SECTION 2.** 48.432 (4) (a) of the statutes is amended to read:

5 48.432 (4) (a) Whenever any person specified under sub. (3) wishes to obtain
6 medical and genetic information about an individual whose birth parent's rights
7 have been terminated in this state at any time, or whose birth parent consented to
8 his or her adoption before February 1, 1982, or medical and genetic information
9 about the birth parents of such an individual or adoptee, and the information is not
10 on file with the department, or agency contracted with under sub. (9), the person may
11 request that the department or agency conduct a search for the birth parents to
12 obtain the information. ~~The request shall be accompanied by a statement from a~~
13 ~~physician certifying either that the individual or adoptee has or may have acquired~~
14 ~~a genetically transferable disease or that the individual's or adoptee's medical~~
15 ~~condition requires access to the information.~~

16 **SECTION 3.** 48.433 (8) (a) (intro.) and 1. of the statutes are consolidated,
17 renumbered 48.433 (8) (a) and amended to read:

SENATE BILL 386**SECTION 3**

1 48.433 (8) (a) ~~If a birth parent is known to be dead and has not filed an~~
2 ~~unrevoked affidavit under sub. (2) deceased, the department, or agency contracted~~
3 ~~with under sub. (11), shall so inform the requester. The department or agency may~~
4 ~~not shall provide the requester with the identity of the deceased parent. If both birth~~
5 ~~parents are known to be deceased, the department or agency shall provide the~~
6 ~~requester with his or her original birth certificate ~~or with the identity of that parent,~~~~
7 ~~but. If only one birth parent is known to be deceased, the department or agency shall~~
8 ~~provide the requester with his or her original birth certificate and any available~~
9 ~~information it has on file regarding the identity and location of the other birth parent~~
10 ~~if both of the following conditions exist: 1. The the other birth parent has filed an~~
11 ~~unrevoked affidavit under sub. (2).~~

12 **SECTION 4.** 48.433 (8) (a) 2. of the statutes is repealed.

13 **SECTION 5.** 48.433 (8r) of the statutes is created to read:

14 48.433 (8r) (a) In this subsection, "birth parent" has the meaning given in s.
15 48.432 (1) (am) and includes any other person who may be the person's biological
16 parent and whose parental rights have been terminated.

17 (b) Any person 18 years of age or over whose birth parent's rights have been
18 terminated in this state or who has been adopted in this state with the consent of his
19 or her birth parent or parents before February 1, 1982, may file with the department,
20 or agency contracted with under sub. (11), an affidavit authorizing the department
21 or agency to provide the person's birth parent with any available information about
22 the identity and location of the person. An affidavit filed under this subsection may
23 be revoked at any time by notifying the department or agency in writing.

24 (c) Any birth parent whose rights have been terminated in this state at any
25 time, or who has consented to the adoption of his or her child in this state before

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1 February 1, 1982, may request the department, or agency contracted with under sub.
2 (11), to provide him or her with any available information about the identity and
3 location of any person 18 years of age or over who was or may have been his or her
4 child. Before acting on the request, the department or agency shall require the
5 requester to provide adequate identification.

6 (d) If the department, or agency contracted with under sub. (11), has on file an
7 unrevoked affidavit filed under par. (a) by a person 18 years of age or over who was
8 or may have been a child of the requester, the department or agency shall disclose
9 the information requested under par. (b) related to the person who filed the affidavit.
10 In disclosing information under this paragraph, the department or agency may not
11 disclose any information that would reveal the identity or location of a birth parent
12 other than the birth parent requesting the information.

SECTION 6. Initial applicability.

13
14 (1) ACCESS TO IDENTIFYING INFORMATION. The treatment of section 48.433 (8r) of
15 the statutes first applies to a request by a birth parent, as defined in section 48.433
16 (8r) (a) of the statutes, for identifying information about a person 18 years of age or
17 over who was or may have been his or her child made on the effective date of this
18 subsection, regardless of whether the birth parent's parental rights to the person
19 were terminated or the birth parent consented to the adoption of the person prior to
20 the effective date of this subsection.

21 (2) ACCESS TO MEDICAL AND GENETIC INFORMATION. The treatment of section
22 48.432 (3) (a) 4m. of the statutes first applies to a request for medical and genetic
23 information, and the treatment of section 48.432 (4) (a) of the statutes first applies
24 to a request for a search to obtain that information, made on the effective date of this
25 subsection, regardless of whether the parental rights of the birth parent, as defined

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1 in section 48.432 (1) (am) of the statutes, whose medical and genetic information is
2 the subject of the request were terminated, or that birth parent consented to the
3 adoption of his or her child, prior to the effective date of this subsection.

4 (END)