

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senator Russ**

A Bill

SENATE BILL 571

For An Act To Be Entitled

8 "AN ACT TO PROVIDE ACCESS TO ADOPTION INFORMATION; AND FOR
9 OTHER PURPOSES."

10

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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13 SECTION 1. Legislative declaration.

14 (a) The General Assembly hereby finds and declares that adult
15 adoptees, adoptive parents, biological parents, and biological siblings should
16 have a qualified right of access to any records regarding their or their
17 child's adoption or the adoption of their offspring or siblings and that such
18 a qualified right must coexist with the right of such parties to privacy and
19 confidentiality. The General Assembly also finds that an adult adoptee, his
20 biological or adoptive parent, or his biological sibling may desire to obtain
21 information about each other at different points in time. Furthermore, the
22 General Assembly finds that confidentiality is essential to the adoption
23 process and that any procedure to access information which relates to an
24 adoption must be designed to maintain confidentiality and to respect the
25 wishes of all involved parties.

26 (b) It is the purpose of this act to establish a confidential process
27 whereby adult adoptees and adoptive parents who desire information concerning
28 their or their child's adoption and biological parents and siblings who desire
29 information concerning an adult adoptee may pursue access to such information.

30 (c) The General Assembly further finds and declares that the purpose
31 of establishing the confidential process set forth in this act is to create a
32 pool of individuals who the courts and interested parties may call upon to
33 initiate a search for a biological relative.

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35 SECTION 2. Definitions. As used in this act, unless the context

1 otherwise requires:

2 (1) "Adoptee" means a person who, as a minor, was adopted pursuant to
3 a final decree of adoption entered by a court.

4 (2) "Adoptive parent" means an adult who has become a parent of a
5 minor through the legal process of adoption.

6 (3) "Adult" means a person twenty-one (21) years of age or older.

7 (4) "Biological parent" means parent, by birth, of an adopted person.

8 (5) "Biological sibling" means a sibling, by birth, of an adopted
9 person.

10 (6) "Chief justice" means the chief justice of the Arkansas Supreme
11 Court.

12 (7) "Confidential intermediary" means a person twenty-one (21) years
13 of age or older who has completed a training program for confidential
14 intermediaries which meets the standards set forth by the commission pursuant
15 to Section 3 and who is authorized to inspect confidential relinquishment and
16 adoption records at the request of an adult adoptee, adoptive parent,
17 biological parent, or biological sibling.

18 (8) "Consent" means voluntary, informed, written consent. "Consent"
19 always shall be preceded by an explanation that consent permits the
20 confidential intermediary to arrange a personal contact among biological
21 relatives.

22 (9) "Court" means any court of record with jurisdiction over the
23 matter at issue.

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25 SECTION 3. Commission created - duties.

26 (a) There is hereby created a commission of seven (7) members.
27 Representation and appointment of such members shall be as follows:

28 (1) Two (2) members shall represent the judicial branch of
29 government and shall be appointed by the chief justice or his designee.

30 (2) One (1) member shall represent the Department of Human
31 Services and shall be appointed by the director of such department or his
32 designee.

33 (3) Two (2) members shall represent licensed adoption agencies
34 and shall be appointed by a representative of a private adoption agency. Such
35 representative shall be selected by the director of the Department of Human
36 Services.

1 (4) Two (2) members shall represent either adoptees, adoptive
2 parents, biological parents of adoptees, or biological siblings of adoptees
3 and shall be selected by the director of the Department of Human Services.

4 (b) The commission shall have responsibility for:

5 (1) Drafting a manual of standards for training confidential
6 intermediaries;

7 (2) Monitoring confidential intermediary training programs to
8 ensure compliance with the standards set forth in the manual, with authority
9 to approve or deny such programs based upon compliance with such standards;

10 (3) Maintaining an up-to-date list of persons who have completed
11 training as confidential intermediaries and communicating such list to the
12 *judicial department*;

13 (4) *Establish eligibility standards for admission to training*
14 *programs for confidential intermediaries; and*

15 (5) *Establish the maximum amount of fees which may be charged by*
16 *confidential intermediaries.*

17 (c) The commission shall adopt its own rules of procedure, shall
18 select a chairman, a vice-chairman, and such other officers as it deems
19 necessary, and shall keep a record of its proceedings. The commission shall
20 meet as often as necessary to carry out its duties, but in no instance shall
21 it meet less than annually. The commission may seek input from confidential
22 intermediary organizations in carrying out its duties.

23 (d) The commission shall be voluntary, and no state funds shall be
24 expended on its operation.

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26 SECTION 4. Confidential intermediaries - confidential intermediary
27 services.

28 (a) (1) Any person who has completed a confidential intermediary
29 training program which meets the standards set forth by the commission shall
30 be responsible for notifying the commission that his name should be included
31 on the list of confidential intermediaries to be maintained by the commission
32 and made available to the administrative office of the court. The commission
33 shall adopt rules to determine when and under what conditions the name of a
34 confidential intermediary shall be removed from the list available to the
35 administrative office of the court.

36 (2) Once a person is included on such list, he shall be:

1 (A) Authorized to inspect confidential relinquishment and
 2 adoption records upon motion to the court by an adult adoptee, adoptive
 3 parent, biological parent, or biological sibling;

4 (B) Available, subject to time constraints, for
 5 appointment by the court to act as a confidential intermediary for an adult
 6 adoptee, adoptive parent, biological parent, or biological sibling.

7 (b) Any adult adoptee, adoptive parent, biological parent, or
 8 biological sibling who is twenty-one years of age or older may file a motion,
 9 with supporting affidavit, in the court where the adoption took place, to
 10 appoint one or more confidential intermediaries for the purpose of determining
 11 the whereabouts of his unknown relative or relatives; except that no one shall
 12 seek to determine the whereabouts of a relative who is younger than twenty-one
 13 (21) years of age. The court may rule on said motion and affidavit without
 14 hearing and may appoint a trained confidential intermediary.

15 (c) Any information obtained by the confidential intermediary during
 16 the course of his investigation shall be kept strictly confidential and shall
 17 be utilized only for the purpose of arranging a contact between the individual
 18 who initiated the search and the sought-after biological relative.

19 (d) (1) When a sought-after biological relative is located by a
 20 confidential intermediary on behalf of the individual who initiated the
 21 search, the confidential intermediary shall obtain consent from both parties
 22 that they wish to personally communicate with one another.

23 (2) Contact shall be made between the parties involved in the
 24 investigation only when consent for such contact has been received by the
 25 court.

26 (3) If consent for personal communication is not obtained from
 27 *both parties*, any *information* obtained by any confidential intermediary during
 28 the course of his investigation, *including all relinquishment and adoption*
 29 *records*, shall be returned to the court and shall remain confidential.

30 (e) All confidential intermediaries shall inform both the requesting
 31 biological relative and the sought-after biological relative of the existence
 32 *of the Arkansas Mutual Consent Voluntary Adoption Registry created by the*
 33 *Arkansas Department of Human Services pursuant to Arkansas Code 9-9-501*
 34 *et seq.*

35 (f) Any person acting as a confidential intermediary who knowingly

1 fails to comply with the provisions of subsections (c) and (d) of this section
2 commits a misdemeanor punishable by a fine of five hundred dollars (\$500.00).

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4 SECTION 5. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 6. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 7. All laws or parts of laws in conflict with this act are
15 hereby repealed.

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18 /s/Russ

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