



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. S.B. 23\*

130th General Assembly  
(As Reported by H. Judiciary)

**Sens.** Beagle and Burke, Balderson, Hite, Jones, LaRose, Patton, Seitz, Skindell, Tavares, Gardner, Faber, Cafaro, Brown, Coley, Obhof, Bacon, Eklund, Hughes, Jordan, Lehner, Manning, Peterson, Sawyer, Schiavoni, Smith

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## BILL SUMMARY

- Outright repeals the laws that permit post-1963 adoptees who became available or potentially available for adoption prior to September 18, 1996 to file a petition in probate court to obtain information about the adoptee's biological family.
- Replaces those repealed laws with a procedure in which adopted persons described in the preceding dot point who are at least 18 years of age may submit a written request to the Ohio Department of Health (ODH) for ODH to provide the adopted person with a copy of the contents of the person's adoption file.
- Permits a lineal descendant, who is at least 18 years of age, of an adopted person to submit a written request to ODH for ODH to provide the lineal descendant with a copy of the contents of the adopted person's adoption file.
- Prescribes the requirements for a written request described in the preceding two dot points.
- Requires ODH to transfer any releases pertaining to an adopted person from the file of releases to the adoption file to which the releases pertain.
- Requires the Department of Job and Family Services (ODJFS) to prescribe a contact preference form for biological parents, provides the requirements for and the contents of the form, and requires ODH, if it accepts a completed form, to place it in the adoption file of the adopted person to whom it pertains.

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\* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires the contact preference form to include a component in which the biological parent indicates that the parent: (1) welcomes a person who receives a copy of the adoption file contents to contact the parent directly, (2) prefers that the person contact the parent through an intermediary, or (3) prefers that the person not contact the parent directly or through an intermediary.
- Requires ODH to attach a social and medical history form to each contact preference form it makes available to biological parents.
- Requires ODJFS to prescribe a biological parent's name redaction form that includes specified information and requires ODJFS to make that form available to ODH.
- Requires ODH to make a biological parent's name redaction request form available to a biological parent on request until one year after the effective date of the bill.
- Specifies under what circumstances ODH may accept a biological parent's name redaction request form.
- Requires ODH to redact the biological parent's name from the copy of the contents of an adoption file that is sent to a requester if the adoption file includes a biological parent's name redaction request form from the biological parent.
- Allows a biological parent who has a biological parent's name redaction request form accepted by ODH to request that ODH remove that form from the adoption file of the adopted person to whom the form pertains and specifies the information the biological parent must provide in order for ODH to remove the form from the adoption file.
- Requires ODH to include on ODH's website information about biological parent's name redaction request forms and specifies the information ODH must provide.
- Requires ODH to establish a system by which an adopted person or lineal descendant of an adopted person may request that ODH mail to the adopted person's biological parent a question that the adopted person or lineal descendant has about the biological parent's medical history.
- Expands current law to permit only the adoptive parents, during the minority of an adopted person, or only an adopted person upon reaching majority, to inspect the social and medical history forms.
- Permits an adopted person to request that ODH disclose to the person which court entered the interlocutory order or final decree of adoption if the adopted person

seeks to inspect the biological parent's social and medical history form or submit a request for notification of a correction or expansion of the social or medical history.

- Modifies existing law pertaining to the adoption file maintained by ODH to specifically prohibit ODH from opening an adoption file or making its contents available except in specified circumstances.
- Relocates certain provisions pertaining to the birth record of adoptees currently contained in one section to six new sections and applies the bill's provisions in those sections.
- Requires ODH to prepare a report that specifies the number of biological parent's name redaction request forms ODH receives and the number of forms ODH accepts.
- Requires ODH to provide the General Assembly with a copy of that report not later than two years after the effective date of the bill.
- Specifies that it is the intent of the General Assembly to give biological parents a reasonable opportunity to have their names redacted from information that adopted persons and lineal descendants of adopted persons may obtain pursuant to Ohio law.
- Changes section references and makes other changes in existing law to conform to the bill's provisions.
- Provides that except as provided in the following dot point, the R.C. sections as amended, enacted, or repealed by the bill take effect one year after its effective date.
- The provisions regarding the creation of a biological parent's name redaction request form and other provisions that address that form and the enactment of the provisions regarding the information ODH must provide on ODH's website regarding the biological parent's name redaction request form take effect on the effective date of the bill.

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## CONTENT AND OPERATION

### Background

There are three systems for adoptees to obtain identifying information about their biological families.<sup>1</sup> The system that applies to an adoptee depends on whether: (1) the adoption was decreed prior to January 1, 1964, (2) the adoption was decreed on or after January 1, 1964, and the adoptee became available or potentially available for adoption prior to September 18, 1996, or (3) the adoptee became available or potentially available for adoption on or after September 18, 1996.

The birth record of a pre-1964 adoptee, which contains identifying information, is open and available to the adoptee from the Ohio Department of Health (ODH). A post-1963 adoptee who became available or potentially available for adoption prior to September 18, 1996, may obtain information about a biological parent or sibling from the adoption file maintained by ODH if the information is in the adoption file and certain circumstances exist. A post-1963 adoptee who became available or potentially available for adoption on or after September 18, 1996, may obtain information about a biological parent from ODH, unless ODH has on file an effective denial of release from the biological parent.

Regardless of when the adoption took place, adoptees can obtain nonidentifying information about their biological parents, including social and medical histories.

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<sup>1</sup> Generally R.C. 3107.38 to 3107.53.

## Information available to adoptees about their biological families

### Existing law

#### Pre-1964 adoptees

Under current law, an adopted person whose birth occurred in Ohio and whose adoption was decreed prior to January 1, 1964, may do either or both of the following:<sup>2</sup>

(1) Submit a written request to ODH for the Department to provide the adopted person with a copy of the contents of the adopted person's adoption file maintained by ODH. The request must provide the adopted person's address, notarized signature, and be accompanied by two "items of identification" (includes a motor vehicle driver's or commercial driver's license, an identification card issued by the Registrar of Motor Vehicles or a deputy registrar, a marriage application, social security card, credit card, military identification card, or an employee identification card) of the adopted person. If the adopted person submits such a request, the fee of \$20 is paid, and ODH has an adoption file for the adopted person, ODH must mail to the adopted person, at the address provided in the request, a copy of the contents of the adopted person's adoption file.

(2) File a petition in the probate court pursuant to R.C. 3107.41 for the release of information from the adoption file maintained by ODH regarding the adopted person's name by birth and the identity of the adopted person's biological parent and biological sibling.

#### Post-1963 adoptees available or potentially available for adoption before 09-18-96

A post-1963 adoptee who became available or potentially available for adoption *prior to* September 18, 1996, may obtain information about his or her biological family in the adoption file maintained by ODH only under specified circumstances. A person was available or potentially available for adoption prior to September 18, 1996, if, prior to that date, either of the following occurred: (1) at least one of the person's biological parents executed consent to the person's adoption, or (2) a probate court entered a finding that the consent of at least one of the person's biological parents to the person's adoption was not needed. To obtain the information about the biological family, the adoptee must be 21 years of age or older and file a petition with a probate court requesting the release of information regarding the adoptee's name by birth and the identity of the adoptee's biological parents and siblings. If the adoptee resides in Ohio, the petition must be filed in the probate court of the county in which the person resides or in the probate court that entered the final decree of adoption. If the adoptee does not

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<sup>2</sup> R.C. 3107.38.

reside in Ohio, the petition must be filed in the probate court that entered the final decree of adoption or, if the person does not know which probate court entered that decree, in the probate court of any county. The adoptee must pay a fee set by the probate court; the court's fee cannot exceed \$50. On receipt of a request and payment of the fee, the probate court is required to appoint a public or private adoption agency to determine whether necessary conditions exist for the court to provide the adoptee the information sought.<sup>3</sup>

In general, for a probate court to order the release of identifying information about the adoptee's biological parents, the biological parents must either have died or filed with ODH, and not withdrawn, a "release" (see below). The probate court may not release information about a deceased parent if both parents are on the original birth record and the surviving parent has withdrawn a release or not filed a release. A biological sibling must have filed with ODH, and not withdrawn, a release for the court to release information about the sibling. The probate court may not release information about a biological sibling unless the parents on the original birth record are deceased or have filed, and not withdrawn, a release. A "release" is a form submitted by a biological parent or sibling to ODH that authorizes a probate court to order the release to the adoptee of information about the biological parent or sibling. In addition to receiving the identity of the biological parent or sibling, the adoptee also receives information the parent or sibling includes with the release. The biological parent is not allowed to include with the release information pertaining to the other parent or any of the adoptee's siblings. The biological sibling is not allowed to include information pertaining to either biological parent or any other siblings.<sup>4</sup>

Current law also includes related confidentiality of records and immunity provisions and prohibitions against revealing information without authority or an order to do so.<sup>5</sup>

### **The bill**

The bill modifies current law described above<sup>6</sup> pertaining to pre-1964 adoptees, repeals current laws<sup>7</sup> summarized above pertaining to post-1963 adoptees available or potentially available for adoption before September 18, 1996, and establishes a *single*

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<sup>3</sup> R.C. 2101.16(F) and current R.C. 3107.39(A), 3107.40, and 3107.41, not in the bill.

<sup>4</sup> Current R.C. 3107.40 and 3107.41, not in the bill.

<sup>5</sup> Current R.C. 3107.42, 3107.43, and 3107.44, not in the bill.

<sup>6</sup> R.C. 3107.38.

<sup>7</sup> Current R.C. 3107.39 to 3107.44, not in the bill.



*procedure* described in the following paragraph for an "adopted person" (a person who was adopted but is not an adopted person who, on or after September 18, 1996, became available or potentially available for adoption)<sup>8</sup> to receive information about the person's biological family. Under the bill, a person was available or potentially available for adoption on or after September 18, 1996, if, on or after that date, either of the following occurred: (a) at least one of the person's birth parents executed consent to the person's adoption, or (b) a probate court entered a finding that the consent of at least one of the person's birth parents to the person's adoption was not needed.<sup>9</sup> The bill does not modify the law pertaining to the procedure for an adoptee who became available or potentially available for adoption *on or after* September 18, 1996, to obtain information about the adoptee's biological family.

### **Adopted person's request to ODH for copy of contents of adoption file**

The bill provides generally that an "adopted person" (see above definition in prior paragraph) or "lineal descendant of an adopted person" (a person who by reason of blood or adoption is a lineal descendant of an adopted person) may submit a written request to ODH for the Department to provide the adopted person or lineal descendant of an adopted person with a copy of the contents of the adopted person's "adoption file" (file maintained by ODH as described below). The request must provide the requester's address and notarized signature and be accompanied by two items of identification of the requester. If the requester is a lineal descendant of an adopted person, the request must also provide notarized documentation evidencing the requester's relationship to the adopted person. After receiving a request and payment of a \$20 fee, ODH must mail to the requester, at the address provided in the request, a copy of the contents of the adopted person's adoption file if ODH has an adoption file for the adopted person (including all releases transferred to the adoption file). If the adoption file includes a biological parent's name redaction request form from a biological parent, ODH must redact the biological parent's name from the copy of the contents of the adoption file that is mailed to the requester. If ODH removes the biological parent's name redaction request form from the adoption file after ODH mails the copy of the contents of the adoption file to the requester, ODH must mail to the requester another copy of the contents with the biological parent's name included. An adopted person or lineal descendant of an adopted person may not submit a request until the adopted person or lineal descendant is at least 18 years of age.<sup>10</sup>

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<sup>8</sup> R.C. 3107.38(A)(1).

<sup>9</sup> R.C. 3107.38(A)(1) and 3107.45.

<sup>10</sup> R.C. 3107.38 and 3705.241; O.A.C. 3701-5-15.



## **Releases transferred to adoption file**

Current law repealed by the bill requires ODH to maintain a file of releases that includes both (1) releases filed by a biological parent or biological sibling authorizing the release of identifying information to the biological parent's offspring or the release of specified information to the biological sibling's adopted sibling and (2) withdrawals of release filed by a biological parent or biological sibling.<sup>11</sup>

The bill requires that if the file of releases contains one or more releases that pertain to an adopted person for whom ODH has an adoption file, ODH must transfer all of the releases pertaining to that person, including releases for which withdrawals of released were filed, to the adoption file. An adopted person or lineal descendent of an adopted person who obtains the contents of an adoption file may use the releases, together with any contact preference form in the file, in determining whether and how to contact a biological parent or biological sibling. The bill specifies that the releases are advisory only and unenforceable.<sup>12</sup>

## **Contact preference form**

The bill requires ODJFS to prescribe a contact preference form for "biological parents" (a parent, by birth, of a person who is, or is to become, an adopted person) and make the form available to ODH.<sup>13</sup> The form must include all of the following:<sup>14</sup>

(1) A component in which a biological parent is to indicate one of the following regarding a person who receives, as described above, a copy of the contents of the adoption file of the parent's "offspring" (a child, by birth, of a person):<sup>15</sup> (a) that the biological parent welcomes the person to contact the parent directly, (b) that the biological parent prefers that the person contact the parent through an intermediary who the parent specifies on the form, or (c) that the biological parent prefers that the person not contact the parent directly or through an intermediary.

(2) Provisions necessary for ODH to be able to identify the adoption file of the adopted person to whom the form pertains;

(3) The following notices:

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<sup>11</sup> R.C. 3107.40 and 3107.41 (repealed by the bill) and R.C. 3107.38(A)(7) and (11).

<sup>12</sup> R.C. 3107.381.

<sup>13</sup> R.C. 3107.38(A)(3) and 3107.39(A) and (B).

<sup>14</sup> R.C. 3107.39(A).

<sup>15</sup> R.C. 3107.38(A)(10).

(a) If a social and medical history for the biological parent was not previously prepared or such a history was prepared but should be corrected or expanded, that the biological parent is encouraged to do the following as appropriate: (i) complete a social and medical history form in accordance with R.C. 3107.091 (completing social and medical history forms subsequent to adoption) or R.C. 3107.393 in the bill described below, (ii) correct or expand the biological parent's social and medical history in accordance with R.C. 3107.09(D) described below.

(b) That a biological parent's preference regarding contact as indicated on a completed contact preference form is advisory only and therefore unenforceable;

(c) That the biological parent may change the parent's indicated preference regarding contact by filing a new contact preference form with ODH.

(4) A space in which the biological parent indicates whether one or more of the following apply: (a) the biological parent knows that a social and medical history was prepared for the biological parent pursuant to R.C. 3107.09 (taking social and medical histories of biological parents), (b) the biological parent completed a social and medical history form in accordance with R.C. 3107.091 or 3107.393, and (c) the biological parent corrected or expanded the biological parent's social and medical history in accordance with R.C. 3107.09(D).

(5) A notice of both of the following:

(a) That an adopted person may do either or both of the following:

(i) Inspect, pursuant to R.C. 3107.17(D) described below, a social and medical history form of a biological parent of the adopted person maintained by the court that entered the interlocutory order or final decree of adoption regarding the adopted person;

(ii) Submit to that court, pursuant to R.C. 3107.17(E), a request for notification of a correction or expansion of a social and medical history of a biological parent of the adopted person.

(b) That an adopted person who does not know which court entered the interlocutory order or final decree of adoption regarding the adopted person may seek assistance from ODH in accordance with R.C. 3107.171 described below.

ODH must make a contact preference form available to a biological parent on request. ODH may accept a completed contact preference form from a biological parent only if the parent provides two items of identification of the parent. If ODH determines that it may accept a completed contact preference form, it must accept the form. As soon

as ODH identifies the adoption file of the person to whom the form pertains, it must place the form in that file. If there is a previously completed contact preference form from the biological parent in the adopted person's adoption file, ODH must replace the parent's older form with the parent's new form. Subject to the provision described in this paragraph, a biological parent may file a completed contact preference form with ODH to change the parent's indicated preference regarding contact as many times as the parent wishes.<sup>16</sup>

### **Social and medical history forms**

Continuing law requires the Ohio Department of Job and Family Services (ODJFS) to prescribe and supply forms for the taking of social and medical histories of the biological parents of a minor available for adoption. An assessor must record the social and medical histories of the biological parents of a minor available for adoption, unless the minor is to be adopted by the minor's stepparent or grandparent. The assessor must not include on the forms identifying information about the biological parents or other ancestors of the minor. A social history describes and identifies the age; ethnic, racial, religious, marital, and physical characteristics; and educational, cultural, talent and hobby, and work experience background of the biological parents of the minor. A medical history identifies major diseases, malformations, allergies, ear or eye defects, major conditions, and major health problems of the biological parents that are or may be congenital or familial. These histories may include other social and medical information relative to the biological parents and must include social and medical information relative to the minor's other ancestors.<sup>17</sup>

The bill requires ODH to attach a social and medical history form to each contact preference form and biological parent's name redaction request form it makes available to a biological parent. A biological parent for whom such a social and medical history form was not completed in accordance with continuing law above may complete the form. In completing the form, the biological parent may include information as described in the preceding paragraph. The biological parent must return the form to ODH after completing it to the extent that the biological parent chooses to provide information.<sup>18</sup>

Access to a social and medical history form completed under the bill must be granted in accordance with R.C. 3107.17(D), which provides that the forms that were completed pursuant to R.C. 3107.393 (the bill) must be filed only in the permanent

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<sup>16</sup> R.C. 3107.39(C) and (D).

<sup>17</sup> R.C. 3107.09(A), (B), and (C).

<sup>18</sup> R.C. 3107.393.

record kept by the court. During the minority of the adopted person, only the adoptive parents of the person may inspect the forms. When an adopted person reaches majority, only the adopted person may inspect the forms. Under the above circumstances, an adopted person or the adoptive parents are entitled to inspect the forms upon requesting the clerk of the court to produce them.<sup>19</sup>

A biological parent who completes a social and medical history form as described above may correct or expand information included on the form in accordance with the provisions described in "**Correction and expansion of social and medical history form**," below.

The above provisions do not preclude a biological parent from completing a social and medical history in accordance with R.C. 3107.091 (completing social and medical history forms subsequent to adoption) instead of this section, R.C. 3107.393.<sup>20</sup> The bill also provides that R.C. 3107.091 does not preclude a biological parent from completing a social and medical history in accordance with R.C. 3107.393 instead of R.C. 3107.091.<sup>21</sup>

#### **Correction and expansion of social and medical history form**

Continuing law permits a biological parent, or another person who provided information in the preparation of the social and medical histories of the biological parents of a minor, to cause the histories to be corrected or expanded to include different or additional types of information. The biological parent or other person may cause the histories to be corrected or expanded at any time prior or subsequent to the adoption of the minor, including any time after the minor becomes an adult. A biological parent may cause the histories to be corrected or expanded even if the biological parent did not provide any information to the assessor at the time the histories were prepared.<sup>22</sup>

To cause the histories to be corrected or expanded, a biological parent or other person who provided information must provide the information to be included or specify the information to be corrected to whichever of the following is appropriate under the circumstances (language modified by the bill is italicized):<sup>23</sup>

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<sup>19</sup> R.C. 3107.393 and 3107.17(D) and (E)(1).

<sup>20</sup> R.C. 3107.393.

<sup>21</sup> R.C. 3107.091(C).

<sup>22</sup> R.C. 3107.09(D).

<sup>23</sup> R.C. 3107.09(D).

(1) Subject to paragraphs (2) *and* (3) below, to the assessor who prepared the histories if the biological parent or other person knows the assessor;

(2) *Subject to paragraph (3) below*, to the court involved in the adoption or, if that court is not known, to ODH, if the biological parent or person does not know the assessor or finds that the assessor has ceased to perform assessments;

(3) *To ODH, if the histories were originally completed by the biological parent pursuant to R.C. 3107.393 (the bill) or, regardless of whether the histories were originally completed pursuant to R.C. 3107.09, 3107.091, or 3107.393, the biological parent seeks to correct or expand the histories at the same time the biological parent completes a contact preference form pursuant to R.C. 3107.39 as described above or a biological parent's name redaction request form pursuant to R.C. 3107.391 as described below.*

If ODH or a court receives information from a biological parent or other person pursuant to paragraph (2) above *or ODH receives information from a biological parent pursuant to paragraph (3) above*, it must determine whether the information is of a type that continuing law permits to be included in the histories.<sup>24</sup>

### **Question regarding biological parent's medical history**

The bill requires ODH to establish a system by which an adopted person or lineal descendant of an adopted person may request that ODH mail to the adopted person's biological parent a question that the adopted person or lineal descendant has about the biological parent's medical history if both of the following apply:<sup>25</sup>

- The adopted person or lineal descendant received a copy of the contents of the adopted person's adoption file with the biological parent's name redacted.
- The adopted person's adoption file continues to contain a biological parent's name redaction request form for the biological parent at the time the adopted person or lineal descendant makes the request to ODH.

ODH must mail to a biological parent a question ODH receives from an adopted person or lineal descendant of an adopted person if all of the following apply:<sup>26</sup>

- The adopted person or lineal descendant provides ODH information needed for ODH to find the adopted person's adoption file.

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<sup>24</sup> R.C. 3107.09(D).

<sup>25</sup> R.C. 3107.394(A).

<sup>26</sup> R.C. 3107.394(B).

- ODH has the biological parent's mailing address.
- The adopted person or lineal descendant complies with all of ODH's requirements for accepting the question.

A biological parent who receives a question may provide an answer to ODH. If ODH receives the biological parent's answer, ODH must forward the answer to the adopted person or lineal descendant who asked the question.<sup>27</sup>

### **Biological parent's name redaction request form**

The bill requires ODJFS to prescribe a biological parent's name redaction request form that must include all of the following:<sup>28</sup>

- Information about the procedures and requirements for a biological parent to do either of the following:
  - (1) Have the form placed in the adoption file of the biological parent's offspring so that the biological parent's name is redacted from a copy of the contents of the adoption file that a person receives upon a request to ODH;
  - (2) Have the form removed from the adoption file if the biological parent later decides to permit the biological parent's name to be included in a copy of the contents of the adoption file that a person receives upon a request to ODH.
- Provisions necessary for ODH to be able to identify the adoption file of the adopted person to whom the form pertains;
- A place for the biological parent to attest that the biological parent is the biological parent of the adopted person to whom the form pertains.

ODJFS must make the biological parent's name redaction request form available to ODH.<sup>29</sup>

Until one year after the effective date of the bill, ODH must make a biological parent's name redaction request form available to a biological parent on request. ODH

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<sup>27</sup> R.C. 3107.394(C).

<sup>28</sup> R.C. 3107.391(A).

<sup>29</sup> R.C. 3701.391(B).

may accept a completed biological parent's name redaction request form only if all of the following apply:<sup>30</sup>

- The form is submitted to ODH not later than one year after the effective date of the bill.
- The form has been notarized.
- The biological parent provides ODH two items of identification of the biological parent.
- If a social and medical history for the biological parent was not previously prepared or such a history was prepared but should be corrected or expanded, the biological parent completes a social and medical history form or corrects or expands the biological parent's social and medical history.
- ODH is satisfied that the form has been substantially completed.

If ODH determines that it may accept the biological parent's name redaction request form, ODH must accept the form. As soon as ODH identifies the adoption file of the adopted person to whom the form pertains, ODH must place the form in that file.<sup>31</sup>

A biological parent who has a biological parent's name redaction request form accepted by ODH may request at any time that ODH remove the form from the adoption file of the adopted person to whom the form pertains. ODH must remove the form from the adoption file if the biological parent provides ODH all of the following:<sup>32</sup>

- Two items of identification of the biological parent;
- Information ODH needs to be able to identify the adoption file of the adopted person to whom the form pertains;
- A notarized attestation that the biological parent is the biological parent of the adopted person to whom the form pertains.

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<sup>30</sup> R.C. 3701.391(C)(1).

<sup>31</sup> R.C. 3107.391(C)(2).

<sup>32</sup> R.C. 3107.391(D)(1).

When ODH removes a biological parent's name redaction request form from an adoption file, ODH must destroy the form.<sup>33</sup>

### **Information about biological parent's name redaction request forms on ODH website**

The bill requires ODH to include on ODH's website information about biological parent's name redaction request forms. All of the following information must be provided:<sup>34</sup>

- The purpose of the form;
- The procedures to be followed and requirements to be met for ODH to accept the form;
- The date when biological parents may begin to file the form with ODH;
- The date when the form may no longer be filed with ODH;
- The procedures to be followed and requirements to be met for having the form removed from an adopted person's adoption file;
- Any other information ODH considers necessary.

### **Conforming and technical changes**

The bill makes conforming changes in existing laws that refer to R.C. 3107.38 and 3107.45 (modified by the bill) and R.C. 3107.39 to 3107.44 (repealed by the bill) and conforming changes to make appropriate references to new R.C. 3107.39 and 3107.393.<sup>35</sup>

### **Adoptee's request to ODH to disclose court that entered adoption decree**

The bill permits an adopted person to request that ODH disclose to the adopted person which court entered the interlocutory order or final decree of adoption regarding the adopted person if the adopted person seeks to do either or both of the following:<sup>36</sup>

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<sup>33</sup> R.C. 3107.391(D)(2).

<sup>34</sup> R.C. 3107.392.

<sup>35</sup> R.C. 149.43(A)(1)(f), 1347.08(F)(4), 2101.16(F), 2101.162(A)(1) and (B)(1), 2101.24(A)(1)(r), 3107.071(B), 3107.081(C) and (D), 3107.082(B), 3107.083(B)(1), 3107.17(B)(1), 3107.19(C), 3107.66(A)(1), 3705.241, 5103.151(D) and (E), and 5103.152(B).

<sup>36</sup> R.C. 3107.171(B).

(1) Inspect, pursuant to the provisions described above, a social and medical history form of a biological parent of the adopted person;

(2) Submit, pursuant to R.C. 3107.17(E), a request for notification of a correction or expansion of a social and medical history of a biological parent of the adopted person.

On receipt of such a request and if the adopted person is entitled to inspect the biological parent's social and medical history form and submit the request for notification of a correction or expansion of the biological parent's social and medical history, ODH must inspect the "adoption file" (file maintained by ODH under the bill as described below) to determine which court entered the interlocutory order or final decree of adoption. If it is able to determine from the adoption file that court, ODH must disclose the court to the adopted person.<sup>37</sup>

### **Other changes**

The bill requires ODJFS to provide copies of the form that has components specified in the law for a parent of a child who, if adopted, will become an adopted person as defined in R.C. 3107.38 (see above), to persons authorized to take acknowledgments.<sup>38</sup>

The bill adds a reference to ODH filing a social and medical history under R.C. 3107.393 in the law pertaining to a probate court's functions if it determines that the history does not comply with the requirements governing the history.<sup>39</sup>

### **Adoption file not a public record; exceptions**

Continuing law requires that within 30 days after an adoption decree for a child born in Ohio becomes final, a probate court must forward, among other specified items, copy of the certificate of adoption to ODH. On receipt of an adoption certificate issued on or after January 1, 1964, ODH must issue, unless otherwise requested by the child's adoptive parents, a new birth record using the child's adopted name and the names of and data concerning the adoptive parents. Upon the issuance of the new birth record, the original birth record ceases to be a public record. The index references to the original birth record are a public record. ODH must place the original birth record, adoption certificate, and other items forwarded by the court in an adoption file and seal

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<sup>37</sup> R.C. 3107.171(A) and (C).

<sup>38</sup> R.C. 3107.083(B)(3).

<sup>39</sup> R.C. 3107.141.

the file. Under current law, the contents of the adoption file are not open to inspection and cannot be copied or be available for copying except under circumstances specified in the law.<sup>40</sup>

The bill provides that the contents of the adoption file, including any contact preference form, biological parent's name redaction request form, or social and medical history accepted and maintained by ODH, are not a public record and are available only in accordance with the bill's provisions described below.<sup>41</sup>

The bill prohibits ODH from opening an adoption file or making its contents available except as follows, in addition to the exceptions under current law that are unchanged by the bill:<sup>42</sup>

(1) ODH must inspect the file to determine the court involved for the purpose of R.C. 3107.171 as described above in "**Adoptee's request to ODH to disclose court that entered adoption decree.**"

(2) ODH must make the file's contents available to an adopted person or lineal descendant of an adopted person in accordance with R.C. 3107.38 described above in "**Adopted person's request to ODH for copy of contents of adoption file.**"

(3) ODH must open the file to transfer releases to the file as described above in "**Releases transferred to adoption file.**"

(4) ODH must open the file to file a contact preference form from a biological parent pursuant to R.C. 3107.39 described above in "**Contact preference form**" and remove any previously filed contact preference form from the biological parent.

(5) ODH must open the file to file a biological parent's name redaction request form pursuant to R.C. 3701.391(C)(1) described above in "**Biological parent's name redaction request form**" or to remove and destroy the form pursuant to R.C. 3701.391(D).

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<sup>40</sup> R.C. 149.43, 3107.19, and 3705.12(A)(1) and (2).

<sup>41</sup> R.C. 3705.12.

<sup>42</sup> R.C. 3705.126(A), (B), (C), (D), and (E). The exceptions in current R.C. 3705.12(A)(2)(c) to (g) are relocated to new R.C. 3705.126(F) to (J).

## Relocation of existing provisions on birth records of adoptees; conforming changes

The bill relocates to new sections, with technical changes, the existing provisions pertaining to the following: (1) foreign birth records,<sup>43</sup> (2) birth record of an adopted child born in Ohio and whose adoption was decreed by a court of another state,<sup>44</sup> (3) original birth record and birth record in the adopted name of any person born in Ohio and whose adoption was decreed prior to January 1, 1964,<sup>45</sup> (4) application for a new birth record in a person's adopted name of an adopted person born in Ohio, whose adoption was decreed prior to January 1, 1964, who did not have a new or reissued birth record in the person's adopted name, and whose adoption is in full force and effect,<sup>46</sup> and (5) a properly authenticated new birth record or foreign birth record and certified or exact copy of such record being prima facie evidence in all courts and places of the facts stated in the record.<sup>47</sup>

Under these relocated provisions, ODH must maintain in an adoption file: (1) the items sent by the probate court concerning the adoption of a person born in a foreign country, (2) the original birth record and papers pertaining to the original birth record or to the adoption of a child born in Ohio and whose adoption was decreed by a court of another state, (3) the original birth record, the birth record in the adopted name, and papers that pertain to either of those records of a person born in Ohio and whose adoption was decreed prior to January 1, 1964, and that were sealed pursuant to the law as it existed before March 19, 1985, or that were mistakenly or otherwise sealed, and (4) the original birth record or the birth record in the adopted name that is being replaced of a person born in Ohio, whose adoption was decreed before January 1, 1964, who did not have a new or reissued birth record in the person's adopted name prepared pursuant to the law as it existed before March 19, 1985, and whose application for a new birth record in the person's adopted name is received by ODH. The contents of the adoption file are not a public record and are to be made available only in accordance with existing law as modified by the bill.<sup>48</sup>

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<sup>43</sup> Current R.C. 3705.12(A)(4) to new R.C. 3705.122 and 3705.126.

<sup>44</sup> Current R.C. 3705.12(B) to new R.C. 3705.121 and 3705.126.

<sup>45</sup> Current R.C. 3705.12(C) to new R.C. 3705.123 and 3705.126.

<sup>46</sup> Current R.C. 3705.12(D) to new R.C. 3705.124 and 3705.126

<sup>47</sup> Current R.C. 3705.12(A)(5) to new R.C. 3705.125.

<sup>48</sup> R.C. 3705.121, 3705.122, 3705.123, 3705.124, and 3705.126.



The bill makes conforming changes in the Public Records Law, Personal Information Systems Law, Adoption Law, and other provisions of the Vital Statistics Law.<sup>49</sup>

### **Report prepared by ODH regarding number of requests for biological parent's name redaction request forms**

ODH must prepare a report that specifies the number of biological parent's name redaction request forms ODH receives and the number of forms ODH accepts. Not later than two years after the effective date of the bill, ODH must provide a copy of the report to the General Assembly in accordance with Ohio law regarding the availability of agency reports.<sup>50</sup>

### **General Assembly's intent to give biological parents opportunity to have names redacted**

The bill specifies that it is the intent of the General Assembly to give biological parents a reasonable opportunity to have their names redacted from information that adopted persons and lineal descendants of adopted persons may obtain pursuant to the Ohio law governing the right of an adopted person to receive a copy of the adopted person's adoption file.<sup>51</sup>

### **Delayed effective date of bill's provisions**

Except as provided below, the bill provides that the R.C. sections as amended, enacted, or repealed by the bill take effect one year after its effective date.<sup>52</sup>

The following provisions take effect on the effective date of the bill:<sup>53</sup>

(1) The enactment of the provisions regarding the creation of a biological parent's name redaction request form;

(2) Other provisions of the bill that address the biological parent's name redaction request form.

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<sup>49</sup> R.C. 149.43(A)(1)(d), 1347.08(F)(1), 3107.18(C), 3107.38(A)(2), 3107.45(B), 3705.07(A), 3705.08(D)(2), 3705.23(A)(1), and 3705.29(D).

<sup>50</sup> Section 4.

<sup>51</sup> Section 5.

<sup>52</sup> Section 3(A).

<sup>53</sup> Section 3(B).



(3) The enactment of the provision described under "**Information about biological parent's name redaction request forms on ODH website.**"

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## HISTORY

ACTION	DATE
Introduced	02-12-13
Reported, S. Medicaid, Health & Human Services	04-25-13
Re-referred, S. Civil Justice	11-20-13
Rereported, S. Civil Justice	12-04-13
Passed Senate (33-0)	12-04-13
Reported, H. Judiciary	-----

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