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S.275

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Introduced by Senators Pearson, Baruth, Benning, Clarkson, Lyons, Pollina

3

and Ram Hinsdale

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Referred to Committee on

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Date:

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Subject: Adoption Act; records of adoption proceeding; retention,

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confidentiality, and access

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Statement of purpose of bill as introduced: This bill proposes to amend the

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Adoption Act to:

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(1) require the Department for Children and Families to submit a

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proposal to the General Assembly for a centralized repository for all adoption

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records in the possession of any agency governed by the Adoption Act; and

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(2) allow any adopted child to acquire copies of records related to their

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time under the care or supervision of an agency, subject to redaction under

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Vermont's Public Records Act.

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An act relating to providing adoptees with access to adoption agency

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records

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. DEPARTMENT FOR CHILDREN AND FAMILIES; REPORT AND
3 RECOMMENDATION FOR CENTRAL REPOSITORY OF
4 ADOPTION RECORDS

5 (a) On or before December 1, 2022, the Department for Children and
6 Families shall submit a report and recommendation to the House and Senate
7 Committees on Judiciary concerning a plan to collect and centralize all
8 adoption records held by agencies within the State and integrate them into the
9 adoption registry. The report and recommendation shall contain:

10 (1) an estimate of the volume of records that exist and where the records
11 are currently managed and retained;

12 (2) a proposal for how adoption records could be integrated into the
13 registry or a similar system;

14 (3) the estimated timeline and cost for the development and
15 implementation of a central repository for adoption records; and

16 (4) proposed records management practices that will ensure:

17 (A) the security of confidential records and information;

18 (B) retention periods for any genetic, medical, and genealogical
19 information that may be of significant value to adoptees and their descendants;

20 and

1 (C) a straightforward process for adoptees to acquire records related
2 to their vital information, adoption, and time under the care or supervision of
3 an agency.

4 (b) As used in this section:

5 (1) “Agency” has the same meaning as 15A V.S.A. § 1-101(3) and shall
6 include any child-placing entity that operated within the State from 1922 to the
7 effective date of this act.

8 (2) “Records” and “registry” have the same meanings as 15A V.S.A.
9 § 1-101(16) and (17).

10 (c) In preparation of the report and recommendation, the Department of
11 Health shall consult and coordinate with the State Archivist, the Department
12 for Children and Families, the Probate Division of the Superior Court, and any
13 agency that holds adoption records governed by the Adoption Act.

14 Sec. 2. 15A V.S.A. § 6-104 is amended to read:

15 § 6-104. RELEASE OF NONIDENTIFYING INFORMATION

16 (a) The following persons may request nonidentifying information from
17 confidential adoption records:

18 (1) the adoptive parent, the legal custodian or guardian of an adoptee, an
19 adoptee who has attained the age of 18, an emancipated adoptee, a deceased
20 adoptee’s direct descendant who has attained the age of 18, or the parent or
21 guardian of a direct descendant who has not attained the age of 18; and

1 Sec. 3. 15A V.S.A. § 6-105 is amended to read:

2 § 6-105. DISCLOSURE OF IDENTIFYING INFORMATION

3 (a) Identifying information about an adoptee's former parent shall be
4 disclosed by the registry to any of the following persons upon request:

5 (1) ~~An~~ an adoptee who is 18 ~~or more years old.~~ years of age or older;

6 (2) ~~An~~ an adoptee who is emancipated; and

7 (3) ~~A~~ a deceased adoptee's direct descendant who is 18 ~~or more years~~
8 ~~old~~ years of age or older or the parent or guardian of a direct descendant who is
9 ~~less than~~ under 18 years ~~old~~ of age.

10 (b) ~~From July 1, 1996 to December 31, 1997, the~~ The registry shall disclose
11 identifying information under subsection (a) of this section ~~only if the former~~
12 ~~parent consents to such disclosure. After December 31, 1997, the registry shall~~
13 ~~disclose information under subsection (a) of this section as follows: if the~~
14 ~~person's specific interest in the identifying information outweighs the privacy~~
15 ~~interest of the former parent. In making the determination of whether~~
16 ~~identifying information should be disclosed pursuant to this section, the~~
17 ~~registry shall consider:~~

18 (1) ~~For~~ for adoptions that were finalized prior to July 1, 1986, ~~the~~
19 ~~registry shall disclose identifying information if~~ whether the former parent has
20 filed in any Probate Division of the Superior Court or agency any kind of

1 document that clearly indicates that ~~he or she consents to such~~ the former
2 parent did not consent to disclosure;

3 (2) ~~For~~ for adoptions that were finalized on or after July 1, 1986, ~~the~~
4 ~~registry shall disclose identifying information without requiring the consent of~~
5 ~~the former parent except the registry shall not disclose such information if~~
6 whether the former parent has filed a request for nondisclosure in accordance
7 with the provisions of section 6-106 of this title and has not withdrawn the
8 request or, prior to July 1, 1996, has filed in any court or agency any kind of
9 document that clearly indicates that ~~his or her~~ the former parent's identity not
10 be disclosed and has not withdrawn the document;

11 (3) whether the former parent is deceased, which shall weigh in favor of
12 disclosure;

13 (4) the amount of time that has passed since relinquishment or
14 termination of parental rights;

15 (5) the need for access to identifying information that was presented by
16 the person requesting the records; and

17 (6) the availability of less intrusive means for addressing the need
18 presented by the person requesting the records.

19 * * *

1 (h) Notwithstanding subsection (b) of this section, the registry shall
2 disclose identifying information under subsection (a) of this section two years
3 after the death of the former parent.

4 Sec. 4. EFFECTIVE DATE

5 This act shall take effect on July 1, 2022.