



PO Box 4607

New Windsor, New York 12553-7845

bastards.org 614-795-6819 @BastardsUnite

bastardnation3@gmail.com

Vermont:

**H629 Original Birth Certificate Access for Adopted Persons
House Judiciary Committee**

February 16, 2022

Submitted Testimony in Opposition (Revised)

by

Marley E. Greiner. Executive Chair

Bastard Nation: the Adoptee Rights Organization is the largest adoptee civil rights organization in the United States. We support only full unrestricted access for all adopted persons, to their original birth certificates (OBC) and related documents.

Summary

Bastard Nation and its members oppose HB629 as written due to its discriminatory treatment of Vermont-born adoptees. While the bill does away with its date-based "permission slip" (birthparent consent for release) it retrains the substance of that restriction by allowing birthparents to veto the release of the document. The bill, therefore, does not restore the right of Vermont adoptees to obtain their own birth certificates without restriction or condition. The bill, in fact, codifies favors for some over inclusive rights for all. It maintains the current sealed and secret adoption system established 75 years ago by the Vermont

legislature at a time when adoption and adoptees were considered shameful—or at best, something not to be discussed in public. When a bill currently running in Massachusetts passes (and it will pass) and closes the loophole that keeps a substantial number of that state’s adoptees from receiving their own OBCs, Vermont, unless it falls in line and returns full OBC access, will be the only New England State to continue to discriminate legally against adoptees.

Details

Privacy

Unrestricted OBC access is not a “privacy” or “birthparent confidentiality” issue. “Privacy” “confidentiality,” and “anonymity” are not synonymous either legally or linguistically. “Anonymity” is a myth perpetuated by special interests that for decades have profited off of economic distress and society-induced shame and family crisis. In many cases, adoption is a permanent solution to a temporary problem that has not only individual but generational consequences.

There is no evidence in any state that records were sealed to “protect” the reputation or “privacy” of biological parents who relinquished children for adoption. On the contrary, records were sealed to cover coercive child acquisition practices by adoption agencies, black and gray market baby dealers, exploitative assembly line maternity homes, and other corrupt systems. Numerous historical and legal researchers and writers have shown that OBCs were never intended to be sealed in perpetuity from individual adoptees as adults. At “best” sealed OBCs were billed as a way to protect the reputations of “bastard children” (not adults) and to protect adoptive families from birthparent and stranger interference. These documents were first sealed from the public, then the parties to the adoption, and eventually to adopted people themselves. What was once an outlier practice has now been normalized through a mix of myth and “tradition” and treated like the way “it’s always been.” Adopted people who have bucked the system, and for the last 60 years demanded the restoration of their rights, have been labeled everything from ungrateful to mentally disturbed. Online I have even seen adoptee activists called Satanic! Seriously! Just live with it!

Courts, however, have ruled that adoption anonymity does not exist. (*Doe v Sundquist, et. al.*, 943 F. Supp. 886, 893-94 (M.D. Tenn. 1996) and *Does v. State of Oregon*, 164 Or. App. 543, 993 P.2d 833, 834 (1999). Laws change constantly, and the state, lawyers, social workers, and others were never in a position to promise anonymity in adoption. In the over 60 years of the adoptee equality battle, not one document has been submitted anywhere that promises or guarantees sealed records and an anonymity “right” to birthparents.

Identifying information about surrendering parents often appears in court documents given to adoptive parents who can at any point give that information to the adopted person. (In some states adoptive parents, at the time of the adoption order, can petition the court to keep the record open.) The names of surrendering parents are published in legal ads. Courts can open “sealed records” for “good

cause” without birthparent consent or even knowledge. Critically, the OBC is sealed at the time of adoption finalization, not surrender. If a child is not adopted, the record is never sealed. If a child is adopted, but the adoption is overturned or disrupted, the OBC is unsealed. Please remember that the OBCs of persons with established relationships with biological parents as in stepparent and foster adoptions are also sealed.

The American Academy of Adoption and Assisted Reproduction Attorneys agrees with this assessment, and in 2018 passed a monumental resolution in support of adoptees’ right to full access to our OBC, court, and agency records.

The Balance of Rights

We often hear the term “balance of rights” regarding restricted OBC access. OBC access, however, is not about a “balance of rights.” It is about our rights only. Rights and interests are unequal. A few birthparents—and in a broader sense, third parties with no standing as sometimes happens such as with adoption agencies or religious groups-- may argue a “right” to birthparent anonymity, but courts have found there no such right as referenced a minute ago. These parties might have an “interest” (or think they do), but “rights” trump “interests.” The Adopted and the Not Adopted have an absolute right to obtain the official state record of their own birth and no third party-- parent or not, --has the “right” to bar that access. In a smaller sense, parental rights were voluntarily relinquished years ago or were terminated by a court, so if there was such a parental “right” it would not exist in the case of adoption.

Technology

Legislation needs to catch up with technological reality. We are well into the 21st century. The information superhighway grows wider and longer each day, and adoptees and their birth and adoptive families are riding it, utilizing the internet, social media, inexpensive and accessible DNA testing services, and a large network of volunteer “search angels” to locate their government-hidden information, histories, and biological families. Thousands of successful adoption searches happen each year—many in Vermont alone—making adoption secrecy virtually impossible. The minuscule number of birthparents or professionals who believe that restricted OBC/records access or no access equals adoption anonymity are greatly mistaken. The fact is, nearly all successful searches are done without the OBC and other court documents.

Individual autonomy v state control of information

Current Vermont law permits some adopted adults to obtain their OBCs upon request—subject to a restrictive process that forces them to navigate a cumbersome, difficult, infantilizing, and insulting gauntlet of conditions, arbitrary procedures, and naysayers. **The state, thus, permits favor and privilege for some, while it continues its Draconian discriminatory policy against those who do not meet discriminatory and narrow criteria.**

OBC access is not about search and reunion. There is no state interest in keeping original birth certificates sealed from adult adoptees to which they pertain. Nor, does the state have a right or duty to mediate and oversee the personal relationships of adults.

HB629 as written treats adoptees as untrustworthy and even dangerous. Too untrustworthy and dangerous to obtain a piece of paper that records their birth, without question or horror, for a nominal fee. Too untrustworthy and dangerous to enjoy and receive the same right to records as the Not Adopted. No other class of people in Vermont or the US is subject to legislative fiat (or birth parent approval) to obtain the state-held vital record of their birth themselves, except The Adopted. You undoubtedly have colleagues in the House and Senate: aides, secretaries, housekeepers, janitors, legal analysts, computer techies, or parents, sisters, brothers, friends who are adopted. Do you trust them enough to obtain their own birth record? I hope so.

How it works

I understand that some of you wonder how it works in states that have restored the unconditional right of all adoptees to their OBC. This is how it works: A law is passed, and that's the end of it. Nobody thinks about it again. The transaction is normalized—just like with the Not Adopted. Adopted people receive their OBCs; some make family connections; others don't. Some work out; some don't. Some care greatly; some don't. It's nobody's business. No one is forced to apply for their OBC; no one is forced into a relationship. There have been no reports anywhere of any untoward behavior or "social chaos."

Kansas and Alaska have never sealed records. Alabama and Colorado unsealed years ago. Your New England sister states of New Hampshire, Maine, and Rhode Island restored OBC rights years ago, and Connecticut last year. In 2020, New York, after a 40-year legislative battle, restored the right of all its adoptees to obtain their OBCs. Covid slowed down application response, but the last number which is about year old indicates that then well over 12,000 OBCs were ordered. In Oregon, where OBC rights were restored by a 1998 ballot initiative, initiated by Bastard Nation, most court records are also available now to adoptees upon request. Not one single negative report about unsealing has been published. OBC and related record rights in those states have been normalized. We are treated just like the Not Adopted and like the Not Adopted no one denies that we have a right to those records and information.

Conclusion

There are two things you can do to make Vermont one of the good guys: (1) Remember that this is about one piece of paper; nothing else. (2) vote No on HB 629; then, (3) reconsider the bill and request that HB 629 sponsors and supporters come back this year or next session with a clean bill that restores rights to all Vermont-born adoptees to their state-held birth record.

It's the right thing to do.

Thank you.

Bastard Nation is dedicated to the recognition of the full human and civil rights of adult adoptees. Toward that end, we advocate the opening to adoptees, upon request at age of majority, of those government documents which pertain to the adopter's historical, genetic, and legal identity, including the unaltered original birth certificate and adoption decree. Bastard Nation asserts that it is the right of people everywhere to have their official original birth records unaltered and free from falsification, and that the adoptive status of any person should not prohibit him or her from choosing to exercise that right. We have reclaimed the badge of bastardy placed on us by those who would attempt to shame us; we see nothing shameful in having been born out of wedlock or in being adopted. Bastard Nation does not support mandated mutual consent registries or intermediary systems in place of unconditional open records, nor any other system that is less than access on demand to the adult adoptee, without condition, and without qualification
