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RIGHTS OF ADOPTED CHILDREN



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REPORT TO THE 1981 GENERAL ASSEMBLY OF NORTH CAROLINA

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



December 16, 1980

TO MEMBERS OF THE 1981 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits
the report of its Committee on Rights of Adopted Children.

Respectfully submitted,



Carl J. Stewart, Jr.



W. Craig Lawing

CoChairmen



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INTRODUCTION

The Legislative Research Commission authorized by Article 6B of Chapter 120 of the North Carolina General Statutes (G. S.), is a general-purpose legislative study group. A list of the membership of the Legislative Research Commission will be found in Appendix A.

Among the Commission's duties is that of making, or causing to be made, upon the direction of the CoChairmen of the Commission,

such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner (G.S. 120-30.17(1)).

During the 1979 Session the General Assembly directed the Legislative Research Commission to conduct a variety of studies, among which was an examination of the issue of the rights of adopted children and their natural and adoptive parents regarding the adoption. Resolution 68 of the 1979 General Assembly (First Session, 1979), Appendix B, mandated a study of adoption which could include "examination of the right to release of information regarding the adoption."

The Committee assigned the study of adoption to its Committee on Rights of Adopted Children (hereafter referred to as the "Committee"). Senator Willis P. Whichard * and Representative Mary P. Seymour were appointed as cochairmen. The

* Now Associate Judge, North Carolina Court of Appeals

other members of the Committee were Senators William W. Redman, Jr., Edward Renfrow, and Anne Bagnal, Representatives Douglas A. Clark and Edith Lutz, and Mr. Everitt Barbee.

COMMITTEE PROCEEDINGS

The Committee on Rights of Adopted Children has devoted its seven meetings to the issues surrounding adoption records in North Carolina. These meetings have stretched over a fourteen-month period. In addition, the Committee held five public hearings (in Greensboro, Charlotte, Asheville, Greenville, and Raleigh) in September, October, and November of 1980. A list of the witnesses appearing at the Committee's meetings is attached as Appendix C, and a list of the witnesses at the public hearings can be found in Appendix D.

The Committee at its organizational meeting decided to study the viewpoints of all three parties to the adoption "triangle" (i.e., the adoptee and his adoptive and birth parents) and the effects of changing the laws relating to adoption records on each of these parties.

More details of the Committee proceedings can be found in the Committee minutes and the statements prepared for presentation to the Committee which are on file in the Legislative Library, together with correspondence to the Committee.

ADOPTION IN NORTH CAROLINA

The Committee has devoted much of its time to a study of the present statutes governing adoption records in North

Carolina and the present adoption situation. Chapter 48 of the General Statutes entitled Adoptions is the statutory section covering this area.

According to information provided to the Committee by the Department of Human Resources, since 1935, 79,555 adoption proceedings have been finalized in North Carolina (through November, 1980).

"Relative" adoptions (where the child is placed directly by the birth parents with relatives or step parents) form the vast majority of these adoptions (75.4% in 1979-80). In "independent" adoptions, the birth parents place the child directly with the adoptive parents. (Approximately 5.5% of all adoptions in 1979-80 were independent adoptions.) In the case of both relative and independent adoptions, the birth and adoptive parents generally know each other.

In the third type of adoption, "agency" adoption, the child is placed with the adoptive family by the agency and the birth and adoptive parents are unknown to each other. The agency obtains authority to place the child either through consent of the birth parents or by court action. It is generally the agency adoption situation which gives rise to the desire for further information. Agency adoptions comprised 19% of all adoptions in 1979-80.

HISTORY OF ADOPTION RECORDS STATUTES

While the practice of adoption has existed for centuries, the issue of confidentiality did not arise until the 1940's or

1950's in most states. "In an effort to root the child in the new family as early and completely as possible and to provide for the child a single family identity, there was also increased emphasis on the confidential nature of the adoptive placement and secrecy around the child's first parents." ("Who Is the Primary Client" by Kenneth W. Watson, Public Welfare, Summer, 1979; Vol. 37, No. 3; p 11.) Another reason that confidentiality began was suggested to the Committee by Robin Peacock, Supervisor of Adoption, N. C. Division of Social Services, Department of Human Resources: the desire of social workers to protect children from being thought of as "bastards" and to protect the unwed mother from criticism.

In North Carolina, the present statutory provisions regarding adoption records have been in place since the 1940's.

For a number of years following the 1949 amendments to the adoption statutes, at which time G.S. 48-25 entitled Record and information not to be made public; violation a misdemeanor was enacted, though the law did not specify that agencies must withhold all information from adoptees, natural parents and adoptive parents in the absence of court order, statewide policy dictated such. In April, 1966, however, the Attorney General provided an interpretation of G.S. 48-25, noting that while under G.S. 48-25 (c) "the director of the county department may not be required to disclose information sought - it does not forbid such disclosure."

Gradually, while continuing to withhold all identifying information, county departments of social services began sharing factual medical and background information to adoptees, and, in

general, found these experiences to be helpful to the adoptee and to his adoptive family.

This practice was called to a halt following a February 14, 1978, opinion from the Attorney General, written in interpretation of In re Adoption of Spinks (32 N. C. App. 422 (1977)).

This opinion concluded by saying:

. . . the county director . . . no longer has the discretion to disclose information in an adoption file absent compliance with the provisions of G.S. 48-26. Accordingly, the opinion of the Attorney General rendered on April 8, 1966, is hereby withdrawn as being in conflict with the decision of the North Carolina Court of Appeals in the case of In re Spinks, supra.

Chapter 739 of the 1979 Session Laws amended G.S. 48-25 by allowing the release of "any medical record or other information concerning the physical or mental health of the adopted child which is contained in the records of the county department of social services or a licensed child-placing agency." Testimony before the Committee indicated that, while this provision has been helpful to many adoptive families, it has not totally removed the need for greater access to records because the medical information has not been updated in most cases. Also, medical information may have remained in hospital files rather than agency records and therefore is still not available to adoptees.

Mrs. Peacock summarized the effects of increased interest in access to adoption records from the viewpoint of the Division of Social Services:

Starting in the mid-to-late '60's and continuing - and increasing - through the '70's, and resulting from a combination of many factors, beginning with the protest movements, with the emerging rights of

minorities, with generally expanding attitudes of openness and honesty, with lessening of societal stigma toward children born out-of-wedlock, and with increasing interest in one's heritage, we have seen and heard from adoptees who are searching for information about their birth parents and their siblings - for any number of reasons. And, at the same time, we have seen and heard from these birth parents who, also, are searching - searching for information about the children they released for adoption many years ago.

Almost daily now our office receives communications from adult adoptees. Less frequently, though increasing in frequency, we hear from natural parents and, sometimes, from adoptive parents. In essence, these individuals - adoptees, natural parents, and adoptive parents alike - are speaking to the rights of the adoptee to know of his biological heritage. Many of the adoptees from whom we have heard were not those placed in infancy in an aura of utmost secrecy but, instead, are people who remained with their natural families for a period of several years. These adoptees have dim recollections of their parents and, in many cases, of siblings with whom they wish to renew contact. Perhaps it will be of interest to you to know that in no case that has come to our attention has the inquiring adoptee indicated anything other than deep love for his real parents - his adoptive parents.

ISSUES CONSIDERED BY THE COMMITTEE

As indicated above, the Committee experienced tremendous public response to its request for information. The following is a list of issues raised in the hearings and in Committee discussion which were considered in preparation of the final draft approved by the Committee:

- (1) Should adoption records be opened?

The majority of witnesses before the Committee favored opening adoption records to some extent.

The Children's Home Society would agree that in some instances and, with the permission of all parties, reunions can and should take place. (Miss Ruth McCracken, Executive Director, The Children's Home Society of North Carolina, Inc.)

I favor a law that would require an agency to reveal complete social information to an adult adoptee and provision for birth parents' identities to be shared provided they consent. (Helen D. Alspaugh, Social Work Supervisor, Guilford County Department of Social Services.)

(2) How will opening the records affect the birth parents?

Those persons who spoke against opening the records usually raised the issue of the birth mother who may not wish her identity revealed.

It is time for us to stop thinking of women who bear children out-of-wedlock as unchaste and uncaring and give them the right that is afforded to the majority of unwed fathers: the right to remain unknown. (Sharon Kupit, Adoptive Parent.)

The witnesses who raised the issue of the birth mother's desire for privacy were in most instances adoptive parents. Their fears were addressed by the social workers who actually work with birth parents and by the birth parents themselves who spoke to the Committee:

My experience has shown that birth parents are able to release children for adoption with the knowledge that the law might change at some future date ... it is my opinion that we should not assume that all birth parents want the confidentiality they were promised. (Glenda Kirby, Forsyth County Department of Social Services.)

One statistical study reflects that 82% of genetic parents contacted were agreeable to being identified. (The Adoption Triangle, Sorosky, Baran, and Panner.) Cited by Helen Alspaugh.

Having talked with many birth parents in recent months, I have come to believe, first, that the birth parents were not interested in perpetual anonymity but rather, that we, the agency representatives, have thought they were interested in this, due to the stigma attached in past years to the out-of-wedlock pregnancy. And, in response to the second major argument in support of sealed records, I have come to believe that the institution of adoption would in no way be jeopardized by the birth parents' thoughts that their children might seek them out in later years, to their embarrassment. Instead, I am hearing from those parents who released a child many years ago that they would have felt far better about releasing their child for adoption had they been assured that they could receive general kinds of information about the adoptive parents and about the child's welfare through the years and, also, had they at the time of release been given some indication that their child, if desiring, could locate them when grown.

... Though we have not heard from as many birth parents as from adoptive parents, I think that we must listen to those we have heard from and give credit to their comments, instead of relying on the comments of adoptive parents who purport to be speaking for the birth parents in expressing the above arguments for continuation of sealed records." (Memorandum under date of November 21, 1980, from Robert H. Ward, Director, North Carolina Division of Social Services, entitled Presentation for Public Hearing on Rights of Adopted Children. Presented by Robin Peacock.)

However, the fact is that only a small number of us desire the anonymity forced on us by society and by the law. Open records would simply reflect the reality that most of us would welcome contact and do have deep loving feelings toward our absent children.

Historically, one justification for birthparent anonymity has been our own protection. I am here to tell you I have no need of such protection. I am willing and able to accept the natural consequences of my actions and have no need to hide truths. I have not built my life on lies as it would seem my parents, my adoption agency, and general social mores ten years ago indicated that I should. As Concerned United Birthparents can testify, more and more of us are shedding our heavy burdens of falsehood.

The big reason for adoptive family anonymity, of course, is protection from the birthparent who

presumably wants to get her baby back and will try anything to do so. ... The great majority of birthparents are decent mature women and men who have great respect for the adoptive family and who want only the best for the child: a stable and secure homelife. We understand only too well the finality of our surrender. (Stacey S. Miller, Birth Parent.)

(3) How would opening the records affect the adoptive parents?

The adoptive parents who spoke to the Committee generally appeared to accept the idea of opening adoption records to the adult adoptee but were divided on the question of whether the records should be opened to adoptees below the age of twenty-one. In general, the adoptive parents appeared to understand that changing the laws relating to adoption records in no way affects the finality of adoption proceedings.

As Senator Renfrow noted in Committee discussion at the final meeting, the most apprehensive adoptive parents appeared to be those with very young children. This was reflected in Mrs. Peacock's final statement to the Committee:

We have some concerns, however, about the future of adoption if the bill contains the provision, now included in the draft, that the birth parents may initiate a request for contact with the child they released during that child's minority. While we would hope that the way would be paved for agencies to willingly provide the birth parents with general, frequently updated information about their child, we feel that the knowledge that a call seeking contact might come at any time would be potentially intimidating to the adoptive parents. All families are under stress in today's world. Adoptive families do not need this added stress.

The Committee in its final meeting deleted from the proposed draft any provisions for opening the records under a consensual procedure to adoptees below the age of twenty-one.

However, Senator Renfrow, who is both an adoptive parent and a biological parent, felt strongly that there should be a provision that by consent of the biological parents and the adoptive parents of an adoptee below the age of twenty-one, the records could be opened. The Committee voted to recommend a separate bill which provides for such access. (See Appendix F.)

The following are representative comments by adoptive parents which were addressed to the Committee:

I feel that my children have the right to attempt to meet their biological parents, who were responsible for their genetic heritage, if the biological parents do not object, or, at least, are given the opportunity to reject a reunion. People who are not adopted can encounter the foundation of their genetics and their environment in two individuals. In order to know their genetic and environmental roots, adopted people must look to four individuals. At the very least, they deserve a potential opportunity to acquire such knowledge. ... (Margaret Sederoff, Adoptive Parent.)

My wife and I are strongly in favor of open records. We were foster parents before we were adoptive parents. We have met and had dealings with the parents of our foster children. These interactions were not always easy. However they did seem natural and important to the growth of our foster children. We have carried this attitude over to our roles as adoptive parents. As our adoptive children grow older, we expect them to be curious about their biological heritage as well as other aspects of their life. We would like to be able to share any and all information known about their background when it seems developmentally appropriate to their growth and self understanding. (Raleigh Bailey, Adoptive Parent.)

My views as an adoptive family basically center around the threat of intrusion into adopted children's lives at an inappropriate age. My family has consistently dealt with adoption with a degree of openness and honesty. Intrusion into their lives under the age of 21 would be difficult to cope with. The emotionalism and fears of adoptive parents must be recognized on this particular issue in any statute changes. Should my children wish to know more of their birth parents, I will in no way interfere with their efforts. I encourage others to do the same. A predetermined age level, consents from certain parties, motive for search, and other factors must be stipulated in any law changes. (Ken Witherspoon, Director, Hoke County

Department of Social Services and Adoptive Parent.)

We hope that if records must be opened, it would not be done until the adoptee is 21. We feel it would place emotional strain on a family if records could be opened during adolescence. After the adoptee reaches 21 we can see positive aspect of opening records. Respect, understanding, trust, and love bring and hold together husband and wife - not a blood relationship. The same qualities when woven together between adoptive parents and child forms a bond unthreatened by outside influences. (Bobby Clark, Adoptive Parent.)

Personally we wish that records could remain closed, but upon consideration we feel that we could accept the age of TWENTY-ONE as the earliest possible age for any contact between any parties involved. (Mrs. Rex Phillips, Adoptive Parent.)

(4) How would opening the records affect the adoptee?

The adoptees who testified to the Committee were, almost without exception, in favor of some change in the law to allow access to records. Many of the adoptees who spoke to the Committee had already located their own birth parents, and, even when this experience had not resulted in a close relationship with the birth parent, the adoptee still expressed satisfaction in having his questions resolved.

Many of the adoptees who spoke to the Committee mentioned the support and understanding of their adoptive parents during the search process, although several who had elderly parents stated that they had not wished to disturb their parents by informing them of their search.

A large number of the adoptees who spoke to the Committee are members of Adoptees Together, an organization with 480

members which counsels adoptees, birth parents, and adoptive parents and attempts to locate birth parents when possible. Except in rare instances, this organization does not seek out birth parents of adoptees below the age of majority.

The following are typical adoptee comments which were heard by the Committee:

We are not children and do not represent children. In our efforts to obtain open records, we do not desire to be referred to as "adopted children." As adults - from age 21 to 99 - we are entitled to the same rights, respect and freedom as all other Americans. Hopefully, we no longer have the status of second class citizens and in losing this stigma, we feel that we are entitled to the knowledge of the circumstances of our birth - as is every citizen.

We are not seeking to replace the family relationship we have with the parents who raised us nor are we seeking another set of parents. We are seeking only for the truth of our past. Adoptive parents may not want to face the fact that their child may have questions about their origins. But the fact is there. When we are adopted, we do not automatically shut off all concerns of our origins. This is a basic normal concern that is not indigenous to adopted persons.

Laws can and have been written to give adoptees information and that also afford protection for the birthparents.

We that have searched and found have received answers to questions too numerous to list. We have found new friends in our birth families. We are at last able to put our fears behind us and deal with the realities of our beginnings. To continue to have closed adoption laws is to condemn those who have unanswered questions to a life of fear, secrecy and an endless search of faces in a crowd. (Holly Hill, Adoptee and Founder of Adoptees Together.)

At earlier hearings I noticed many varieties of fear surface in both adoptees and adoptive parents alike. Adoptees like myself fear that without some type of change we will remain forever in the dark with most of our questions about our ancestry unanswered. The adoptive parents on the other hand seem to fear that

if this legislation passes, they will inevitably lose their precious children. This is not the case. All we want is to establish an avenue or a course to follow if we ever do have a need to procure information about our past. As the law is now written, an adoptee has absolutely no way--within reason--of obtaining any of this information. As recently as one year ago I had never hinted to anyone that I had any desire to trace my ancestry. That in no way means that I didn't have the desire to search. It only means that I was afraid I would upset my adoptive parents if I even mentioned that I was going to begin my search. I think this is a common fear that prevails in a great many adoptees.

Throughout the course of these hearings, response from adoptees and adoptive parents has been nothing short of overwhelming. One group we have heard little from though are the birthparents. I'm not surprised. One of the most common fears that any of us have is rejection. This is especially true of birthparents because all along society has condemned them from the very beginning. It's no wonder that they would be hesitant to step forward now and speak their true feelings when they were scorned and robbed of that opportunity in the past. (Nelson Smith, Adoptee.)

At age twenty-eight I was pregnant and worried for the third time. At that point I became incensed that the "system" was doing this to me again. Suppressed fears had turned to anger that this had to be. Why?

Why could a twenty-eight year old woman not have access to her biological past? Why could she not have facts and data that everyone else takes for granted? I then knew I had to try to unearth whatever I could.

I found out everything. I have talked with my biological mother on the phone many times. I have the name of my father. My fears are put to rest. I know of my medical and ethnic heritage. I can tell my children their biological backgrounds.

My biological mother took my revelation of her bitter-sweetly. She was relieved of twenty-nine years of worry. But new concerns took over. Her family knows nothing of my existence and she justifiably wants to keep it that way. We have never met face to face. This is a disappointment for me, but I basically got what I needed without meeting her. I have the facts and the information I was lacking.

I say this with conviction! No adoptee is looking for

a second family. No adoptive parents are going to be thrown over for the biological ones. My adoptive parents are both deceased and even I was not looking for a mother. I have my parents--they're gone but they are mine. I do not want or need another set. I needed information. The need for an adoptee finding the biological parents is in no way a threat to the adoptive parents. No more so than the chance of an adoptee turning his back on his parents when he or she marries. (Rita Overman, Adoptee.)

There is little chance for me to find my birth mother, but there is always hope that maybe I can. For years the adoptee has been put in the shadows and the laws have always been such as to protect the birthmother and the adoptive parents. My adoptive parents have been and still are very supportive in helping me. There are many unanswered questions in an adoptee's life. One main question that could play a great role in later life is the fact I have no information for medical purposes. I have no way of knowing if there is any disease which could affect my children. As an adoptee the hurt of knowing I probably never will know my birth mother is far greater than the hurt I would have knowing her. The unknown in my case is much worse than to be able to solve the problems of the knowing who my birth mother is. (Ken Willis, Adoptee.)

My name is Vicki Campbell and I am an adoptee. I was born and adopted in this state in 1951. Several months ago, with the help of Adoptees Together, I located and met my birth mother.

I experienced a normal childhood and feel fortunate to have been raised by a set of loving and caring parents. A special relationship with an adopted brother, six years my junior, has always been important to me. Throughout my life, questions concerning my birth mother and the circumstances surrounding my birth have haunted me. Although I felt secure in the love of my adoptive parents, another part of me always felt rejected and abandoned. I was also plagued with much guilt as I felt wrong in having these feelings and questions. I never shared any of this with my parents for several reasons: fear of hurting them, fear of more rejection, and the anxieties of my guilt.

My search was frustrating to say the least and at times seemed futile. During this time, I felt emotionally drained and very alone in my search. Having others in my situation to converse with helped tremendously. The support and understanding of other

adoptees and birth parents was of great importance during this time as the many months involved were hard to cope with.

After meeting my birth mother, I decided to tell my parents of my search. At first, they felt threatened and afraid of losing a part of their daughter. A little time gave them the assurance that this would never happen. I truly believe that our honesty in dealing with each other's feelings has made our relationship stronger. Although my birth mother gave me life, she can never be the parents they have been. I love them dearly and in return I will always have their love and compassion. I was never looking for a replacement for my parents; I only wanted to know all the facts concerning my origin.

Things have not settled down enough for me to know what kind of relationship I will have with my birth mother, if any. I also found that I have two brothers, one of whom I have met. Having someone so close in age to myself that I can identify with has been beneficial to me and I hope the two of us will be able to establish a relationship. While relationships with them would be nice, I know I can deal with things if it does not work out this way.

I am very satisfied just having acquired the knowledge that I have. I am happy that I did search because the truth is much easier to deal with than the unknown. I finally feel as if I know my whole self.

I would like to close with some of my feelings pertaining to our presently sealed records. Our present law must be considered archaic and grossly unfair. While I realize that all adoptees do not desire information about their origin, those of us who do should be able to obtain it without going through a frustrating search. We are being denied our most precious right - the truth of our beginning. This can only be defined as horrendously unjust. We are not adopted children; we are responsible adults and can handle whatever we may encounter in our search. We realize that the feelings of all parties involved have to be considered. We also realize the importance of confidentiality to the birth parents. It is past time for some change in our existing law. We only want what is and should be rightfully ours, the truth pertaining to our heritage. I sincerely hope that changes will come soon so that other adoptees who desire this truth may be spared the anguish of an extremely painful and many times futile search. (Vicki Campbell, Adoptee.)

THE DRAFTING PROCESS

The Committee was extremely aware of the importance of public input both in the form of testimony and correspondence to the Committee and as participation in drafting proposed legislation to be considered by the Committee.

Two adoptive parents are members of this Committee. One member is a stepparent; one member has a granddaughter living with an aunt and uncle; all of the members of the Committee are parents. Mr. Barbee is the Clerk of Court in Onslow County. Senator Whichard handled many adoptions in the course of his legal practice.

In addition to the Committee with its various perspectives. the following persons assisted in preparation of the drafts considered by the Committee: Miss McCracken (Executive Director of the Children's Home Society) and representatives from the Wake and Guilford County Departments of Social Services, the North Carolina Social Services Association and the Department of Human Resources.

Following its first six meetings which ended in June, 1980, the Committee received additional funds from the Legislative Research Commission to enable it to hold five public hearings noted above. In order to receive the widest possible publicity for these hearings, the Committee distributed notices to every member of the General Assembly, 55 newspapers, 170 radio stations, and 28 television stations in addition to personal contacts to the media by members of the Committee.

Following the final public hearing in November, the Committee held its final meeting and accepted a proposed draft with one dissenting vote. The draft accepted at the December meeting was changed in response to testimony received at the hearings and differs from the draft dated June 13, 1980, which witnesses at the hearings addressed, in that it eliminates any provision for a "search" (i.e., information can be released only after both parties sign corresponding unsolicited consent forms); the primary bill recommended deals with adoptees over the age of twenty-one while retaining the present court procedure to be used in the case of adoptees below the age of twenty-one or where no consent has been filed; the provision requiring the consent of adoptees aged twelve and over prior to the opening of records was removed; the required non-identifying information section no longer includes the reason for the adoptee's being placed for adoption or the relationship between the birth parents; the age for release of the non-identifying information to the adult adoptee was raised from eighteen to twenty-one; and a "hold harmless" provision to cover agency actions under the new law was added to the bill.

This last provision was part of language in the final draft taken from a draft prepared by Blair L. Daily, Attorney for the Children's Home Society, and approved by the Board of Directors of the Children's Home Society of North Carolina, Inc. on October 27, 1980. The draft was prepared in response to a request from Representative Seymour for a statement of the Board's position in an appearance before the Board at its August meeting. (Preceding this meeting a meeting on the June 13th draft was held at the Children's Home Society offices in Greensboro. Miss McCracker,

Representative Seymour, Senator Whichard, and the Committee Counsel attended this meeting.) Miss McCracken also attended each of the Committee's meetings and public hearings.

While the Committee's final draft does not contain the "search" provision found in the Children's Home Society's draft, the other provisions of the Committee draft and the Children's Home Society's draft are virtually the same.

FINDINGS AND RECOMMENDATIONS

Pursuant to Resolution 68 of the 1979 Session Laws (First Session, 1979), the Legislative Research Commission's Committee on Rights of Adopted Children makes the following findings and recommends the following course of action regarding the subject of its inquiry:

Finding 1. The present statutes do not provide an administrative procedure for access to information in adoption records and due to the Spinks case and resulting Attorney General's opinion such information is unavailable from agencies.

Finding 2. Despite the present law, many adoptees are able to locate their birth parents and have held reunions with them without agency involvement. Many other adoptees have engaged in futile searches or lack the time and financial resources to search for their birth parents.

Finding 3. Many adoptees, birth parents, adoptive parents and social workers feel that the present laws should be changed to allow the release of identifying information to adult adoptees when the parties directly involved have consented to the release of

information.

Finding 4. Consents should be required of the parties prior to release of information in order to protect the privacy of those birth parents and adoptees who do not desire release of the information.

Finding 5. The laws should be changed to require that certain specified non-identifying information concerning the adoptee's background be given to each adoptive parent and adult adoptee.

Recommendation 1. The General Assembly should amend the General Statutes to allow access to identifying adoption records to adult adoptees and birth parents under a consensual administrative procedure. See Appendix E for proposed legislation.

Recommendation 2. The General Statutes should be amended to require release of specified non-identifying information to all adoptive parents and adult adoptees. See Appendix E for proposed legislation.

Recommendation 3. The Committee recommends for consideration by the General Assembly a separate bill that allows access to identifying information to adoptees below the age of twenty-one or their adoptive parents upon consent of the birth and adoptive parents. See Appendix F.

APPENDIX A

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Carl J. Stewart, Jr.
Chairman

Representative Chris S. Barker, Jr.

Representative John R. Gamble, Jr.

Representative H. Parks Helms

Representative John J. Hunt

Representative Lura S. Tally

Senate President Pro Tempore
W. Craig Lawing, Chairman

Senator Henson P. Barnes

Senator Melvin Daniels, Jr.

Senator Carolyn Mathis

Senator R. C. Soles, Jr.

Senator Charles Vickery

APPENDIX B
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 68

HOUSE JOINT RESOLUTION 1313

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE RIGHTS OF ADOPTED CHILDREN AND THEIR NATURAL AND ADOPTED PARENTS REGARDING THE ADOPTION.

Whereas, there are over five million adoptees in the United States; and

Whereas, approximately two million of these adoptees are actively making inquiries regarding their origins; and

Whereas, certain information, such as medical records and medical information, may be vital to the well-being of these individuals;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the rights of adopted children and their natural and adopted parents regarding the adoption. The study may include examination of the right to release of information regarding the adoption.

Sec. 2. The Commission may produce an interim report to the 1979 General Assembly, Second Session 1980, and a final report to the 1981 General Assembly.

Sec. 3. This resolution is effective upon ratification.
In the General Assembly read three times and ratified,
this the 8th day of June, 1979.

JAMES C. GREEN

James C. Green

President of the Senate

CARL J. STEWART, JR.

Carl J. Stewart, Jr.

Speaker of the House of Representatives

APPENDIX C

LIST OF WITNESSES
(Meetings)

Helen Alspaugh, Supervisor of Adoption
Guilford County Department of Social Services
Greensboro, North Carolina

Sara Austin, President
North Carolina Chapter
National Association of Social Workers
Raleigh, North Carolina

Cindy Estes, Adoptee

Leola Haley, Adoptive Parent

Cecil J. Hill, Judge
North Carolina Court of Appeals

Holly Hill, Founder
North Carolina Adoptees Together

Dr. William C. Hubbard
Raleigh Pediatrics Associates

Beverly T. Jones, Adoptive Parent

Glenda Kirby
Forsyth County Department of Social Services
Winston-Salem, North Carolina

Sharon Bryant Kupit, Adoptive Parent

Helen Leggett, Adoptee and Adoptive Parent

Janet Lyles
North Carolina Social Services Association
Raleigh, North Carolina

Ruth McCracken, Executive Director
Children's Home Society
Greensboro, North Carolina

Stacey S. Miller, Birth Parent

Dwight Morris, Minister, Adoptees Together

Martha Newman, Adoptees Together and Adoptive Parent

Appendix C Continued

Dr. James T. Nunnally, III

Rita Overman, Adoptees Together

Robin L. Peacock, Supervisor of Adoption
Division of Social Services
North Carolina Department of Human Resources
Raleigh, North Carolina

Mary Jane Robinson, Birth Parent

Margaret Sederoff, Adoptive Parent

C. Donald Stevenson, Adoptee

Chuck Townsend, President
Parents of Black and Biracial Children
Durham, North Carolina

APPENDIX D

LIST OF WITNESSES
(Public Hearings)

September 26, 1980, Greensboro, North Carolina:

Raleigh Bailey, Adoptive Parent

Vicki Campbell, Adoptees Together

Mrs. R. T. Copeland, Adoptive Parent

Bea Corley, Adoptive Parent
Piedmont Council on Adoptable Children

Sammy Jean Dew, Adoptive Parent

Joan Dunham, Adoptive Parent
Piedmont Adoption, Inc.
Black Adoption Task Force of Greensboro

Mary C. Eubanks, Adoptive Parent

Lynn N. Giddens, Adoptees Together

Shirley Hamilton
Region II Adoption Workers

Holly Hill, Founder
Adoptees Together

William L. Huffling, Adoptee

Herb Meadows, Adoptive Parent

Karen C. Moore, Agency Representative
Church of Jesus Christ of Latter Day Saints Social Services

The Reverend Dwight Morris
Adoptees Together

Rita Overman, Adoptees Together

Billy J. Shoaf, Adoptive Parent

R. Nelson Smith, Adoptees Together

Harry L. Stevens, Adoptee

Appendix D Continued

C. Donald Stevenson, Adoptee
Eleanor T. Stokes, Birth Parent
W. B. Summers, Adoptive Parent
Dr. Zell Weisner, Adoptive Parent
Children's Home Society
Patsy Wiggins, Adoptive Parent
French P. Wise, Adoptive Parent

October 2, 1980, Charlotte, North Carolina:

Bobbie M. Almond, Adoptee
Elizabeth W. Baker, Adoptee
Ruth B. Cantor
Wilkes County Department of Social Services
Wilkesboro, North Carolina
Pat Martin Day
Wilkes County Department of Social Services
J. Richard Fletcher, Director
LDS Social Services
Charlotte, North Carolina
Holly Hill, Founder
Adoptees Together
Betty Levin, Chairperson
Southern Region I Adoption Group
Mecklenburg County Department of Social Services
Charlotte, North Carolina
Albert E. Sanderson, Adoptive Parent
Linda M. Thompson, Adoptive Parent and Social Worker
Jerry Westbrook, Adoptive Parent
Ken Willis, Adoptee
Mr. and Mrs. Julian Wray, Adoptive Parents

Appendix D. Continued

October 3, 1980, Asheville, North Carolina:

Cathy Bell, Adoptive Parent
Children's Home Society

Virginia Lawton Braun, Adoptee and Adoptive Parent

Janey Cole Norman, Adoptee

S. Smith, Birth Parent

November 7, 1980, Greenville, North Carolina:

Vivian Riggs Barker, Adoptee and Adoptive Parent

Vicki Campbell, Adoptees Together

Susan Horne Creech, Adoptee

C. E. Dozier, Adoptive Parent
Children's Home Society

Faye Dozier, Adoptive Parent

Susan Griffin, Adoptee

J. Fred Hill, III, Adoptive Parent

Erthel Hines, Birth Parent

Jessie Holliday, Adoptee

Glennis E. Jones, Adoptive Parent and Birth Parent

Mary Barnes Kearney, Adoptive Parent

Lawrence Nason, Adoptive Parent

Claude T. Nethercutt, Adoptive Parent

Robin L. Peacock, Supervisor of Adoption
Division of Social Services
North Carolina Department of Human Resources
Raleigh, North Carolina

Ann W. Smith, Wife of Adoptee

Short Title: Adoption Records.

(Public)

Representative

Referred to:

A BILL TO BE ENTITLED
AN ACT TO PROVIDE A CONSENSUAL PROCEDURE RELATING TO ADOPTION
RECORDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 48-2 is amended by directing the
Codifier of Statutes to alphabetize the subdivisions and by
adding the following new subdivision to read as follows:

"(6) 'Biological relative' means the biological parent or
parents or biological siblings of an adoptee."

Sec. 2. G.S. 48-24 is amended by adding the following
subsection:

"(d) The Department of Human Resources shall provide a form
which may be signed by:

- (1) a biological relative to indicate that the relative
consents to the release of his name to the adoptee
as provided by this Chapter. If the biological
relative is the sibling of an adoptee, the sibling
must have reached the age of 21 years; or

- (2) an adoptee upon reaching the age of 21 to indicate that he consents to the release of his name to a biological relative as provided by this Chapter.

The consent shall be effective as of the time of filing the form with the Department of Human Resources, with any county department of social services or with any licensed child-placing agency located in North Carolina.

The form shall contain the following information to the extent known by the person completing the form:

- (1) the name of the person completing the form and any prior names used by that person since the birth of the adoptee;
- (2) if signed by a biological relative, the relationship of the relative to the adoptee;
- (3) the date of birth of the adoptee;
- (4) the sex of the adoptee;
- (5) the place of birth of the adoptee;
- (6) in the case of a form signed by a biological relative, authorization that the name, last-known address, and last-known telephone number of the consenting party may be released to an adoptee who has reached the age of 21. In the case of a form signed by an adoptee, authorization that the name, last-known address, and last-known telephone number of the adoptee may be released to any designated biological relative;
- (7) the following notice:

'IMPORTANT NOTICE

'You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form allows your name and other information contained on this form to be given to the person designated upon completion of the statutory requirements. You may file additional copies of this consent if your name or address changes. You may revoke this consent at any time by filing a revocation of consent with the department of Human Resources, any county department of social services or any licensed child-placing agency. The revocation will be effective upon receipt by the Department of Human Resources.'

- (8) a statement releasing the agency which made the adoption placement and the agency which releases the identity and other such information sought under these provisions from all liability due to the disclosure permitted under this section.

(e) At any time after signing the consent form, the consenting person may revoke the consent. A form for revocation of consent shall be provided by the Department of Human Resources. The revocation shall be effective as of the time of filing the form with the Department.

(f) The forms provided by (d) and (e) shall be notarized and filed with any licensed child-placing agency, county department

or social services, or the Department of Human Resources. The Department of Human Resources shall retain the original consent and shall forward copies of the consent to the appropriate agencies. The Department of Human Resources shall establish and maintain a repository for all records filed pursuant to subsections (d) and (e) of this section.

(g) If a licensed child-placing agency which has compiled records pursuant to adoption proceedings terminates its operations within this State, the agency shall transfer all those records to the Department of Human Resources which shall retain the records permanently."

Sec. 3. Subsection (d) of G.S. 48-25 is rewritten to read as follows:

"(d) Notwithstanding any other provision of law, certain nonidentifying information, if known, shall be given by the county department of social services or licensed child-placing agency which has such information in writing on a form provided by the Department of Human Resources to the adoptive parent or parents not later than the date of finalization of the adoption proceedings. The information described in this subsection, if known, shall, upon written request of the adoptee, be made available to the adoptee upon his reaching the age of 21. This information or any part thereof may be withheld only if it is of such a nature that it would tend to identify a biological relative of the adoptee. For any adoption completed prior to the effective date of this act, the information described in this section, if available, shall be given in writing to the adoptive

parent or parents or legal guardian of any minor adoptee or to any adoptee who has reached the age of 21 years upon written request by such person to the agency which has the information. The nonidentifying information, if known, shall include but is not limited to the following:

- (1) date and time of the birth of the adoptee and his weight at birth;
- (2) age of biological parents in years, not dates of birth, at birth of the adoptee;
- (3) heritage of biological parents which shall include nationality, ethnic background, and race;
- (4) education, which shall be the number of years of school completed by the biological parents at the time of birth of the adoptee;
- (5) general physical appearance of the biological parents at the time of birth of the adoptee in terms of height, weight, color of hair, eyes, skin, and other information of similar nature;
- (6) talents, hobbies, occupation, and special interests of the biological parents;
- (7) existence of any other child or children born to either biological parent prior to birth of the adoptee;
- (8) religious preference of biological parents;
- (9) complete health history of biological parents and other relatives on a standardized form provided by the Department of Human Resources, including any

information which would have a substantial bearing on the adoptee's mental or physical health."

Sec. 4. G.S. 48-26 is hereby rewritten to read as follows:

"§ 48-26. Procedure for opening records.--(a) An individual who desires access to the information in G.S. 48-24(d) and who is an adoptee 21 years of age or older or a biological parent of an adoptee or an adoptee's biological sibling who is over the age of 21 shall file a consent form as provided by G.S. 48-24(d) with the Department of Human Resources or a county department of social services or any licensed child-placing agency.

(b) Upon receipt of a consent form, the Department of Human Resources shall check to determine if a corresponding consent form has been signed and filed. When the consent forms have been signed and filed and have not been revoked, the information on the forms shall be released to the parties by the Department of Human Resources or the appropriate agency together with the names and addresses of appropriate agencies which may furnish counselling if desired in conjunction with the release of such information.

(1) No information shall be released to any biological relative of an adoptee where the relative is not designated to receive information on the consent form signed by the adoptee.

(2) A biological relative of an adoptee may receive information only about that adoptee.

(3) Prior to the release of information to an adoptee

concerning his biological parents, consent forms must be signed and filed by both biological parents where both parents have consented to the adoption or in the case where only one parent has consented to the adoption, a consent form must be signed by that parent. Where neither parent has consented to the adoption, no consent is required. Nevertheless where both biological parents have consented to the adoption and the Department of Human Resources has verification that both individuals are deceased or if only one parent has consented to the adoption and the Department has verification that that individual is deceased, the name of the deceased parents or parent at the time of consent to the adoption shall be released to the adoptee, notwithstanding the fact that no consent form was signed and filed by such deceased parent prior to death. Identifying information shall not be disclosed concerning any biological relative other than the deceased biological parent(s) unless consent is obtained from such biological relative, except as set forth in this subsection.

- (4) In the case of a biological relative seeking information about an adoptee, where the Department has verification that the adoptee is deceased, the Department shall authorize release to the relative of the fact of the adoptee's death notwithstanding

the fact that no consent form was signed and filed prior to the adoptee's death.

- (5) A child age 21 years or older, of a deceased adoptee, shall succeed to the rights of the adoptee to information pursuant to the provisions and procedures of this section and also G.S. 48-25.

(c) No reunion between parties shall be arranged by an agency unless the parties have signed consent forms. Except as set forth in subsections (b) and (d), no identifying information shall be released about any party who has not signed a consent form pursuant to G.S. 48-24(d) which has been filed with the Department of Human Resources.

The Department of Human Resources shall refer the parties to appropriate agencies for counselling and intermediary services if desired by the parties.

(d) Any information in the files or the record of an adoption proceeding not released pursuant to the provisions of subsections (a) through (c) of this section may be disclosed to the party requesting it upon a written motion in the cause before the clerk of original jurisdiction. A copy of the motion and notice of hearing shall be served at least five days prior to the hearing on the director of the agency or department that was involved in the adoption process. The clerk may issue an order to open the record. Such order must be reviewed by a judge of the superior court and if, in the opinion of said judge, it be to the best interest of the child or of the public to have such information disclosed, he may approve the order to open the record. The

original order to open the record must be filed with the proceedings in the office of the clerk of the superior court. If the clerk shall refuse to issue such order, the party requesting such order may appeal to the judge who may order that the record be opened, if, in his opinion, it be to the best interest of the child or of the public."

Sec. 5. Chapter 48 as the same appears in Volume 2A of the General Statutes is amended by adding a new section to be designated as G.S. 48-40 and to read as follows:

"§ 48-40. Rulemaking authority.--Pursuant to G.S. 143B-153(2) (d), the Social Services Commission may promulgate rules concerning:

(1) the procedures for filing and processing adoption requests;

(2) the information required on all forms used in adoption proceedings in accordance with this Chapter;

(3) the procedures for maintaining the confidentiality of adoption records and opening of those records in accordance with the provisions of this Chapter;

(4) the standards for selection of adoptive parents and homes;

(5) the services to be provided to the parties;

(6) the services to be provided to support, maintain, and facilitate adoption; and

(7) the criteria to be considered in evaluating a child for adoption."

Sec. 6. G.S. 143B-153(2), as the same appears in the 1979 Supplement to Volume 3C of the General Statutes, is hereby

amended by deleting the word "and" on line 19 and the punctuation on line 22, by inserting on line 22 at the end thereof "; and", and by adding the following new paragraph to read:

"(d) For the review, placement, and supervision of adoptions under G.S. Chapter 48."

Sec. 7. If any provision in Section 2 or Section 4 of this act is held invalid, such invalidity shall affect all other provisions of such sections and to that end the provisions of Section 2 and Section 4 are declared not to be severable. If any provision in Section 2 or Section 4 of this act is held invalid, Section 2 and Section 4 shall be deemed to be repealed.

Sec. 8. This act shall become effective on January 1, 1982.

INTRODUCED BY:

Short Title: Adoption Records of Adoptees Under Twenty-One

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A CONSENSUAL PROCEDURE RELATING TO ADOPTION
3 RECORDS OF ADOPTEES BELOW THE AGE OF TWENTY-ONE.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 48 of the General Statutes
6 is hereby amended by adding a new section immediately following
7 G.S. 48-26, and immediately preceding G.S. 48-27, to be numbered
8 G.S. 48-26.1, and to read as follows:
9 "(a) The Department of Human Resources shall provide a form
10 which may be signed by:
11 (1) a biological relative to indicate that the relative
12 consents to the release of his name to the adoptive
13 parent or legal guardian of an adoptee below the
14 age of twenty-one as provided by this Chapter. If
15 the biological relative is the sibling of an adoptee,
16 the sibling must have reached the age of 21 years; or
17 (2) the adoptive parent or legal guardian of an adoptee
18 who has not reached the age of 21 years to indicate
19 that the adoptive parent or legal guardian and the
20 adoptee consent to the release of the adoptee's name
21 to a biological relative as provided by this Chapter.
22 The consent shall be effective as of the time of filing the
23 form with the Department of Human Resources, with any county
24 department of social services or with any licensed child-placing

1 agency located in North Carolina.

2 The form shall contain the following information to the
3 extent known by the person completing the form:

- 4 (1) the name of the person completing the form and
5 any prior names used by that person since the birth
6 of the adoptee;
- 7 (2) if signed by a biological relative, the relationship
8 of the relative to the adoptee;
- 9 (3) the date of birth of the adoptee;
- 10 (4) the sex of the adoptee;
- 11 (5) the place of birth of the adoptee;
- 12 (6) in the case of a form signed by a biological
13 relative, authorization that the name, last-known
14 address, and last-known telephone number of the
15 consenting party may be released to the adoptive
16 parent or legal guardian of an adoptee who has not
17 reached the age of 21 or to an adoptee who has reached
18 the age of 21. In the case of a form signed by the
19 adoptive parent or legal guardian of an adoptee who
20 has not reached the age of 21, authorization that the
21 name, last-known address, and last-known telephone
22 number of the adoptee may be released to any designated
23 biological relative;
- 24 (7) the following notice:

25 'IMPORTANT NOTICE

26 'You do not have to sign this form. If you do sign
27 it, you are entitled to a copy of it. Your signa-
28 ture on this form allows your name and other

1 information contained on this form to be given
2 to the person designated upon completion of the
3 statutory requirements. You may file additional
4 copies of this consent if your name or address
5 changes. You may revoke this consent at any time
6 by filing a revocation of consent with the Depart-
7 ment of Human Resources, any county department of
8 social services or any licensed child-placing
9 agency. The revocation will be effective upon receipt
10 by the Department of Human Resources.'

11 (8) a statement releasing the agency which made the
12 adoption placement and the agency which releases
13 the identity and other such information sought
14 under these provisions from all liability due to
15 the disclosure permitted under this section.

16 (b) At any time after signing the consent form, the
17 consenting person may revoke the consent. A form for revoca-
18 tion of consent shall be provided by the Department of Human
19 Resources. The revocation shall be effective as of the time
20 of filing the form with the Department.

21 (c) The forms provided by (a) and (b) shall be notarized
22 and filed with any licensed child-placing agency, county
23 department of social services, or the Department of Human
24 Resources. The Department of Human Resources shall retain
25 the original consent and shall forward copies of the consent
26 to the appropriate agencies. The Department of Human Resources
27 shall establish and maintain a repository for all records
28 filed pursuant to subsections (a) and (b) of this section.

1 (d) An individual who desires access to the information
2 in subsection (a) and who is the adoptive parent or legal
3 guardian of an adoptee below 21 years of age or a biological
4 parent of an adoptee or an adoptee's biological sibling who
5 is over the age of 21 shall file a consent form as provided by
6 subsection (a) with the Department of Human Resources or a
7 county department of social services or any licensed child-
8 placing agency.

9 (e) Upon receipt of a consent form, the Department of
10 Human Resources shall check to determine if a corresponding
11 consent form has been signed and filed. When the consent forms
12 have been signed and filed and have not been revoked, the
13 information on the forms shall be released to the parties by
14 the Department of Human Resources or the appropriate agency
15 together with the names and addresses of appropriate agencies
16 which may furnish counselling if desired in conjunction with
17 the release of such information.

18 (1) No information shall be released to any
19 biological relative of an adoptee where the relative
20 is not designated to receive information on the
21 consent form signed by the adoptive parent or legal
22 guardian of the adoptee.

23 (2) A biological relative of an adoptee may receive
24 information only about that adoptee.

25 (3) Prior to the release of information to the
26 adoptive parent or legal guardian of an adoptee
27 concerning his biological parents, consent forms
28 must be signed and filed by both biological parents

1 where both parents have consented to the adoption
2 or in the case where only one parent has consented
3 to the adoption, a consent form must be signed by
4 that parent. Where neither parent has consented to
5 the adoption, no consent is required. Nevertheless
6 where both biological parents have consented to the
7 adoption and the Department of Human Resources has
8 verification that both individuals are deceased or
9 if only one parent has consented to the adoption
10 and the Department has verification that that indi-
11 vidual is deceased, the name of the deceased parents
12 or parent at the time of consent to the adoption shall
13 be released to the adoptive parent or legal guardian
14 of the adoptee, notwithstanding the fact that no con-
15 sent form was signed and filed by such deceased
16 parent prior to death. Identifying information shall
17 not be disclosed concerning any biological relative
18 other than the deceased biological parent(s) unless
19 consent is obtained from such biological relative,
20 except as set forth in this subsection.

21 (4) In the case of a biological relative seeking infor-
22 mation about an adoptee, where the Department has
23 verification that the adoptee is deceased, the
24 Department shall authorize release to the relative
25 of the fact of the adoptee's death notwithstanding
26 the fact that no consent form was signed and filed
27 prior to the adoptee's death.

28 (f) No reunion between parties shall be arranged by an

1 agency unless the parties have signed consent forms. Except
2 as set forth in subsection (e), no identifying information
3 shall be released about any party who has not signed a
4 consent form pursuant to subsection (a) which has been filed
5 with the Department of Human Resources.

6 The Department of Human Resources shall refer the parties
7 to appropriate agencies for counselling and intermediary services
8 if desired by the parties."

9 Sec. 2. This act shall become effective on January
10 1, 1982.

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