



1995 ASSEMBLY BILL 1031

March 14, 1996 - Introduced by Representatives NOTESTEIN, FREESE, PLACHE, SERATTI, RILEY, GUNDERSON, BALDWIN, BOCK, BELL, SPRINGER, BOYLE and MUSSER, cosponsored by Senator BUETTNER. Referred to Committee on Children and Families.

- 1 **AN ACT to repeal and recreate** 48.433 (8) of the statutes; **relating to:** disclosure
2 of identifying information about deceased birth parents.

Analysis by the Legislative Reference Bureau

Current law provides a procedure by which a person whose birth parent's rights have been terminated, or who has been adopted, in this state may require the department of health and social services (DHSS) or an agency such as a county department of human services or social services or a child welfare agency that has contracted with DHSS to administer the adoption search program (agency) to provide the person, after the person reaches 21 years of age, with any information that is available to DHSS or the agency regarding the identity and location of the person's birth parents. DHSS or the agency may provide the identity and location of a birth parent only if DHSS or the agency has on file an unrevoked affidavit from the birth parent authorizing DHSS or the agency to disclose that information. If DHSS or the agency does not have on file an unrevoked affidavit from each known birth parent, DHSS or the agency must search for each birth parent who has not filed an affidavit. Upon locating a birth parent, DHSS must give the birth parent an opportunity to file an affidavit. If a known birth parent cannot be located, DHSS 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, DHSS 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.

This bill provides that if a birth parent is deceased, the department of health and family services (DHFS) (the new name for DHSS effective July 1, 1996) or an agency must disclose the identity of the deceased birth parent and, if the other birth parent has filed an unrevoked affidavit, DHFS or the agency must provide the requester with his or her original birth certificate and with the identity and location

of the other birth parent, with no one-year waiting period as under current law. If the other birth parent has not filed an affidavit, DHFS or the agency must disclose the identity of the deceased birth parent and undertake a search for the other birth parent, but may not provide the requester with his or her original birth certificate or with the identity or location of the other birth parent.

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.** 48.433 (8) of the statutes, as affected by 1995 Wisconsin Act 27, is
2 repealed and recreated to read:

3 48.433 (8) If a birth parent is known to be deceased, the department, or agency
4 contracted with under sub. (11), shall so inform the requester. The department or
5 agency shall provide the requester with the identity of the deceased birth parent and,
6 in addition, take the following actions under the following circumstances:

7 (a) If the other birth parent was unknown at the time of the proceeding for
8 termination of parental rights or consent to adoption or is known to be deceased, the
9 department or agency shall provide the requester with his or her original birth
10 certificate and with any available information that the department or agency has on
11 file regarding the identity and location of the other birth parent.

12 (b) If the other birth parent was known at the time of the termination of
13 parental rights or consent to adoption and is not known to be deceased and has filed
14 an unrevoked affidavit under sub. (2), the department or agency shall provide the
15 requester with his or her original birth certificate and with any available information
16 that the department or agency has on file regarding the identity and location of the
17 other birth parent.

