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## BILL ANALYSIS



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House Bills 5148 and 5149 (Substitute H-1 as passed by the House)

Sponsor: Representative Kristian Grant (H.B. 5148)

Representative Pat Outman (H.B. 5149)

House Committee: Families, Children, and Seniors

Senate Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 2-14-24

**CONTENT**

The bills would allow an adult adoptee or a descendent or legal representative of an adult adoptee to obtain an unredacted copy of the adult adoptee's birth certificate by filing a written request with the State Registrar and paying a fee. Currently, former parents who had their rights terminated may deny the release of identifying information; the bills would delete this provision but maintain any denial filed before July 1, 2024. Instead, the Department of Health and Human Services (DHHS) would have to develop a contact preference form that former parents, including those with terminated parental rights, could file with the DHHS or State Registrar. The form would allow the former parent to specify contact preferences, including no contact, direct contact, or contact through an intermediary. Additionally, the bills would delete a provision that required adoptees adopted between May 28, 1945, and September 12, 1980, to have central registry clearance and a court order to obtain birth records.

The bills are tie-barred, and each bill would take effect 90 days after its enactment.

**FISCAL IMPACT**

The bills would have small but indeterminate fiscal impact on the DHHS and local units of government. There would be administrative costs for the DHHS and local units of government including transitioning to the new policy, notifying the affected public of the change, and gathering of records when adoptees request their original birth certificate.

MCL 333.2829 & 333.2882 (H.B. 5148)  
710.27a et al. (H.B. 5149)

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## **CONTENT**

### **House Bill 5148 (H-1) would amend the Public Health Code do the following:**

- Allow an adult adoptee or a descendent or legal representative of an adult adoptee to receive an unredacted copy of the adult adoptee's birth certificate upon written request and payment of a fee.**
- Require the State Registrar to develop a contact preference form for former parents.**
- Require the State Registrar to provide any contact preference form that was filed and a notice that the individual could request certain information under the Adoption Code if the State Registrar provided a birth certificate copy to an individual described above.**

### **House Bill 5149 (H-1) would amend the Michigan Adoption Code to do the following:**

- Allow for the disclosure of the names of biological or adoptive parents under certain conditions, such as creating a new birth certificate or issuing an unredacted birth certificate copy.**
- Delete a provision that specifies that individuals adopted between May 28, 1945, and September 12, 1980, must have central registry clearance and a court order to obtain birth records.**
- Delete provisions allowing former parents to deny consent of the release of identifying information after July 1, 2024.**
- Allow former parents to complete a contact preference form with the State Registrar or DHHS that specified contact preferences, including no contact, direct contact, or contact through an intermediary.**
- Specify that all adoption records would be public record 100 years after the birth of the adoptee.**
- Require the DHHS to make reasonable efforts to notify members of the public who could be affected by changes in the law governing the release of identifying and nonidentifying information and access to original birth certificates.**

### **House Bill 5148 (H-1)**

The Public Health Code requires a probate court to prepare an adoption report for any adoption ordered by that court. The report must contain information necessary to establish a birth certificate for the adopted individual, and the birth certificate must conform to standards provided under the Adoption Code. Under the bill, this provision would be subject to the restrictions pertaining to the release of certain identifying information of former parents as proposed by House Bill 5149 (H-1)

On receipt of a written request of an adult adoptee and payment of a fee, the State Registrar must issue that individual a copy of his or her original certificate of live birth, if the written request identifies the name of the adult adoptee and is accompanied by a copy of a Central Adoption Registry clearance reply form that was completed by the DHHS and delivered to that individual. Instead, under the bill, the State Registrar would have to issue an unredacted copy of that individual's original certificate of live birth if the adult adoptee provided a written request that identified the name of the adult adoptee, and the written request was accompanied by payment of the required fee.

Currently, upon receipt of a written request of a confidential intermediary, presentation of a certified copy of the order appointment, identification of the name of the adult adoptee, and payment of a fee, the State Registrar must issue that confidential intermediary a copy of the

original certificate of live birth of the adult adoptee on whose behalf the intermediary was appointed. The bill would delete this provision. Instead, under the bill' the State Registrar would have to issue a descendent or legal representative of an adult adoptee an unredacted birth certificate of the adult adoptee, if the descendant or legal guardian provided a written request that identified the name of the adult adoptee and the applicable fee.

If the State Registrar provided a copy of a birth certificate under the provisions described above, the State Registrar also would have to provide all the following:

- Any contact preference form prescribed by the State Registrar that was filed with the original birth certificate or any update contact preference form filed with the DHHS at any time.
- A notice that the individual could request identifying information under the Michigan adoption code.

Additionally, the State Registrar would have to prescribe and furnish a contact preference form that a parent named on a birth certificate could file with the State Registrar or DHHS to provide an individual receiving a copy of the certificate with the former parent's wishes concerning contact including no contact, direct contact, or contact through an intermediary.

### **House Bill 5149 (H-1)**

Under the Adoption Code, for all adoptions in which the former parents' rights were terminated before May 28, 1945, or on or after September 12, 1980, a child placing agency, a court, or the DHHS must release to an adult adoptee the identifying information described in Section 27(3) and any additional information on file with the Central Adoption Registry. If a former parent has filed a currently effective statement with the Registry denying consent to have identifying information released, however, the name and most recent address of each biological parent may not be released. This provision does not apply to adoptions in which the former parent's rights were terminated under the Safe Delivery of Newborns Law (which allows a parent to surrender a newborn to an emergency service provider) unless the former parent filed a statement with the Registry consenting to the release of identifying information. The bill would delete these provisions.

(Section 27(3) requires a parent or guardian, the DHHS, a child placing agency, or a court that places an adoptee to compile the following information, if reasonably obtainable:

- The name of the child before adoption placement.
- The name of each biological parent at the time of termination of parental rights.
- The most recent name and address of each biological parent.
- The names of the biological siblings at the time of the termination of parental rights.)

Instead, a child placing agency, a court, subject to certain release conditions provided below, or the DHHS would have to release the identifying information described in Section 27(3) and any additional information on file with the Registry to an adult adoptee; however, if a former parent had, before July 1, 2024, a currently effective statement with the Registry denying consent to have identifying information released, the name and most recent address of each biological parent could not be released. A denial of consent to release identifying information would not be effective after the death of a parent if filed before July 1, 2024.

In addition, under the Adoption Code, if a child placing agency, a court, or the DHHS requests information from the Registry and if the clearance reply form from the Registry indicates that neither of the former parents has on file with the Registry a currently effective statement denying consent to release identifying information, the agency, court, or DHHS must give the

adult adoptee a copy of the clearance reply form. The form may be used by the adult adoptee to obtain a copy of his or her original birth certificate. Instead, under the bill, a former parent, including a former parent whose rights were terminated, could file a contact preference form with the State Registrar or the DHHS as proposed by House Bill 5148 (H-1). Additionally, the restrictions on the release of identifying information could not restrict an individual from obtaining an unredacted copy of an original birth certificate as provided by House Bill 5148 (H-1).

Generally, a person in charge of adoption records can only disclose the names of biological parents or adoptive parents of an adopted person under certain conditions. The bill would allow for the disclosure of such information to meet the requirements of creating a new birth certificate and to issue an unredacted copy of the original birth certificate under House Bill 5148 (H-1).

If a child placing agency, a court, or the DHHS provides an adoptee with the name of one of the adoptee's former parents, that entity must notify the DHHS and ensure that the original birth certificate on file has been sealed and a new birth certificate has been prepared. The bill would delete this provision.

Currently, the DHHS must develop forms for parents to use to consent to, deny, or revoke a consent to or denial of the release of identifying information and forms for adult former siblings to use to provide notice of the death of a former parent and to consent to the release of the sibling's name and address to the adult adoptee. The denial form must contain a space for the former parent to indicate the reason why he or she does not wish to be contacted. The bill would delete references to the denial form.

At the time of termination of parental rights, the court must inform each parent of the following:

- Information pertaining to Section 27b, which concerns a central registry that controls the release of the parent's identifying information.
- Information pertaining to Section 68, which specifies the procedures for disclosing identifying and nonidentifying information and conditions for release of such information.
- An informational pamphlet explaining the release of information.
- Information pertaining to Section 68b, which prescribes the process for the appointment of a confidential intermediary for the search and contact of a former family member.

Specifically, the court must inform each parent that the consent to release the name and address of each biological parent at the time of termination of parental rights is presumed unless a parent denied the release with the central registry as described above. The court must explain the parent's right to file, update, or revoke the denial at any time and must provide the forms to do so. The bill would delete this provision.

Instead, under the bill, at the time of termination of parental rights, the court, and if applicable, the child placing agency, would have to comply with the following:

- The court would have to inform each parent of the provisions described in Section 27b, Section 68, Section 68a, and Section 68b.
- The court and any child placing agency would have to notify each parent of the parent's ability to file a contact preference form and updated contact preference form.

The bill would specify that the DHHS would have to update the information packet under Section 68a to reflect the bill's changes.

The Registry must keep on file the statements for release or denial of release of parental information. Under the bill, the Registry would have to keep the denial of release of

information statements on file if those statements were filed before July 1, 2024, and were still in effect.

For adoptions in which the former parents' rights were terminated on or after May 28, 1945, and before September 12, 1980, the Code prescribes the release of certain or all information of Section 27(3) to an adult adoptee or to a confidential intermediary. The Code allows for access to specific identifying information depending on degrees of parental consent. The bill would delete these provisions.

Under the bill, all adoption records would be public records 100 years after the birth of the adoptee. Additionally, the DHHS with the cooperation of other State departments and agencies would have to make reasonable efforts to notify members of the public who could be affected by changes in law governing the release of identifying and non-identifying information and access to the original birth certificate including all the following:

- Informing the public by submitting a press release and information to news media.
- Informing the adoptee, birth parent, and genealogy groups in the State and other states.
- Including information in motor vehicle registration and driver's license renewals.
- Including information on social media, the DHHS website, and other online services and platforms.

Within 14 days of a request from the DHHS, the court that entered the adoption order would have to provide the DHHS with the necessary information to locate and identify the birth certificate of the adopted individual.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.