

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/7/87

HOUSE BILL 1715

By: Representative Pollan

"AN ACT TO AMEND ACT 957 OF 1985 PROVIDING FOR A MUTUAL
CONSENT VOLUNTARY ADOPTION REGISTRY; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection (1) of Section 1 of Act 957 of 1985, the same being Arkansas Statute 56-138(1), is hereby amended to read as follows:

"(1) 'Adoptee' means a person who has been legally adopted in this State."

SECTION 2. Section 3 of Act 957 of 1985, the same being Arkansas Statute 56-140, is hereby amended to read as follows:

"Section 3. (a) No person, agency, entity or organization of any kind, including but not limited to any officer or employee of this State and any employee, officer or judge of any court of this State, shall disclose any confidential information relating to any adoption except as provided by statute or pursuant to a court order. Any employer who knowingly or negligently allows any employee to disclose information in violation of this Act shall be subject to the penalties provided in subsection (b) of this Section, together with the employee who made any disclosure prohibited by this law.

(b) Any person, agency, entity or organization of any kind who discloses information in violation of this law shall be guilty of a class A misdemeanor."

SECTION 3. Section 5 of Act 957 of 1985, the same being Arkansas Statute 56-142, is hereby amended to read as follows:

"Section 5. The Department of Human Services shall issue such rules and regulations as are necessary for implementing this Act. Proposed rules and regulations implementing this Act shall be published not later than 120 days after the date of enactment and final rules and regulations shall be pro-

mulgated 120 days after the date of the proposed rules and regulations were published."

SECTION 4. Section 6 of Act 957 of 1985, the same being Arkansas Statute 56-143, is hereby amended to read as follows:

"Section 6. Establishment and maintenance of a mutual consent voluntary adoption registry. (a) A mutual consent voluntary adoption registry may be established and maintained by a licensed voluntary agency involved in an adoption. Persons eligible to receive identifying information shall work through the agency involved in the adoption. If that agency has merged or ceased operations, a successor agency may assume possession of such files for the purpose of establishing, maintaining, and operating the mutual consent voluntary adoption registry concerning those adoptions. Any licensed voluntary agency may delegate or otherwise contract with another licensed voluntary agency with expertise in post-legal adoption services to establish, maintain and operate the registry for the delegating agency. If any agency ceasing to operate does not transfer adoption records to another licensed agency, it shall provide all records required to be maintained by law to the Department of Human Services.

The Department of Human Services shall establish and maintain a mutual consent voluntary adoption registry, for all adoptions arranged by the Department, or may contract out the function of establishing and maintaining such registry to a licensed voluntary agency with expertise in providing post-legal adoption services in which case such agency shall establish and maintain the registry that would otherwise be operated by the Department of Human Services."

SECTION 5. Subsection (a) of Section 7 of Act 957 of 1985, the same being Arkansas Statute 56-144(a), is hereby amended to read as follows:

"(a) The adult adoptee and each birth parent and each individual related within the second degree whose identity is to be disclosed may voluntarily place his name in the appropriate registry by submitting a notarized affidavit stating his name, address and telephone number and his willingness to be identified solely to the other relevant persons who register. No registration shall be accepted until the prospective registrant submits satisfactory proof of his identity in accord with regulations specified in Section 6. The

failure to file a notarized affidavit with the registry for any reason, except death, shall preclude the disclosure of identifying information to those persons who do register."

SECTION 6. Subsections (d), (e) and (f) of Section 7 of Act 957 of 1985, the same being Arkansas Statutes 56-144(d), (e) and (f), are hereby amended to read as follows:

"(d) The following shall be matching and disclosure procedures:

(1) Each mutual consent voluntary adoption registry shall be operated under the direction of an administrator.

(2) The administrator shall be bound by the confidentiality requirements of this Act, and shall be permitted reasonable access to the registry for the purpose set forth in this Act, and as may be necessary for the proper administration of the registry.

(3) A person eligible to register may request the administration to disclose identifying information by filing an affidavit which sets forth the following:

(i) The current name and address of the affiant,

(ii) Any previous name by which the affiant was known,

(iii) The original and adopted names, if known, of the adopted child,

(iv) The place and date of birth of the adopted child,

(v) The name and address of the adoption agency or other entity, organization or person placing the adopted child, if known. The affiant shall notify the registry of any change in name or location which occurs subsequent to his filing the affidavit. The registry shall have no duty to search for the affiant who fails to register his most recent address.

(4) The administrator of the mutual consent voluntary adoption registry shall process each affidavit in an attempt to match the adult adoptee and the birth parents or individuals related within the second degree. Such processing shall include research from agency records, when available, and when agency records are not available, research from court records to determine conclusively whether the affiants match.

(5) The administrator shall determine that there is a match when the adult adoptee and a birth parent or individual related within the second degree have filed affidavits with the mutual consent voluntary adoption registry and have

each received the counseling required in subsection (b).

(6) An agency receiving an assignment of a match under the provisions of this Act shall directly or by contract with a licensed adoption agency in this State notify all registrants through a direct and confidential contact. The contact shall be made by an employee or agent of the agency receiving the assignment. Said employee or agent shall be a trained social worker who has expertise in post-legal adoption services.

(e) Any affidavits filed and other information collected shall be retained for ten (10) years following the date of registration. Any qualified person may renew his registration at ten year intervals.

(f) A mutual consent voluntary adoption registry shall obtain only information necessary for identifying registrants, and in no event shall obtain information of any kind pertaining to the adoptive parents, or any siblings to the adult adoptee who are children of the adoptive parents."

SECTION 7. Subsection (b) of Section 8 of Act 957 of 1985, the same being Arkansas Statute 56-145(b), is hereby amended to read as follows:

"(b) Records containing such nonidentifying information and which are set forth on a document that is separate from any document identifying data:

(1) Shall be retained by the agency or, when no agency is involved, by the person, entity or organization handling the adoption, for 99 years, and if the agency or person, entity or organization who handled the adoption ceases to function, such agency or intermediary shall transfer records containing such nonidentifying information on the adoptee to the Department of Human Services except that a licensed agency ceasing operation may transfer such records to another licensed agency within this State, provided the agency transferring the records gives notice of the transfer to the Department of Human Services.

(2) Shall be available upon request, throughout the time specified in (b)(1) above together with any additional nonidentifying information which may have been added on health or on genetic and social history, but which excludes information identifying any birth parent or member of a birth parent's family or the adoptee or any adoptive parent of the adoptee, to the following persons only:

(i) The adoptive parents of the child or, in the event of death of the adoptive parents, the child's guardian.

(ii) The adoptee upon reaching the age of 18.

(iii) In the event of the death of the adoptee, the adoptee's spouse as the legal parent of the adoptee's child, or the guardian of any child of the adoptee.

(iv) The birth parent of the adoptee."

SECTION 8. Section 1 of Act 169 of 1971, the same being Ark. Stat. 56-125, is hereby amended to read as follows:

"Section 1. At the time a petition to adopt or a petition for guardianship in a pending adoption is filed for a minor in the physical custody of a hospital within the State of Arkansas, the court shall issue an order directing the hospital to surrender physical custody of the minor to the petitioners or to the agency or attorney acting for either.

If a court in an adoption proceeding or guardianship proceeding in which an adoption is pending orders a hospital to surrender custody of a child to the adoptive parents, or to the agency or attorney acting in their behalf, such entities obeying the order shall not be liable to any person because of their acts."

SECTION 9. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Carolyn Pollan

