

California Open

Affirming Identity Rights of All California Citizens

Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, California 95814

May 11, 2009

RE: AB 372
Position: OPPOSE & SEEK AMENDMENT

To the Honorable Kevin de León, Chair of the Assembly Appropriations Committee,
and Members,

Cal Open advocates for the right of adults, born in California, and later adopted, to access their original birth certificates. Our members include adoptees, birth parents and adoptive parents. We partner with multiple organizations, including adoption agencies practicing in California.

We are grateful to Assembly Member Ma for her authorship of A.B. 372. We cannot, however, support the most recent version of the bill. Recent amendments to the bill require that when an adult adoptee requests a copy of his or her original birth certificate, the State notify individual birth parents by "restricted certified mail," sent to the parents' last known address(es) and obtain proof of delivery of that notification before an adult adoptee can access his or her original birth certificate. The bill also provides for a "disclosure veto". The veto allows the birth parent, for any reason at all, to prevent the adult adopted person from having unfettered access to his or own birth certificate. Finally, in its current version, the bill would impose all costs of this inept and unworkable process on the adult adoptee.

We do not support such provisions for the following reasons:

- Adopted adults hold the same constitutional privacy rights do as non-adopted citizens. Non-adopted citizens have no restrictions placed on their access rights. We submit that every citizen should have unfettered access to his or her own documents and identity.
- For many reasons, no legitimate "settled expectation" of complete anonymity by birthparents exists. Original birth certificates are not sealed upon relinquishment of a child, but rather, only upon adoption, if and when that occurs. Various California laws provide for access to identifying information by parties to the adoption; moreover, birthparent names were published and sold under the protection of the California Public Records Act and are still available on the internet today. www.vitalsearch-ca.com. (For more detail, please see Cal Open's analysis of the impact of open records laws on the constitutional right to privacy at <http://www.calopen.org/AB372Brief.pdf> .)
- Adopted adults are not only the subjects of their own adoption, but also parties to the action of adoption, albeit necessarily represented by the state at the time of the adoption. AB 372 seeks to allow a non-party to the adoption, the birth parent, who relinquished all rights over the adoptee, to veto the adopted citizen's request for access to his or her own document about his or her own origins.

- The clumsy notification system provided for in the current version of the bill likely will not achieve its intended objective. Achieving individualized notice to persons who relinquished their children sometimes four, five, six or more decades ago will most likely be impossible. It certainly will cost more to the state than a simple records request. Moreover, the notion that notice to a household that one of its members has received a “restricted” piece of certified mail needing that member’s signature for delivery somehow protects the intended recipient’s privacy rights is ludicrous.
- Requiring adopted citizens to pay for the state’s notification and search process is demeaning and unfair. Adopted citizens did not choose to have their identities erased. They should not have to pay the state to access the same fundamental documentation of their identity that every other citizen can access.

AB 372 has strayed from its original intent, which was to allow adult adoptees unfettered access to their original birth certificates, at little or no extra cost to the state. Accordingly, we suggest that the bill be amended to delete the requirement of individual birth parent notification and accompanying costs. Instead, we suggest that the state provide notification of changes in the law via public service announcements and/or other low cost means. We also strongly recommend the use of what is termed a “contact preference form,” as set forth in an earlier version of the bill [March 26th]. Legislative bills in states which have restored access to adoptees utilizing the Contact Preference Form had NO FISCAL NOTE attached. No additional staff were hired to implement and process applications and forms.

In the past decade, Oregon, Alabama, New Hampshire and Maine have all passed laws opening original birth records to adult adoptees. Those states’ new laws provide that a birth parent may submit a “contact preference” form to the state. That form will be provided to the adult adoptee with the adoptee’s original birth certificate. The form allows a birth parent to indicate: 1. The parent wishes to be contacted; 2. The parent wishes to be contacted, but through a third party (not paid for by the state); 3. The parent does not wish to be contacted, but submits current medical information so that the adoptee does not need contact for medical purposes.

Contact preference forms are an effective and relatively very low cost way to allow birth parents to make their wishes known without violating adoptees’ right to their own information. Cal Open knows of no reported incident in which an adopted person violated the wishes expressed in a contact preference form.

(See, e.g., American Adoption Congress, “Adoptee Access Succeeds in Oregon and New Hampshire” 2007 (“no violations of contact preference requests have been reported” in Oregon); Linda Baker, “The Past Unsealed”, Adoptive Families Magazine, 2009, at http://www.americanadoptioncongress.org/reform_access_success.php and <http://www.adoptivefamilies.com/articles.php?aid=957>, respectively.)

Cal Open respectfully urges the Assembly Appropriations Committee to amend AB 372 to delete the notification provisions and to restore the March 26th Contact Preference Form provision. Failing that, we strongly seek a NO VOTE on the bill.

On Behalf of California Open
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