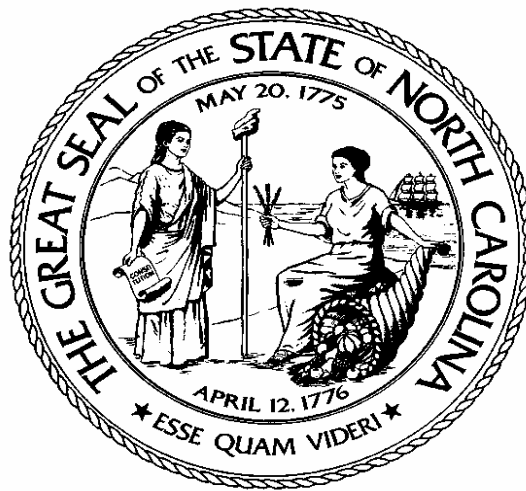


HOUSE SELECT COMMITTEE ON ADOPTEE BIRTH CERTIFICATES



**INTERIM REPORT TO THE
2008 MEMBERS OF THE NORTH CAROLINA HOUSE OF
REPRESENTATIVES**

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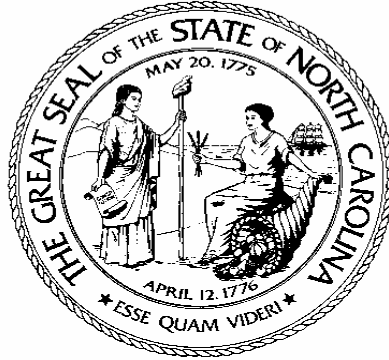
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STATE OF NORTH CAROLINA

HOUSE SELECT COMMITTEE ON ADOPTEE BIRTH CERTIFICATES



May 2008

TO THE MEMBERS OF THE 2008 North Carolina House of Representatives:

Attached for your consideration is the report of the House Select Committee on Adoptee Birth Certificates established by the Speakers of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

Respectfully submitted,

Representative Margaret Dickson
Chair



**Office of the Speaker
North Carolina House of Representatives
Raleigh, North Carolina 27601-1096**

HOUSE SELECT COMMITTEE ON ADOPTEE BIRTH CERTIFICATES

**TO THE HONORABLE MEMBERS OF THE
NORTH CAROLINA HOUSE OF REPRESENTATIVES**

Section 1. The House Select Committee on Adoptee's access to their Birth Certificates (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2007 General Assembly.

Section 2. The Committee consists of the 14 members listed below, appointed by the Speaker of the House of Representatives. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time.

Representative Margaret Dickson, Chair
Representative Nelson Dollar
Representative Jean Farmer-Butterfield
Representative Melanie Wade Goodwin
Representative Ty Harrell
Representative Pricey Harrison
Representative George Holmes
Representative Earline Parmon
Representative Garland Pierce
Representative Tracy Walker
Representative Jennifer Weiss
Representative W.A. Wilkins
Mr. James T. Bryan, III Orange County
Ms. Jane L. Cochrane, Guilford County

Section 3. The Committee may study issues related to adult adoptees having access to their original birth certificates. The Committee may consider:

1. The laws of states that allow an adult adoptee access to the adoptee's original birth certificate.

2. The impact of contact preference forms in the states that allow adult adoptees to access their original birth certificates.
3. The actual number of sealed adoption records in North Carolina and the anticipated number of original birth certificates that would be requested if North Carolina provided access to original birth certificates.
4. Legal challenges in other states relating to confidentiality issues with respect to adoption.
5. The history of the sealed adoption records in North Carolina.
6. Abortion and adoption rate comparisons in states with access to original birth certificates.
7. Whether an adult adoptee should be 21 years of age to access his or her original birth certificate.
8. Whether the term "just cause" needs to be defined with respect to persons needing to petition the court system.
9. Whether siblings should be allowed in the confidential intermediary process.
10. Whether other family members should be allowed to act with the confidential intermediary if the birthmother is deceased.
11. Access to the birth information by persons adopted prior to the legal sealing of adoption records.
12. Any other issues the Committee considers relevant to this topic.

Section 4. The Committee shall meet upon the call of its Chair. A quorum of the Committee shall be a majority of its members.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

Section 7. The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

Section 9. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Committee in the State Legislative Building or the Legislative Office Building.

Section 10. The Committee may submit an interim report on the results of the study, including any proposed legislation, on or before May 1, 2008, by filing a copy of the report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the House of Representatives on or before December 31, 2008, by filing the final report with the Office of the Speaker of the House of Representatives, the House Principal Clerk, and the Legislative Library. The Committee terminates on December 31, 2008, or upon the filing of its final report, whichever occurs first.

Effective this 11th day of December, 2007.



Joe Hackney
Speaker

12/11/2007 4:12 PM

House Select Committee on Adoptee Birth Certificates Membership List

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SUMMARY OF COMMITTEE PROCEEDINGS

House Select Committee on Adoptee Birth Certificates January 28, 2008 - 2:00 pm - Room 544

Welcome and Introductions
Representative Dickson, Chair

Review of Authorizing Legislation
Drupti Chauhan, Committee Co-Counsel

History and Overview of Adoption Law in North Carolina
Janet Mason, Gladys Hall Coates Professor of Public Law and Government, UNC School of Government
Jane R. Thompson, Assistant Attorney General, NC Department of Justice

At the first meeting of the Committee, Drupti Chauhan, Committee Co-Counsel, reviewed the charge of the Committee. The Committee then heard a presentation by Janet Mason, Gladys Hall Coates Professor of Public Law and Government at the UNC School of Government, and Jane R. Thompson, Assistant Attorney General at the NC Department of Justice. Ms. Mason and Ms. Thompson reviewed the history of adoption law in North Carolina with particular emphasis on adoption records and the confidentiality of those records. It was noted that access to an adoptee's original birth certificate was not restricted until 1935, when adoption records were sealed in North Carolina. Ms. Mason and Ms. Thompson also reviewed the current law, the circumstances under which access to records may be granted under the current law, and a new law, which became effective in January of 2008, which provides for confidential intermediaries between adult adoptees, adult lineal descendants of deceased adoptees, and biological parents.

House Select Committee on Adoptee Birth Certificates February 13, 2008 – 2:00 pm - Room 1124

Welcome and Introductions
Representative Dickson, Chair

NC LINKS Program and Guardian Ad Litem Program
Charisse Johnson, Chief of the Family Support and Child Welfare Services Section, NC Department of Health and Human Services
Jane Volland, Administrator for the GAL Program, Administrative Office of the Courts

Overview of Different Types of Adoptions
Jane R. Thompson, Assistant Attorney General, NC Department of Justice
Brinton Wright, Law Offices of Brinton Wright & Sally Cone, P.L.L.C.
Michele Smith, Hill, Evans, Jordan, & Beatty, P.L.L.C.

At the second meeting of the Committee, Charisse Johnson, Chief of the Family Support and Child Welfare Services Section of the NC Department of Health and Human Services, and Jane Volland, Administrator for the Guardian Ad Litem Program in the Administrative Office of the Courts, responded to questions raised by Committee members at the previous meeting. Ms.

Johnson and Ms. Volland provided information on the NC LINKS program, which is designed to help adolescents who are aging out of foster care become connected with resources and opportunities in their communities, and the GAL's relationship and duties to children that age out of foster care. The Committee then heard presentations from Jane R. Thompson, Assistant Attorney General with the NC Department of Justice, Brinton Wright, a private attorney with the Law Offices of Brinton Wright & Sally Cone, P.L.L.C., and Michele Smith, an attorney representing the Children's Home Society with Hill, Evans, Jordan, & Beatty, P.L.L.C. Ms. Thompson, Mr. Wright, and Ms. Smith presented information on the different types of adoption – DSS adoptions, private direct adoptions, and private agency adoptions – specifically addressing the types of information parties to the adoption process are able to access.

**House Select Committee on Adoptee Birth Certificates
March 5, 2008 – 2:00 pm - Room 1228**

Welcome and Introductions
Representative Dickson, Chair

Approval of Minutes

A National Perspective on Access to Adoption Records and the Laws of Other States
Adam Pertman, Executive Director, Evan B. Donaldson Adoption Institute

North Carolina Coalition for Adoption Reform
Roberta MacDonald, Chairwoman, North Carolina Coalition for Adoption Reform

At its third meeting, the Committee heard a presentation from Adam Pertman, Executive Director of the Evan B. Donaldson Adoption Institute. Mr. Pertman discussed research conducted by the Institute on issues related to state laws governing access to original birth certificates by adult adoptees and the Institute's recent report recommending that all state's restore unrestricted access. Mr. Pertman presented information on the varying state laws, ranging from the most restrictive to those that have always allowed unrestricted access because adoption records were never sealed. The Committee next heard from Roberta MacDonald, Chairwoman of the NC Coalition for Adoption Reform. Ms. MacDonald explained to the Committee that, as an adult adoptee who has been reunited with members of her birth family, she is strongly in favor of providing adult adoptees access to their original birth certificates. However, for the short session, she provided recommendations to the Committee that involve changes to the recently enacted Confidential Intermediary Program, as well as unsealing birth certificates that were sealed retroactively in 1945, when the adoption laws were amended and, for the first time, it was made clear that the original birth certificate was to be sealed. (The 1945 legislation did not include language that made it apply retroactively, but in practice it appears that adoptees' original birth certificates were sealed retroactively at that time. The Committee discussed this issue at length, and Committee staff did extensive research, but information was scarce, and the Committee has been unable to determine what the legislative intent was regarding the retroactive sealing of birth certificates.)

**House Select Committee on Adoptee Birth Certificates
March 26, 2008 – 2:00 pm - Room 1228**

Welcome and Introductions
Representative Dickson, Chair

Confidential Intermediary Program
Edith Votta, Children's Home Society
Charisse Johnson, Chief, Family Support and Child Welfare Services Section, NC Department of Health and Human Services
Jean Hagen-Johnson, Adoption Resource Unit Supervisor, Wake County Human Services

National Council for Adoption
Tom Atwood, President and CEO

Recommendations for Committee Consideration
Representative Dickson

At the fourth meeting of the Committee, Edith Votta, from the Children's Home Society, Charisse Johnson, Chief of the Family Support and Child Welfare Services Section of the NC Department of Health and Human Services, and Jean Hagen-Johnson, Adoption Resource Unit Supervisor at Wake County Human Services, presented information on the Confidential Intermediary Program that went into effect in January of 2008. They provided information on the number of agencies and counties who have opted to participate in the program, as well as information about confidential intermediary services that have been provided to date. Next, the Committee heard from Tom Atwood, President and CEO of the National Council for Adoption, who expressed his organization's opposition to providing unrestricted access to adult adoptees' original birth certificates. The Council advocates the mutual consent registry as the only fair and effective policy to address the issue of openness in adoption. Finally, Representative Dickson presented the following list of possible committee recommendations:

- That adult siblings or adult half siblings of adult adoptees be allowed to participate in the confidential intermediary program.
- That in cases where the biological parent or adult adoptee is found to be deceased through the confidential intermediary program, the party that initiated the search should be allowed to obtain a copy of the death certificate.
- That any family member of adult adoptees or biological parents be allowed to participate in the confidential intermediary program.
- That adoption agencies that are participating in the confidential intermediary program be required to report to the North Carolina Department of Health and Human Resources on certain information regarding the program and results of searches.
- That individuals who were adopted prior to the legislation that sealed adoption records be allowed to gain access to their original birth certificates.

The Committee discussed the possible recommendations and requested draft legislation to be considered at the next meeting.

**House Select Committee on Adoptee Birth Certificates
April 16, 2008 – 2:00 pm - Room 1228**

Welcome and Introductions
Representative Dickson, Chair

Approval of Minutes from March 26, 2008 Meeting

Proposed Bill Drafts
Representative Dickson

Feedback from Various Agencies Regarding Recommendation #4
Edith Votta, Children's Home Society
Charisse Johnson, Chief, Family Support and Child Welfare Services Section, Division of Social Services, NC Department of Health and Human Services
Jean Hagen-Johnson, Adoption Resource Unit Supervisor, Wake County Human Services

At its fifth meeting, the Committee further discussed possible recommendations and reviewed draft legislation. The Committee heard feedback from Edith Votta, from the Children's Home Society, Charisse Johnson, Chief of the Family Support and Child Welfare Services Section of the NC Department of Health and Human Services, and Jean Hagen-Johnson, Adoption Resource Unit Supervisor at Wake County Human Services, on the recommendation to require those agencies participating in the Confidential Intermediary Program to report certain information. Ms. Johnson indicated that it could take some time to develop a system to efficiently collect and report the requested information. The Committee also heard comments from John Rustin, Vice President and Director of Government Relations for the NC Family Policy Council, which opposes all of the proposed recommendations, except for the collection of information from Confidential Intermediary Program participants.

**House Select Committee on Adoptee Birth Certificates
May 7, 2008 – 2:00 pm - Room 1228**

Welcome and Introductions
Representative Dickson, Chair

Adoption of Interim Report

At its sixth meeting, the Committee reviewed and approved its report and legislative proposals to the members of the 2008 North Carolina House of Representatives.

Committee Recommendations

The Committee recommends that an agency acting as a confidential intermediary be allowed to obtain a copy of a death certificate of a biological parent or an adult adoptee when it is determined during the provision of confidential intermediary services that the biological parent or adult adoptee is deceased. See Bill Draft: LUz-128[v.7].

The Committee recommends that agencies acting as confidential intermediaries be required to report information concerning the various aspects of the confidential intermediary program to the North Carolina Department of Health and Human Services. The Department shall maintain records of the information reported by each agency and make it available to the general public. See Bill Draft: LUz-124[v.5].

The Committee recommends expanding the confidential intermediary program in order to allow adult biological siblings of adult adoptees, adult biological half siblings of adult adoptees, family members of deceased adult adoptees, and family members of deceased biological parents to have access to confidential intermediary services. See Bill Draft: LUz-126[v.6].

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

H

D

BILL DRAFT 2007-LUz-128 [v.7] (4/7)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

4/15/2008 2:25:52 PM

Short Title: Access/Death Certificate/Conf. Intermediary.

(Public)

Sponsors: Representative Dickson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN AGENCY ACTING AS A CONFIDENTIAL INTERMEDIARY TO OBTAIN A COPY OF A DEATH CERTIFICATE OF A BIOLOGICAL PARENT OR AN ADULT ADOPTEE WHEN IT IS DETERMINED THE BIOLOGICAL PARENT OR ADULT ADOPTEE IS DECEASED AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON ADOPTEE BIRTH CERTIFICATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-9-104 reads as rewritten:

"§ **48-9-104. Release of identifying ~~information~~ information; confidential intermediary services.**

(a) Except as provided in G.S. 48-9-109(2) or (3), no person or entity shall release from any records retained and sealed under this Article the name, address, or other information that reasonably could be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

(b) A child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for a biological parent or adult adoptee or adult lineal descendant of a deceased adoptee, without appointment by the court pursuant to G.S. 48-9-105, in order to obtain and share nonidentifying birth family health information or facilitate contact or share identifying information with adult adoptees, adult lineal descendants of deceased adoptees, and biological parents with the written consent of all parties to the contact or the sharing of information. Further, a child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for the adoptive parents of a minor adoptee, without appointment by the court pursuant to G.S. 48-9-105, to

1 obtain and share nonidentifying birth family health information. An agency that agrees
2 to provide confidential intermediary services may charge a reasonable fee for doing so,
3 which fee must be pursuant to written agreement signed by the individual to be charged.
4 The Division shall establish guidelines for confidential intermediary services.

5 (c) If in the provision of confidential intermediary services a child placing
6 agency licensed by the Department or a county department of social services determines
7 that a biological parent or an adult adoptee who is the subject of the search is deceased,
8 the agency, on behalf of the person initiating the search, shall obtain a copy of the death
9 certificate of the biological parent or adult adoptee pursuant to G.S. 130A-93."

10 **SECTION 2.** G.S. 130A-93 is amended to add new subsection to read:

11 "(c2) A child placing agency licensed by the Department of Health and Human
12 Services or a county department of social services acting as a confidential intermediary
13 in accordance with G.S. 48-9-104 shall be entitled upon request to a certified copy of a
14 death certificate."

15 **SECTION 3.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

H

D

BILL DRAFT 2007-LUz-124 [v.5] (4/4)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/16/2008 11:15:01 AM**

Short Title: Reporting Req's./Confidential Intermediaries. (Public)

Sponsors: Representative Dickson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING ADOPTION AGENCIES ACTING AS CONFIDENTIAL
3 INTERMEDIARIES TO REPORT CERTAIN INFORMATION TO THE
4 NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN
5 SERVICES AND REQUIRING THE DEPARTMENT TO MAINTAIN
6 RECORDS OF THIS INFORMATION AS WELL AS CERTAIN OTHER
7 INFORMATION AS RECOMMENDED BY THE HOUSE SELECT
8 COMMITTEE ON ADOPTEE BIRTH CERTIFICATES.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 48-9-104 reads as rewritten:

11 "**§ 48-9-104. Release of identifying ~~information~~information; confidential**
12 **intermediary services.**

13 (a) Except as provided in G.S. 48-9-109(2) or (3), no person or entity shall
14 release from any records retained and sealed under this Article the name, address,
15 or other information that reasonably could be expected to lead directly to the
16 identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at
17 birth, or an individual who, but for the adoption, would be the adoptee's sibling or
18 grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

19 (b) A child placing agency licensed by the Department or a county
20 department of social services may agree to act as a confidential intermediary for a
21 biological parent or adult adoptee or adult lineal descendant of a deceased adoptee,
22 without appointment by the court pursuant to G.S. 48-9-105, in order to obtain and
23 share nonidentifying birth family health information or facilitate contact or share
24 identifying information with adult adoptees, adult lineal descendants of deceased
25 adoptees, and biological parents with the written consent of all parties to the
26 contact or the sharing of information. Further, a child placing agency licensed by
27 the Department or a county department of social services may agree to act as a

1 confidential intermediary for the adoptive parents of a minor adoptee, without
2 appointment by the court pursuant to G.S. 48-9-105, to obtain and share
3 nonidentifying birth family health information. An agency that agrees to provide
4 confidential intermediary services may charge a reasonable fee for doing so, which
5 fee must be pursuant to written agreement signed by the individual to be charged.
6 The Division shall establish guidelines for confidential intermediary services.

7 (c) Each child placing agency licensed by the Department or county
8 department of social services acting as a confidential intermediary shall report to
9 the Department annually by February 1 of each year for the previous calendar year
10 the following information:

- 11 (1) The length of time it takes the agency to conduct an individual
12 search.
- 13 (2) The length of the agency's waiting list.
- 14 (3) The number of biological parents found and the number of
15 biological parents unable to be found.
- 16 (4) The number of adoptees found and the number of adoptees
17 unable to be found.
- 18 (5) The number of biological parents refusing contact after being
19 found.
- 20 (6) The number of biological parents providing updated medical
21 information.
- 22 (7) The number of reunions resulting from the provision of
23 confidential intermediary services.
- 24 (8) The minimum and maximum fees paid by persons soliciting
25 confidential intermediary services.

26 The Department shall maintain records of the information reported by each
27 agency. The Department shall also maintain records of the number of agencies
28 within each county providing confidential intermediary services and the number of
29 agencies within each county not providing confidential intermediary services,
30 which information shall be made available to the public."

31 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

D

BILL DRAFT 2007-LUz-126 [v.6] (4/4)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/25/2008 10:50:04 AM

Short Title: Expand Access/Confid. Intermediary Services. (Public)

Sponsors: Representative Dickson.

Referred to:

A BILL TO BE ENTITLED

AN ACT ALLOWING ADULT BIOLOGICAL SIBLINGS OF ADULT ADOPTEES,
ADULT BIOLOGICAL HALF SIBLINGS OF ADULT ADOPTEES, FAMILY
MEMBERS OF DECEASED ADULT ADOPTEES, AND FAMILY MEMBERS
OF DECEASED BIOLOGICAL PARENTS TO HAVE ACCESS TO
CONFIDENTIAL INTERMEDIARY SERVICES UNDER THE LAWS
PERTAINING TO ADOPTION AS RECOMMENDED BY THE HOUSE SELECT
COMMITTEE ON ADOPTEE BIRTH CERTIFICATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-9-104 reads as rewritten:

"§ 48-9-104. Release of identifying ~~information~~information; confidential intermediary services.

(a) Except as provided in G.S. 48-9-109(2) or (3), no person or entity shall release from any records retained and sealed under this Article the name, address, or other information that reasonably could be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105.

(b) A child placing agency licensed by the Department or a county department of social services may agree to act as a confidential intermediary for ~~a biological parent or adult adoptee or adult lineal descendant of a deceased adoptee, without appointment by the court pursuant to G.S. 48-9-105, in order to obtain and share nonidentifying birth family health information or facilitate contact or share identifying information with adult adoptees, adult lineal descendants of deceased adoptees, and biological parents with the written consent of all parties to the contact or the sharing of information.~~ any of the following:

(1) A biological parent.

1 (2) An adult adoptee.

2 (3) An adult biological sibling of an adult adoptee.

3 (4) An adult biological half sibling of an adult adoptee.

4 (5) A family member of a deceased biological parent.

5 (6) A family member of a deceased adult adoptee.

6 An agency may act as a confidential intermediary without appointment by the court
7 pursuant to G.S. 48-9-105 in order to obtain and share nonidentifying birth family
8 health information or facilitate contact or share identifying information with any person
9 listed in subdivisions (1) through (6) of this subsection with the written consent of all
10 parties to the contact or the sharing of information. Further, ~~a child placing agency~~
11 ~~licensed by the Department or a county department of social services~~ an agency may
12 agree to act as a confidential intermediary for the adoptive parents of a minor adoptee,
13 without appointment by the court pursuant to G.S. 48-9-105, to obtain and share
14 nonidentifying birth family health information. An agency that agrees to provide
15 confidential intermediary services may charge a reasonable fee for doing so, which fee
16 must be pursuant to written agreement signed by the individual to be charged. The
17 Division shall establish guidelines for confidential intermediary services. For purposes
18 of this subsection, the term 'family member' includes a spouse, child, stepchild, parent,
19 stepparent, grandparent, or grandchild."

20 **SECTION 2.** This act is effective when it becomes law.

