

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 Third Reader

House Bill 1039

(Delegates Malone and Carr)

Judiciary

Judicial Proceedings

Adoption - Access to Birth and Adoption Records and Search, Contact, and Reunion Services

This bill authorizes adoptees and biological parents to access birth certificates and adoption records under specified circumstances, regardless of when the adoption occurred. The bill repeals the right of an adoptee or biological parent to file with the State Director of Social Services a disclosure veto prohibiting the disclosure of specified information about the adoptee or biological parent in birth or adoption records. Instead, the bill authorizes an adoptee or biological parent to file a “contact preference form” stating a preference regarding contact with the adoptee or biological parent, as well as specified relatives. Finally, the bill alters certain age requirements for individuals utilizing the adoption search, contact, and reunion services program within the Social Services Administration (SSA).

Fiscal Summary

State Effect: General fund expenditures increase by a minimum of \$43,400 in FY 2021. Future year expenditures reflect annualization. General fund revenues may increase minimally due to a likely increase in requests for birth records.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	43,400	49,800	50,900	52,700	54,500
Net Effect	(\$43,400)	(\$49,800)	(\$50,900)	(\$52,700)	(\$54,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect the finances or operations of local health departments.

Small Business Effect: None.

Analysis

Bill Summary:

Birth and Adoption Records

The bill repeals, as a prerequisite to the disclosure of birth and adoption records, the requirement that the adoption be entered on or after January 1, 2000. The bill alters, from 21 to 18, the age at which an adoptee may apply for a copy of birth and adoption records, and authorizes an adoptee's relative, if the adoptee is deceased, to apply for a copy of birth and adoption records. The bill alters, from 21 to 18, the age at which an adoptee must be for a biological parent to apply for birth and adoption records, and authorizes a biological parent's relative, if the biological parent is deceased, to apply for a copy of birth and adoption records. "Relative" means an individual who is related to another individual by blood or marriage within five degrees of consanguinity or affinity under the civil law rule.

The bill repeals the right of a biological parent or adoptee to file a disclosure veto barring disclosure of information about that parent or adoptee in a birth or adoption record, as specified. The bill repeals related provisions requiring the Secretary of Health to redact certain information from birth and adoption records if a disclosure veto has been filed. Additionally, the bill repeals provisions stating that consent of a party to guardianship or adoption is not valid unless the party has received notice of the right to file a disclosure veto. In substitution, the bill authorizes a biological parent to file with the Director of Social Services a contact preference form stating a preference regarding contact with the adoptee or the adoptee's relatives. An adoptee who is at least age 18 is authorized to file with the director a contact preference form stating a preference regarding contact with the biological parents or the biological parents' relatives. Consent of a party to guardianship or adoption is not valid unless the party has received notice of the right to file a contact preference form.

The director must develop and make available a contact preference form that provides for (1) a biological parent to state a preference regarding contact by the biological parents with the adoptee or, in the event the adoptee is deceased, the adoptee's relatives and (2) an adoptee to state a preference regarding contact by the biological parents or, in the event the biological parents are deceased, the biological parents' relatives. The contact preference form must allow the adoptee or the biological parent to state whether the individual would prefer (1) to be contacted; (2) to be contacted only through a designated intermediary, or the involved agency, as specified; or (3) not to be contacted. The contact preference form must contain a statement providing notice that the form may be changed and that it is advisory only. A contact preference form may be cancelled or refiled at any time.

Immediately after the director receives a contact preference form or cancellation, the director must forward a copy to the Secretary of Health. The Secretary is required to attach a contact preference form to the adoptee's original certificate of birth and provide it to a biological parent or an adoptee who applies for a record. If the Secretary receives a cancellation of a contact preference form from the director, the Secretary must remove the contact preference form from the adoptee's original certificate of birth.

If an adoptee or biological parent filed, before October 1, 2020, a disclosure veto to bar disclosure of information about the adoptee or biological parent, the Secretary of Health must replace the disclosure veto with a contact preference form that indicates that the adoptee or the biological parent would not like to be contacted by the biological parent or the adoptee.

Adoption Search, Contact, and Reunion Services

The bill alters, from 21 to 18, the age at which an adopted individual may apply to receive adoption search, contact, and reunion services in SSA. The bill also alters, from 21 to 18, the age at which an adopted individual must be for the following individuals to apply for search, contact, and reunion services: (1) a biological parent of the adopted individual; (2) a sibling of the adopted individual; and (3) a director of a local department of social services acting on behalf of a minor in out-of-home placement. The definition of "sibling" is altered to mean a brother or sister, as specified, who is at least age 18, rather than at least age 21.

The bill also alters provisions of law relating to deceased individuals who are sought by a confidential intermediary under the search, contact, and reunion services program. If the deceased individual is a biological parent, the confidential intermediary may, with the consent of the applicant, attempt to contact a relative who is at least age 18 (instead of age 21, as required under current law) to assess the willingness of the relative to communicate or exchange information with the applicant. If the deceased individual is an adopted individual, the confidential intermediary, with the consent of the applicant, may attempt to contact a member of the adoptive family who is at least age 18 to assess the family member's willingness to communicate or exchange information. Under current law, the member of the adoptive family must be age 21.

Current Law: The Division of Vital Records in the Maryland Department of Health (MDH) maintains birth certificates for the State. The release of birth and adoption records is authorized under certain circumstances for adoptions finalized after January 1, 2000. Specifically, an adoptee who is age 21 or older and was adopted after the year 2000 may apply to the Secretary of Health for a copy of the adoptee's original birth certificate and related adoption records. A biological parent of an adoptee who is age 21 or older may also apply for a copy of the specified records. Whenever an individual applies for the records,

the Secretary of Health must redact from the copy all information as to the biological parent or the adoptee, if the other party has properly filed a disclosure veto.

A biological parent may file a disclosure veto prohibiting the disclosure of any information concerning that parent that is contained in a birth or adoption record. An adopted individual who is at least age 21 may file a disclosure veto prohibiting the disclosure of any information concerning that record that is contained in a birth or adoption record.

“Search, contact, and reunion services” are services provided through a confidential intermediary qualified by SSA to, among other items (1) locate adopted individuals, biological parents of adopted individuals, siblings of adopted individuals and, as specified, relatives and members of the adoptive family; (2) assess the mutual desire for communication or disclosure of information between those individuals; and (3) provide or provide referral to, counseling for those individuals. An adopted individual at least age 21 and a birth parent, sibling, or the director of a local department of social services, as specified, may apply to SSA within the Department of Human Services to receive assistance in contacting birth relatives through search, contact, and reunion services. SSA must maintain a list of confidential intermediaries who can initiate contact with the birth relative.

State Expenditures: General fund expenditures increase by a minimum of \$43,427 in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date. This estimate reflects the cost of hiring one office clerk within MDH to process an anticipated increase in requests for birth certificates and additional contact preference forms. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$38,061
Operating Expenses	<u>5,366</u>
Minimum FY 2021 State Expenditures	\$43,427

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses. MDH advises that there are approximately 70,000 sealed records of individuals who could potentially seek copies of their original birth certificate. Of those 70,000, there may also be a substantial number of biological parents who will seek to block disclosure and immediately file a contact preference form. MDH estimates the need for three new clerks. However, the Department of Legislative Services notes that while there may be an initial influx of requests once the bill takes effect, the volume likely stabilizes over time such that one new clerk can facilitate the additional workload.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 743 (Senator Lee) - Judicial Proceedings.

Information Source(s): Maryland Department of Health; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510