

April 15, 2009

To: CARE and Cal-Open

From: Assemblywoman Fiona Ma

RE: AB 372

I want to start by thanking all of you for the hard work and time spent to help craft AB 372. After many weeks of meetings with stakeholders, committee staff and members of the Legislature, we have come to a pivotal point in the legislative process. I understand the issues which adoptees face in their pursuit to obtain their identity, as well as the concerns which will be raised in committee. After hearing from all of the stakeholders, it is clear that in order to provide adoptees with greater access than what is already allowed by law, compromises will have to be made.

In order to keep the bill moving and do as much as possible to provide greater openness, I have decided to draft the following amendments:

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-Amend the Health and Safety Code section 102705 to require the courts to release the original birth certificate contingent upon the finding of a serious medical condition requiring familiar information.

-Starting Jan 1, 2010 and going backward, the state shall open the original un-amended birth certificate in an "Informational Only Copy" form to an adult adoptee age 25 or older if all of the following conditions are met:

1 -A certified, return receipt letter is sent to the best-match address of the biological parent notifying them of the change in law and allowing them to keep their record confidential by signing an enclosed form and returning to the Department of Health.

2 -A period of six-months from the time of the biological mother receiving notice is given for them to respond with the opt-out notice.

-Should the Department not receive a return receipt, the record shall remain confidential/sealed (per status quo).

-If both biological parents are listed on the certificate and one, but not both choose to remain confidential, the certificate shall released with the name of the bio parent who wishes to remain confidential redacted.

-Prospectively, starting Jan 1, 2010, all adoptions completed shall have notification to the biological parents that the child who is being adopted shall have unrestricted access to their original un-amended birth certificate in the form of an "Information Only Copy" upon their 25th birthday. This notification shall require signature from both biological parents that they understand this and agree to the provisions stated, so long as both are listed on the birth certificate.

-This notification shall include an opt-out form, allowing either of the biological parents to keep the birth certificate confidential and sealed and shall state: For reasons including but not limited to rape, incest, religious or personal reasons, I decline to allow the record of birth to be released

-If both biological parents are listed on the certificate and one, but not both choose to remain confidential, the certificate shall be released with the name of the bio parent who wishes to remain confidential redacted.

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The Assembly Judiciary Committee has noted that this bill will be heard on April 28, 2009. These amendments do not guarantee approval in committee, but provide AB 372 with a better chance to succeed. Should the bill not pass, it will not be eligible to be heard again this year.

I fully understand the concerns of those directly affected by this legislation. I have stated in previous meetings that I believe that adoptees do have claim to this information. Knowing that, understand that this legislation, if amended, has the best chance of moving further through the process. We hope your organizations will continue to support our effort to allow as many adoptees to access their original birth certificate. My Office is attempting to do the most we can to assist adoptees using all the tools at our disposal.

Thank you for working with me and my Office. Your input and stories have painted a fuller picture of the landscape we are embarking upon and provided for legislation that will greatly improve adoptees' access to their original birth certificate.

In Peace and Friendship,

Fiona Ma