

LR:tlu

12/03/2004

1       **AN ACT** *to amend* 48.432 (2) (b), 48.432 (3) (b), 48.432 (7) (b), 48.433 (2), 48.433  
2           (3) (b), 48.433 (6) (a) and 48.433 (8m); and *to create* 48.432 (1) (ar), 48.433 (1) (c),  
3           48.433 (5m) and 48.433 (8m) of the statutes; **relating to:** permitting adoptees to  
4           obtain access to medical and genetic and identifying information about their birth  
5           siblings.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This bill draft was prepared for the joint legislative council's special committee on adoption and termination of parental rights (TPR) laws.

**Access to Medical and Genetic Information**

Current law provides for access to medical and genetic information by adoptees about their birth parents. Birth parents are required to file medical and genetic information to the court when their parental rights are terminated, and may file updated information with the department of health and family services (DHFS) at any time after their parental rights were terminated. Adoptees are permitted to request this information when they reach age 18. An adoptee's adoptive parent may request this information about the adopted child prior to the adoptee's 18th birthday. If a person requests medical and genetic information and information is not on file, the requester may request DHFS to search for the birth parents to obtain information. A physician must certify that the individual or adoptee has or may have acquired a genetically transferable disease or that the requester's or adoptee's medical condition requires access to the information. DHFS may charge up to \$100 for the search.

**Access to Identifying Information About Parents**

Current law provides for access to identifying information by adoptees about their birth parents, in certain situations. In order for the information to be released, the birth parent must file an authorizing affidavit with DFHS. **Both** birth parents must file affidavits in order for the information to be released, unless one of the birth parents was unknown at the time of the TPR or adoption. If no unrevoked affidavits are on file, and DHFS receives a request, DFHS must search for the birth

parent or parents who have not filed affidavits. The search must be completed within 6 months, with certain exceptions. A fee of up to \$100 may be charged for the search.

If a birth parent is found, at least one verbal contact must be made by DHFS with the birth parent, notifying the parent of the nature of the information requested; the date of the request, and the right of the birth parent to file an authorizing affidavit with DHFS.

This draft permits a birth sibling of an adoptee to file an affidavit with DHFS to permit the release of information about the sibling to the adoptee. In order for information to be released, affidavits from both birth parents and the birth sibling must be on file. This draft does not, however, authorize or require DHFS to conduct a search for any birth sibling that has not filed an affidavit, as is required for birth parents.

1       **SECTION 1.** 48.432 (1) (ar) of the statutes is created to read:

2       48.432 (1) (ar) “Birth sibling” means a person who is an offspring of the same birth  
3       parent or birth parents as an individual or adoptee.

**NOTE:** Creates a definition of “birth sibling” in the statute that permits adoptees to have access to medical and genetic information about the adoptee or the adoptee’s birth parents.

4       **SECTION 2.** 48.432 (2) (b) of the statutes is amended to read:

5       48.432 (2) (b) Any birth parent whose rights to a child have been terminated in this state  
6       at any time, or who consented to the adoption of a child before February 1, 1982, may file with  
7       the department, or agency contracted with under sub. (9), any relevant medical or genetic  
8       information about the child or the child’s birth parents and any birth sibling may file with the  
9       department or agency any relevant medical or genetic information about the child or the  
10      child’s birth siblings, and the . The department or agency shall maintain the information in  
11      the centralized birth record file.

**NOTE:** Permits a birth sibling to file with DHFS, or an agency DHFS contracts with, any relevant medical or genetic information.

12      **SECTION 3.** 48.432 (3) (b) of the statutes is amended to read:

1           48.432 (3) (b) Before releasing the information under par. (a), the department, or agency  
2 contracted with under sub. (9), shall delete the name and address of the birth parent or birth  
3 sibling and the identity of any provider of health care to the individual or adoptee or to the birth  
4 parent or birth sibling.

**NOTE:** Provides that DHFS or contracting agency must delete the name and address of the birth sibling, and any provider of health care, before releasing medical or genetic information about a birth sibling to the adoptee.

5           **SECTION 4.** 48.432 (7) (b) of the statutes is amended to read:

6           48.432 (7) (b) If the department or agency receives a report from a physician that an  
7 individual or adoptee has acquired or may have a genetically transferable disease, the  
8 department or agency shall notify the individual's or adoptee's birth parent, and birth sibling,  
9 if known, of the existence of the disease.

**NOTE:** Requires DHFS or a contracting agency to notify any known birth sibling if DHFS or the agency receives a report from a physician that an individual or adoptee has acquired or may have a genetically transferable disease.

10          **SECTION 5.** 48.433 (1) (c) of the statutes is created to read:

11          48.433 (1) (c) "Birth sibling" has the meaning given under s. 48.432 (1) (ar).

**NOTE:** Creates a cross-reference in the statutes relating to release of identifying information to adoptees, to the definition of "birth sibling" that is created earlier in this draft.

12          **SECTION 6.** 48.433 (2) of the statutes is amended to read:

13          48.433 (2) Any birth parent whose rights have been terminated in this state at any time,  
14 or who has consented to the adoption of his or her child in this state before February 1, 1982,  
15 may file with the department, or agency contracted with under sub. (11), an affidavit  
16 authorizing the department or agency to provide the child with his or her original birth  
17 certificate and with any other available information about the birth parent's identity and

1 location. Any birth sibling may file with the department or agency an affidavit authorizing  
2 the department or agency to provide the child with any available information about the birth  
3 sibling's identity and location. An affidavit filed under this subsection may be revoked at any  
4 time by notifying the department or agency in writing.

**NOTE:** Permits a birth sibling to file an affidavit with DHFS or a contracting agency that authorizes DHFS or the agency to provide the adoptee with any available information about the birth sibling's identity and location.

5 **SECTION 7.** 48.433 (3) (b) of the statutes is amended to read:

6 48.433 (3) (b) Any available information regarding the identity and location of his or  
7 her birth parents and birth siblings.

8 **SECTION 8.** 48.433 (5m) of the statutes is created to read:

9 48.433 (5m) The department, or agency contracted with under sub. (11), shall disclose  
10 the requested information on a birth sibling in either of the following circumstances:

11 (a) The department, or agency contracted with under sub. (11), has on file unrevoked  
12 affidavits filed under sub. (2) from both birth parents and the birth sibling.

13 (b) One of the birth parents was unknown at the time of the proceeding for termination  
14 of parental rights or consent adoption and the known birth parent and the birth sibling have  
15 filed unrevoked affidavits under sub. (2).

**NOTE:** Requires DHFS or a contracting agency to disclose requested information on a birth sibling if DHFS or the contracting agency has unrevoked affidavits on file from both birth parents and the birth sibling, or if one of the birth parents was unknown at the time of the TPR or adoption proceeding, has on file unrevoked affidavits from the known birth parent and the birth sibling.

16 **SECTION 9.** 48.433 (6) (a) of the statutes is amended to read:

17 48.433 (6) (a) If the department, or agency contracted with under sub. (11), receives a  
18 request for information about a birth parent and does not have on file an affidavit from each

1 known birth parent, it shall, within 3 months after the date of the original request, undertake  
2 a diligent search for each birth parent who has not filed an affidavit. The search shall be  
3 completed within 6 months after the date of the request, unless the search falls within one of  
4 the exceptions established by the department by rule. If any information has been provided  
5 under sub. (5), the department or agency is not required to conduct a search.

**NOTE:** Limits the applicability of the requirement for DHFS or a contracting agency to conduct a search, to a search for birth parents.

6 **SECTION 10.** 48.433 (8m) of the statutes is created to read:

7 48.433 (**8m**) If a birth sibling is known to be dead and has not filed an unrevoked  
8 affidavit under sub. (2), the department, or agency contracted with under sub. (11), shall so  
9 inform the requester. The department or agency may not provide the requester with the  
10 identity of the deceased birth sibling, but, after one year has elapsed since the death of the  
11 deceased birth sibling, shall provide the requester with the following:

12 (a) If both birth parents have filed unrevoked affidavits under sub. (2), any available  
13 information it has on file regarding the identity and location of the birth parents.

14 (b) If a birth parent or birth sibling is known to be dead, the department, or agency  
15 contracted with under sub. (11), in addition to the information provided under par. (a), shall  
16 provide the requester with any nonidentifying social history information about the deceased  
17 parent or sibling on file with the department or agency.

**NOTE:** Provides that, in cases where a birth sibling is known to be dead, and the deceased birth sibling has not filed an authorizing affidavit with DHFS or the contracting agency, that DHFS or the contracting agency must inform the requester of the death, without revealing the birth sibling's identity, as well as any nonidentifying social history information about the deceased sibling.

In addition, if living birth parents and any other living birth sibling have filed an unrevoked affidavits with DHFS or the contracting agency, and one year has elapsed since the other birth sibling's death, DHFS or the

