

TALKING POINTS
Senate Bill 63

Title: **AN ACT FURTHER REGULATING ACCESS TO BIRTH CERTIFICATES**

Sponsors: Berry, Spilka, and Rep. Lepper

Summary: This bill will open up access to birth records for those individuals born after January 1, 2008 or before June 17, 1974, and create a voluntary contact information registry for those adoptees born between June 17, 1974 and January 1, 2008.

Cost: This legislation will have an approximate initial cost of \$100,000 and an annualized cost of approximately \$73,000 to operate the registry each year.

Talking Points:

- This bill clarifies and amends existing law to provide access to initial birth certificates for those adoptees born before July 17, 1974 and after January 1, 2008.
- For that intervening period where birth parents had an affirmative expectation of privacy, DPH shall operate an information registry for contact information provided strictly on a voluntary basis for those parents and children who wish to be connected.
- From the 1930s on, states began to affirmatively seal or close birth records in a somewhat paternalistic response to the social stigma of illegitimate births as well as to provide adoptive parents a level of security against intervention by birth parents.
- In the last 25 years the climate has begun to shift as the both the social stigma as well as the lack of legal status of children born out of wedlock has dissipated. In keeping with this trend,

more and more states have begun to open their birth records and many adoption agencies' procedures have evolved to incorporate post adoptive contact with birth parents.

- There are over 1 million people each year who use private eyes, Google, as well as print and online ads to search for a birth parent or child. This legislation strikes a just balance in assisting these searches by assuring access to birth record information for future and pre-1974 adoptees, while also maintaining the expectation of privacy for those parents who gave up their children from July 17, 1974 to 2008.
- As a further privacy measure for those individuals who wish to voluntarily share their contact information, this legislation exempts this information from the public records law.

Only if Asked

- Some may fear that absent the protection of anonymity some birth parents may turn to abortion more frequently; however, data collected from states across the nation show this assertion to be grounded in nothing but speculative thinking.
- In Alabama records were opened in 2000 and abortions declined 13% from 2000-2003. In Oregon abortions went down 10% after records were opened in that same time period, while nationally abortions decreased by only 2%.
- Alaska and Kansas who have never closed their birth records have the highest and 5th highest adoption rates respectively.

SWM Amendments:

- Technical language changes to clarify what birth certificate could be accessed and to make the information in the contact registry one of the public records exemptions in GL ch. 4 § 7.

SENATE 63 :

**AN ACT FURTHER REGULATING ACCESS TO BIRTH
CERTIFICATES**

(Summary reflects text as amended.)

SPONSORS:

Senators Berry and Spilka; Representative Lepper

**LEGISLATIVE
HISTORY:**

01/10/07 Senate referred to the Joint Committee on Children,
Families, and Persons with Disabilities
House concurred
03/21/07 Public Hearing
03/29/07 Bill reported favorably by Committee and referred to
the Senate Committee on Ways and Means

**EXISTING LAWS
AFFECTED:**

G.L. c. 4 § 7; c. 46 §13

**PROPOSED
LEGISLATION:**

- Amends existing law to allow those individuals born before July 17, 1974 and after January 1, 2008 to have access to the last birth certificate issued before their adoption.
- Creates an Adoption Contact Information Registry within the Registry of Vital Statistics that allows biological parents on a strictly voluntary basis to submit contact information that may be given to any of their biological children who were adopted.
- This Registry allows those children who were adopted between July 17, 1974 and January 1, 2008 access to any information about their biological parents, if those parents choose to participate.
- Exempts this contact information from the public records law.

**AGENCY
COMMENTS:**

The Executive Office of Health and Human Services takes no position on this legislation.

**ESTIMATED
COST:**

This legislation will have an approximate initial cost of \$100,000 and an annualized cost of approximately \$73,000 to operate the registry each year.

(CFK)

Abortion and Adoption Data from States who have Enacted Access

Since new laws have allowed adult adoptees access to their birth certificates, 13,104 adoptees have received their original birth certificates from Alabama, Delaware, Oregon, New Hampshire and Tennessee with no harm shown to anyone including birthparents. The data reveals that if access has had any effect on adoptions and abortions, it has been to increase adoptions and decrease abortions.

STATE	CONTENT OF LAW	ACCESS RESULTS	ABORTION/ADOPTION STATS
Alabama	Original birth certificate (OBC) is made available to adoptee, age 18 or older, upon request. Birth parents may file a non-binding Contact Preference Form, requesting direct contact with adopted adult, contact through an intermediary, or no contact at all.	Since the law passed in May 2000, approximately 2,722 adult adoptees have obtained copies of their original birth certificates with 131 Contact Preference Forms filed. (State is not tracking the type of preference.)	Between 2000 and 2003 (the last year for which national data are available) resident abortions declined 13% in Alabama compared to 2% in the nation as a whole. Finer and Henshaw, <i>Estimates of U.S. Abortion Incidence 2001-2003</i> , Guttmacher Institute, August 3, 2006.
Alaska (always open)	Alaska provides access to adoptee, 18 and older, and birth parents of adoptee, 18 and older, if the adoptee gives written permission to release of information.	Alaska never sealed birth certificates for adopted persons.	Alaska, a state that never sealed birth certificates, has the nation's highest adoption rate (http://www.census.gov/Press-Release/www/2003/adopt.htm) and one of the lowest abortion rates. http://www.guttmacher.org/statecenter/
Delaware	Birthparents have the option of filing a veto against disclosure. If a disclosure veto is filed, the OBC is not released to the adoptee.	From January 1999 to October 2006, 695 adult adoptees have received OBCs with 16 adoptees getting incomplete OBCs under the disclosure veto provisions of the law.	
Kansas (always open)	Grants access to the adoption file and to the OBC of adopted adults, 18 and older, birth parents and adoptive parents of minor child. Birthparents may contact the adopted adult if he/she agrees to contact.	Kansas never sealed birth certificates for adopted persons.	Kansas, a state that never closed records, has the nation's fifth highest adoption rate. (http://www.census.gov/Press-Release/www/2003/adopt.htm). Kansas has lower resident abortion rates than the United States as a whole. http://www.guttmacher.org/statecenter/
New Hampshire	Original birth certificate is made available to adoptee, age 18 or older, upon request. Birth parents may file nonbinding Contact Preference Form.	Since January, 2005, nearly 1000 adoptees have received their OBCs and 12 birthparents have stated their preference for no contact. www.sos.nh.gov/vitalrecords	Current adoption and abortion data are not yet available for the years following passage of New Hampshire's access bill.
Oregon	Original birth certificate is made available to adoptee, age 21 or older, upon request. Birth parents may file a non-binding Contact Preference Form.	In the six years since adoptees obtained access, 9090 adoptees have requested and 8,792 adoptees have received OBCs with 83 birthparents not wishing contact. http://www.oregon.gov/DHS/ph/chs/58update.shtml	Between 2000 and 2003 (the last year for which national data are available) resident abortions declined 10% in Oregon compared to 2% in the nation as a whole. Finer and Henshaw, <i>Estimates of U.S. Abortion Incidence 2001-2003</i> , Guttmacher Institute, August 3, 2006. After adoptee access, a six-year year decline in adoptions stopped and adoption numbers leveled off, according to statistics from the Oregon State Office for Children, Adult and Family Services.
Tennessee	Adoptees, age 21 or older, may access OBC and adoption records unless records indicate that adoptee was product of rape or incest and birth parent victim does not consent to disclosure. Birth parent may veto contact.	Tennessee stats have not been successfully tracked by the state.	Tennessee has lower resident abortion rates than the United States as a whole. http://www.guttmacher.org/statecenter/

How Access To Original Birth Certificates Changed From Open To Closed

General Laws of Massachusetts – Original ^{LAW} Bill – 3/26/51

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not after the entry of a decree of adoption thereon be available for inspection, except by the adopting parent or parents, the child or person adopted, or their attorney of record, unless a judge of probate, or the register or an assistant register of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. The prohibition of this section shall not apply to the docket entries in the permanent docket, record books and index of the court.

General Laws of Massachusetts – Current ^{LAW} Bill – Since 7/19/72

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not be available for inspection, unless a judge of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. A separate permanent docket book shall be provided for all such entries. This section shall apply to the index of the court of all such entries, a separate index of which shall be provided.

General Laws of Massachusetts – 1st Amendment – 3/15/57

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not after the entry of a decree of adoption thereon be available for inspection, except by the adopting parent or parents, the child or person adopted, or their attorney of record, their attorney of record, the persons appearing in opposition to such petition or their attorneys of record, unless a judge of probate, or the register or an assistant register of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. The prohibition of this section shall not apply to the docket entries in the permanent docket, record books and index of the court.

Deleted “*after the entry of a decree of adoption thereon*”

Substituted “*their attorney of record, the persons appearing in opposition to such petition or their attorneys of record*” for “*or their attorney of record*”

General Laws of Massachusetts – 2nd Amendment – 2/11/58

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not be available for inspection, except by the adopting parent or parents, the child or person adopted, or their attorney of record, the persons appearing in opposition to such petition or their attorneys of record, unless a judge of probate, or the register or an assistant register of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. A separate permanent docket book shall be provided for all such entries. Nothing contained in this section shall apply to the index of the court.

Rewrote section to add: “*the persons appearing in opposition to such petition or their attorneys of record*”

General Laws of Massachusetts – 3rd Amendment – 2/8/60

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not be available for inspection, except by the adopting parent or parents, the child or person adopted, or their attorney of record, the persons appearing in opposition to such petition or their attorneys of record, unless a judge of probate, or the register or an assistant register of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. A separate permanent docket book shall be provided for all such entries. Nothing contained in this This section shall apply to the index of the court of all such entries, a separate index of which shall be provided.

Substitute "This" for "Nothing contained in this" & add, "of all such entries, a separate index of which shall be provided."

General Laws of Massachusetts – 4th & Final Amendment – 7/19/72

Chapter 210: Section 5C. Inspection of pleadings, reports, etc.; docket book.

Section 5C. All petitions for adoption, all reports submitted thereunder and all pleadings, papers or documents filed in connection therewith, docket entries in the permanent docket and record books shall not be available for inspection, *except by the adopting parent or parents, the child or person adopted, or their attorney of record, the persons appearing in opposition to such petition or their attorneys of record,* unless a judge of probate, or the register or an assistant register of probate of the county where such records are kept, for good cause shown, shall otherwise order. Such petitions, reports, pleadings, papers, documents and permanent docket and record books shall be segregated. A separate permanent docket book shall be provided for all such entries. This section shall apply to the index of the court of all such entries, a separate index of which shall be provided.

Delete "except by the adopting parent or parents, the child or person adopted, their attorney of record, the persons appearing in opposition to such petition or their attorneys of record" and "or the register or an assistant register of probate"

SECTION 2. This act shall take effect upon its passage.
Approved July 17, 1974.

Chap. 544. AN ACT AUTHORIZING THE TOWN OF WATERTOWN TO PAY THE EMPLOYEES OF THE MUNICIPAL ICE SKATING ARENA IN SAID TOWN AN EIGHT PER CENT SALARY INCREASE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Watertown may grant an increase of eight per cent in salary from July first, nineteen hundred and seventy-four, through June thirtieth, nineteen hundred and seventy-five, to the employees of the municipal ice skating arena under chapter ten of the by-laws, classification and compensation plan of said town at a special town meeting.

SECTION 2. This act shall take effect upon its passage.
Approved July 17, 1974.

Chap. 545. AN ACT RELATIVE TO THE RECORDING OF TAX LIENS UPON LAND CLASSIFIED AS FOREST LAND.

Be it enacted, etc., as follows:

Section 1 of chapter 61 of the General Laws is hereby amended by inserting after the first sentence, as appearing in section 1 of chapter 873 of the acts of 1969, the following four sentences:— In the case of each application which has been approved, the board of assessors shall forthwith cause to be recorded in the registry of deeds of the county or district in which the city or town is situated a statement of its action which shall constitute a lien upon the land covered by such application for such taxes as may be levied under the provisions of this chapter. The statement shall name the owner or owners and shall include a description of the land adequate for identification. Unless such a statement is recorded, the lien shall not be effective with respect to a bonafide purchaser or other transferee without actual knowledge of such lien. Discharge of said lien shall be accomplished by the board of assessors in a similar manner.

Approved July 17, 1974.

Chap. 546. AN ACT FURTHER REGULATING THE RELEASE OF INFORMATION CONTAINED IN ORIGINAL RECORDS OF ADOPTION.

Be it enacted, etc., as follows:

The fifth paragraph of section 13 of chapter 46 of the General Laws is hereby amended by striking out the third sentence and inserting in place thereof the following three sentences:— If the clerk furnishes a

copy of such a record, he shall certify to the facts contained therein as corrected, amended or supplemented. Except as provided in the following sentence, said clerk or other official responsible for the keeping of such records shall, upon proper judicial order, or when requested by a person seeking his own birth record, or by a person whose official duties, in the opinion of the clerk, entitle him to the information contained in the original record, release said information contained in such original record. If such original record has been amended following adoption in accordance with this section, the clerk or other official responsible for the keeping of such records shall issue information contained in the original record only upon receipt of an order of the probate court for the county in which said adoption was granted, or in the case of an adoption granted outside the commonwealth, upon order of the probate court for the county in which said birth occurred, instructing said clerk or other official responsible for the keeping of such records, to release the information contained in such original record.

Approved July 17, 1974.

Chap. 547. AN ACT RELATIVE TO THE RECOMMENDATIONS OF SCHOOL COMMITTEES REGARDING INSURANCE COVERAGE ON SCHOOL BUILDINGS AND CONTENTS.

Be it enacted, etc., as follows:

Clause (1) of section 5 of chapter 40 of the General Laws is hereby amended by inserting after the word "commonwealth," in line 27, as appearing in chapter 173 of the acts of 1964, the words:— subject, however, to the recommendations of the school committee with respect to the nature and extent of such insurance of buildings and personal property under its control.

Approved July 17, 1974.

Chap. 548. AN ACT REGULATING INVESTMENTS OF THE PROCEEDS OF BONDS AND NOTES ISSUED BY A REGIONAL SCHOOL DISTRICT.

Be it enacted, etc., as follows:

The third sentence of section 55 of chapter 44 of the General Laws, as appearing in chapter 545 of the acts of 1971, is hereby amended by striking out, in line 1, the words "or district" and inserting in place thereof the words:— , district or regional school district.

Approved July 17, 1974.

The Facts About Senate Bill 959 as redrafted by the Joint Committee on Children and Families

Senate Bill 959 grants access to original uncertified birth certificates for as many adopted persons as possible while respecting all parties involved. The provisions of the bill are as follows:

Senate Bill 959 restores access to their original birth certificate for adopted persons born on or before July 14, 1974.

- *Before July 14, 1974 adult adopted persons over the age of 18 or adoptive parents of minor adopted persons were able to access an uncertified copy of their original birth certificate. Therefore, all birth mothers who relinquished before July 14, 1974 relinquished during the years when access was allowed in the Commonwealth of Massachusetts.*

Senate Bill 959 grants access to their original birth certificate to persons age 18 or older who were born on or after January 1, 2008 or to the adoptive parents of minors born after said date.

Senate Bill 959 provides continued confidentiality protections to birth parents who relinquished between July 14, 1974 and January 1, 2008.

From July 14th of 1974 to the present adoption records and birth certificates have been sealed under Massachusetts law. In an acknowledgement that the birth parent may continue to rely on the confidentiality inherent in the current law, the bill does not grant automatic access to original birth certificates for persons adopted during this time period.

Senate Bill 959 provides clarification of current options and systems enhancements for persons adopted between July 14, 1974 and January 1, 2008 who seek to obtain their original birth certificate.

Persons adopted between July 14, 1974 and January 1, 2007 will need to follow the process provided for under current law and petition the court for access to their original birth certificate. This bill improves that process in the following ways:

- It stipulates that evidence of a birth parent's willingness to provide information about their identity in the adoption record shall be considered sufficient evidence to grant access.
- It establishes an Adoption Contact Information Registry at Vital Statistics for the purpose of housing information indicating whether or not a birthparent(s) wishes to grant access to the uncertified original birth certificate. *In 1986 the Commonwealth of Massachusetts passed a law that allowed Birth Parents to submit, in writing, permission to release their identity to the child or children they relinquished. Every effort will be made to have all Adoption Agencies submit the names of all those adopted persons in their files who meet this standard. This would include those involved in "Open Adoptions", as well as, those who have received letters with permission to release information.*

Every year that goes by we add thousands of newly adopted persons to the list of people who are prohibited from accessing their original uncertified birth certificate.

STOPPING THE CLOCK NOW MUST BE OUR HIGHEST PRIORITY.