Adoptee Rights Law Center

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February 8, 2022

The Honorable Maxine Grad
Chair, House Judiciary Committee
Vermont State House
115 State Street
Montpelier, VT 05633-5301

RE: H.629

Dear Chair Grad and Members of the Committee:

I am an attorney and the founder of Adoptee Rights Law Center, a nationally-recognized resource on legal issues related to adult adopted people, whether those issues relate to identity documents, original birth certificates, or securing U.S. citizenship for intercountry adoptees. I am also the Executive Director of Adoptees United Inc., a national nonprofit with an unwavering commitment to equality for all adopted people.

On behalf of myself and my law firm, I ask that you reconsider H.629 and work to amend it to remove provisions that discriminate against adult adopted people. As it stands now, H.629 gives birthparents the right to veto disclosure of a person's own birth record, a result that no other group in the state must bear, other than adopted people.

The process of sealing original birth records started in California in 1935, when Assembly Member Charles Fisher introduced a bill to seal records because "unscrupulous persons have obtained access to the adoption records and have blackmailed the adoptive parents by threatening to tell the adopted child it was adopted." New York followed in 1936, though in 2020 it fully repealed its 83-year-old secrecy law. Sealing of pre-adoption birth records continued in other states through the 1940s and 1950s, almost always in response to national scandals involving black market trafficking of children for adoption. Vermont, for example, sealed original birth records after an adoption in 1941.

The unstated reason for sealing adoption-related records was to enforce secrecy over the entire process, but not for reasons popularly cited today. Rather, secrecy was initially used to hide coercive practices that agencies used against young and predominantly white women who had become pregnant while unmarried. Secrecy was also enforced to

hide unethical and highly questionable practices that included scientific experimentation on infants who were in the legal custody of prominent national adoption agencies, such as the experimentation on twins and triplets who were separated by agencies for the sole reason of secret "scientific" study. Or pain studies involving shooting infants with rubber bands to assess the baby's length and "quality" of cries. Indeed, the recent book *American Baby* by Gabrielle Glaser, outlines in excruciating detail how secrecy became the defining feature of adoption, to the extreme detriment of birthparents and their relinquished children.

Experimentation and coercive secrecy aside, the general stated reasons for sealing records in the past was also unrelated to birthparent privacy. Rather, the stated reasons included: 1) to keep records from the public to avoid potential blackmail of the adoptive family; and 2) to seal records to secure an adoptee's "legitimate" status in society and within the adoptive family, primarily by preventing any future interference from birthparents. Indeed, when a committee of the US Congress considered this issue in 1954, it reiterated that the purposes of sealing records generally was to protect:

> (1) the adoptive child, from unnecessary separation from his natural parents and from adoption by persons unfit to have such responsibility;
>
> (2) the natural parents, from hurried and abrupt decisions to give up the child; and
>
> (3) the adopting parents, by providing them information about the child and his background, and *protecting them from subsequent disturbance of their relationships with the child by natural parents*.

Pub. Law 392, 68 Stat. 246 (1954)(emphasis supplied). Sealing of a person's own birth record was never about enforcing permanent secrecy over a person's own vital record by restricting that person— i.e., the adopted person—from later obtaining an unaltered copy of the record as an adult.

This was true in Vermont and in other states (Kansas and Alaska have never made the original birth record unavailable to an adult adoptee). Many other states did not seal original birth records until much later in the century, with Florida doing so in 1977 and Pennsylvania, one of the latest, in 1984. Most states during the middle of the century followed what was then (and remains today) the best practice, first outlined in 1950 by

national child welfare experts and more fully explained by E. Wayne Carp, one of the foremost scholars on the history of sealed pre-adoption birth records:

> There is no evidence that child welfare or public health officials ever intended that issuing new birth certificates to adopted children would prevent them from gaining access to their original one. **On the contrary, they specifically recommended that the birth records of adopted children should 'be seen by no one except the adopted person when of age or upon court order.'** This policy, which provided adoptees with the right to view their original birth certificate, was staunchly affirmed by [U.S.] Children's Bureau officials in 1949, who worked out guidelines for a nationwide directive on the confidential nature of birth records with members of the American Association of Registration Executives and the Council on Vital Records and Statistics. They declared that the right to inspect or secure a certified copy of the original birth certificate 'should be restricted to the registrant, if of legal age, or upon court order.'

Carp, E. Wayne, *Family Matters: Secrecy and Disclosure in the History of Adoption*, p. 55 (Harvard University Press: 1998); *see also*, *The Confidential Nature of Birth Records: Including the Special Registration Problems of Children Born Out of Wedlock, Children of Unknown Parentage, Legitimated Children, and Adopted Children*. Washington, D.C: Children's Bureau and National Office of Vital Statistics, Federal Security Agency, 1949.

Vermont currently favors adoptees whose adoptions were finalized after 1986 (a flowchart showing how Vermont's current law works is attached). But it would not be alone in repealing its current discriminatory practice by restoring an unrestricted right for all adult adoptees to obtain their own birth records. Ten other states, including New York, New Hampshire, Alabama, Colorado, Rhode Island, Oregon, Alaska, Maine, and Kansas, have either restored an unrestricted right for adult adoptees to obtain their own birth record or have never restricted that right in the first place. That these are diverse states with diverse populations and greatly varied political affiliations speaks to how this is a bipartisan and popularly supported issue. No problems have been reported in these states on any issue, whether related to the impact on adoption rates in the state or on any other "hot button" social or political issues often used against adoptees who seek a basic human right to identity.

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It is a mistake to assume that Vermont's sealing of original birth certificates was intended to secure permanent secrecy. This is historically and irrefutably wrong. While I understand, at an emotional level, the response of "what about birthmother privacy?" privacy is not the same as anonymity, a concept that is impossible to assure in an era of widespread social media and inexpensive DNA matching. More significantly, no one is suggesting that any other state make pre-adoption birth records available to the public.

Vague and misplaced notions of "privacy" does not justify shifting control over an adoptee's own birth record to a person who is not the record's specific registrant. Only conservators, guardians, or parents of minor children typically have control over another person's birth record, with the notable exception of adopted people, whose records in a number of states are controlled by the state and, for historically inaccurate reasons, subject to permanent biological parental control. We are not minor children, nor are we incapacitated and in need of a guardian to manage our affairs. I, for one, am a 56-year-old man with a wife and two sons, whose own birth record the District of Columbia sealed after his adoption in 1965.

Do the right thing in Vermont. Reject an outdated, misplaced, and discriminatory approach that punishes those who are at the center of adoption: the adopted person. A birth record is the registrant's own record, to do with as he or she believes is right.

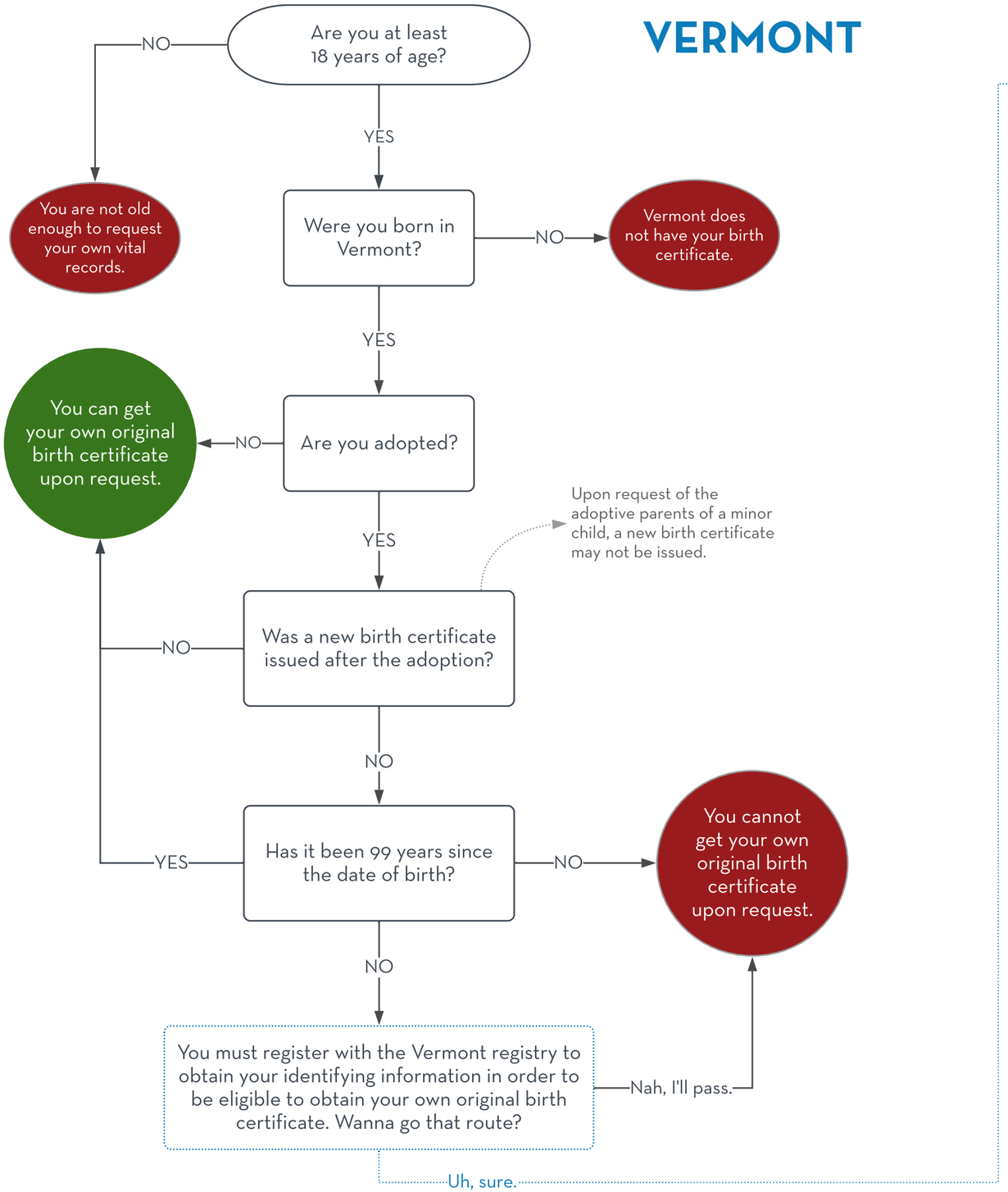
I ask you to vote NO on H.629 as introduced and to work toward a better bill that not only reflects the policies of the New England states around Vermont but also recognizes the inherent dignity and autonomy of adult adopted people. I ask that you work to draft a bill that restores an unrestricted right that all Vermont adoptees once had: the right to request and obtain their own pre-adoption birth records, free from the stigma and humiliation of enforced permanent secrecy.

Best regards,

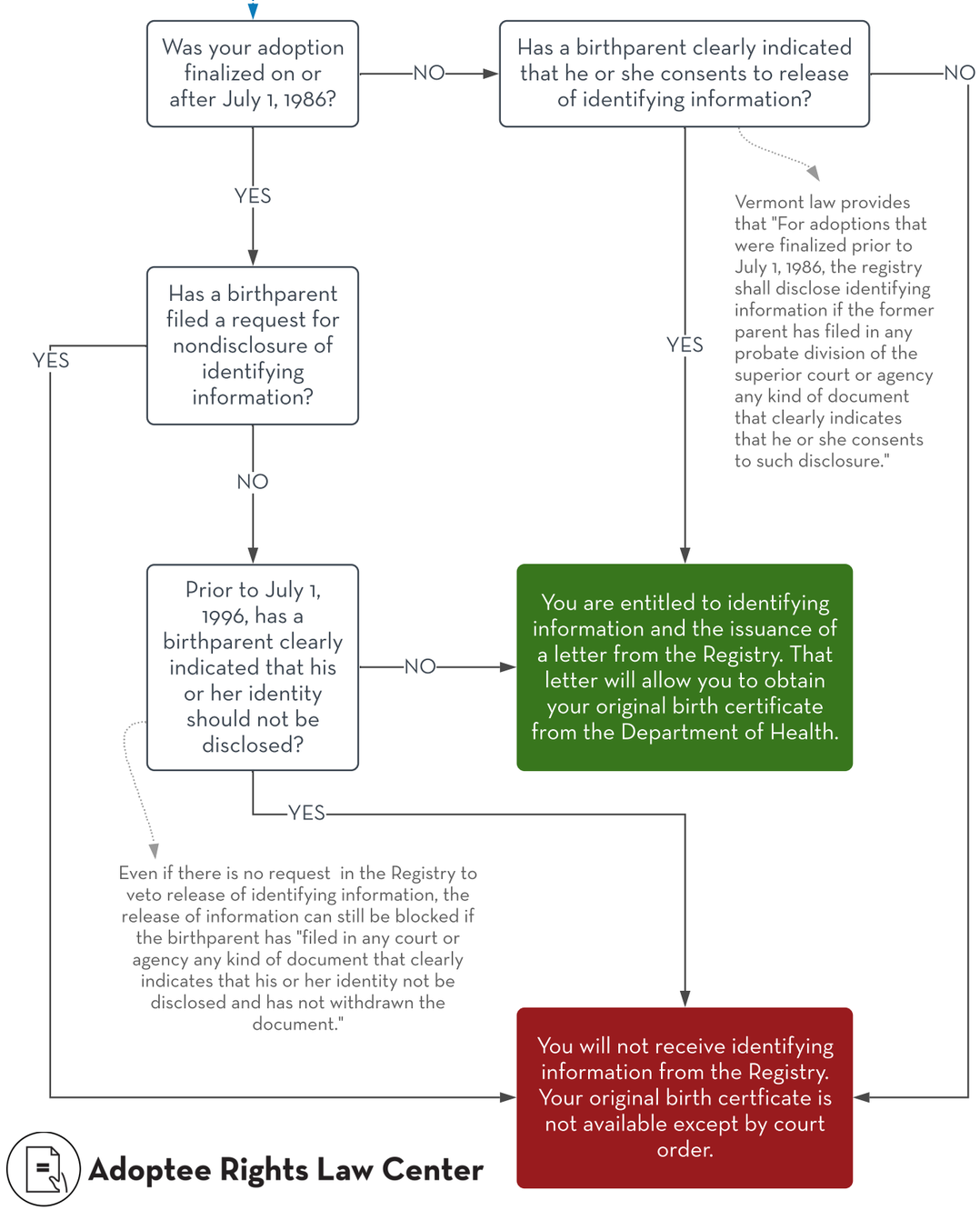
ADOPTEE RIGHTS LAW CENTER PLLC

Gregory D. Luce
Attorney/Founder

VERMONT



Direct descendants of a deceased adopted person may also use this process.



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