

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Adoption Act is amended by changing Section
5 18.3a as follows:

6 (750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

7 Sec. 18.3a. Confidential intermediary.

8 (a) General purposes. Notwithstanding any other provision
9 of this Act,

10 (1) any adopted or surrendered person 21 years of age
11 or over; or

12 (2) any adoptive parent or legal guardian of an
13 adopted or surrendered person under the age of 21; or

14 (3) any birth parent of an adopted or surrendered
15 person who is 21 years of age or over; or

16 (4) any adult child or adult grandchild of a deceased
17 adopted or surrendered person; or

18 (5) any adoptive parent or surviving spouse of a
19 deceased adopted or surrendered person; or

20 (6) any adult birth sibling of the adult adopted or
21 surrendered person unless the birth parent has checked
22 Option E on the Birth Parent Preference Form or has filed a
23 Denial of Information Exchange with the Registry and is

1 not deceased; or

2 (7) any adult adopted birth sibling of an adult
3 adopted or surrendered person; or

4 (8) any adult birth sibling of the birth parent if the
5 birth parent is deceased; or

6 (9) any birth grandparent

7 may petition the court in any county in the State of Illinois
8 for appointment of a confidential intermediary as provided in
9 this Section for the purpose of exchanging medical information
10 with one or more mutually consenting biological relatives,
11 obtaining identifying information about one or more mutually
12 consenting biological relatives, or arranging contact with one
13 or more mutually consenting biological relatives. The
14 petitioner shall be required to accompany his or her petition
15 with proof of registration with the Illinois Adoption Registry
16 and Medical Information Exchange.

17 (a-4) The adoptive parent or legal guardian of an adopted
18 or surrendered person under the age of 21 may also petition the
19 court for the appointment of a confidential intermediary for
20 purposes of obtaining identifying information or arranging
21 contact with a mutually consenting adoptive parent or legal
22 guardian of a birth sibling of the petitioner's adopted or
23 surrendered child under the age of 21.

24 (a-5) In addition, any former youth in care as defined in
25 Section 4d of the Children and Family Services Act who was
26 adopted or surrendered may petition the court in any county in

1 the State for appointment of a confidential intermediary as
2 provided in this Section for the purposes of obtaining
3 identifying information or arranging contact with (i) siblings
4 or birth relatives if the former youth in care is between the
5 ages of 18 and 21 or (ii) former foster parents or foster
6 siblings if the former youth in care is over the age of 18. A
7 petitioner under this subsection is not required to register
8 with the Illinois Adoption Registry and Medical Information
9 Exchange.

10 (b) Petition. Upon petition, the court shall appoint a
11 confidential intermediary. The petition shall indicate if the
12 petitioner wants to do any one or more of the following as to
13 the sought-after relative or relatives: exchange medical
14 information with the biological relative or relatives, obtain
15 identifying information from the biological relative or
16 relatives, or to arrange contact with the biological relative.

17 (c) Order. The order appointing the confidential
18 intermediary shall allow that intermediary to conduct a search
19 for the sought-after relative by accessing those records
20 described in subsection (g) of this Section.

21 (d) Fees and expenses. The court shall not condition the
22 appointment of the confidential intermediary on the payment of
23 the intermediary's fees and expenses in advance of the
24 commencement of the work of the confidential intermediary. No
25 fee shall be charged to any petitioner.

26 (e) Eligibility of intermediary. The court may appoint as

1 confidential intermediary any person certified by the
2 Department of Children and Family Services as qualified to
3 serve as a confidential intermediary. Certification shall be
4 dependent upon the confidential intermediary completing a
5 course of training including, but not limited to, applicable
6 federal and State privacy laws.

7 (f) (Blank).

8 (g) Confidential intermediary access to information.
9 Subject to the limitations of subsection (i) of this Section,
10 the confidential intermediary shall have access to vital
11 records maintained by the Department of Public Health and its
12 local designees for the maintenance of vital records, or a
13 comparable public entity that maintains vital records in
14 another state in accordance with that state's laws, and all
15 records of the court or any adoption agency, public or
16 private, as limited in this Section, which relate to the
17 adoption or the identity and location of an adopted or
18 surrendered person, of an adult child or surviving spouse of a
19 deceased adopted or surrendered person, or of a birth parent,
20 birth sibling, or the sibling of a deceased birth parent. The
21 confidential intermediary shall not have access to any
22 personal health information protected by the Standards for
23 Privacy of Individually Identifiable Health Information
24 adopted by the U.S. Department of Health and Human Services
25 under the Health Insurance Portability and Accountability Act
26 of 1996 unless the confidential intermediary has obtained

1 written consent from the person whose information is being
2 sought by an adult adopted or surrendered person or, if that
3 person is a minor child, that person's parent or guardian.
4 Confidential intermediaries shall be authorized to inspect
5 confidential relinquishment and adoption records. The
6 confidential intermediary shall not be authorized to access
7 medical records, financial records, credit records, banking
8 records, home studies, attorney file records, or other
9 personal records. In cases where a birth parent is being
10 sought, an adoption agency shall inform the confidential
11 intermediary of any statement filed pursuant to Section 18.3,
12 hereinafter referred to as "the 18.3 statement", indicating a
13 desire of the surrendering birth parent to have identifying
14 information shared or to not have identifying information
15 shared. Information provided to the confidential intermediary
16 by an adoption agency shall be restricted to the full name,
17 date of birth, place of birth, last known address, last known
18 telephone number of the sought-after relative or, if
19 applicable, of the children or siblings of the sought-after
20 relative, and the 18.3 statement. If the petitioner is an
21 adult adopted or surrendered person or the adoptive parent of
22 a minor and if the petitioner has signed a written
23 authorization to disclose personal medical information, an
24 adoption agency disclosing information to a confidential
25 intermediary shall disclose available medical information
26 about the adopted or surrendered person from birth through

1 adoption.

2 (h) Disclosure of information ~~Missing or lost original~~
3 ~~birth certificate; remedy.~~ Disclosure of information by the
4 confidential intermediary shall be consistent with the public
5 policy and intent of laws granting original birth certificate
6 access as expressed in Section 18.04 of this Act. The
7 confidential intermediary shall comply with the following
8 procedures in disclosing information to the petitioners:

9 (1) If the petitioner is an adult adopted or
10 surrendered person, or the adult child, adult grandchild,
11 or surviving spouse of a deceased adopted or surrendered
12 person, the confidential intermediary shall disclose:

13 (A) Missing or lost original birth certificate;
14 remedy. Identifying ~~identifying~~ information about the
15 birth parent of the adopted person and about the adult
16 adopted or surrendered person, which, in the ordinary
17 course of business, would have been reflected on the
18 original filed certificate of birth, as of the date of
19 birth, only if:

20 (i) the adopted person was born before January
21 1, 1946 and the petitioner has requested a
22 non-certified copy of the adopted person's
23 original birth certificate under Section 18.1 of
24 this Act, and the Illinois Department of Public
25 Health has issued a certification that the
26 original birth certificate was not found, or the

1 petitioner has presented the confidential
2 intermediary with the non-certified copy of the
3 original birth certificate which omits the name of
4 the birth parent;

5 (ii) the adopted person was born after January
6 1, 1946, and the petitioner has requested a
7 non-certified copy of the adopted person's
8 original birth certificate under Section 18.1 of
9 this Act and the Illinois Department of Public
10 Health has issued a certification that the
11 original birth certificate was not found.

12 In providing information pursuant to this
13 subdivision (h)(1)(A), the confidential intermediary
14 shall expressly inform the petitioner in writing that
15 since the identifying information is not from an
16 official original certificate of birth filed pursuant
17 to the Vital Records Act, the confidential
18 intermediary cannot attest to the complete accuracy of
19 the information and the confidential intermediary
20 shall not be liable if the information disclosed is
21 not accurate. Only information from the court files
22 shall be provided to the petitioner in this Section.
23 If the identifying information concerning a birth
24 father is sought by the petitioner, the confidential
25 intermediary shall disclose only the identifying
26 information of the birth father as defined in Section

1 18.06 of this Act;

2 (B) the name of the child welfare agency which had
3 legal custody of the surrendered person or
4 responsibility for placing, or assisting in the
5 placement of, the surrendered person and any available
6 contact information for such agency;

7 (C) the name of the state in which the surrender
8 occurred and ~~or~~ in which the adoption was finalized;
9 and

10 (D) any information for which the sought-after
11 relative has provided his or her consent to disclose
12 under paragraphs (1) through (4) of subsection (i) of
13 this Section.

14 (2) If the petitioner is an adult adopted or
15 surrendered person, or the adoptive parent of an adult
16 adopted or surrendered person under the age of 21, or the
17 adoptive parent of a deceased adopted or surrendered
18 person, or the adult child or grandchild of a deceased
19 adopted or surrendered person, the confidential
20 intermediary shall provide, in addition to the information
21 listed in paragraph (1) of this subsection (h):

22 (A) subject to subsection (g), any information
23 which the adoption agency provides pursuant to
24 subsection (i) of this Section pertaining to medical
25 information about the adopted or surrendered person;
26 and

1 (B) any non-identifying information, as defined in
2 Section 18.4 of this Act, that is obtained during the
3 search.

4 (3) If the petitioner is not defined in paragraph (1)
5 or (2) of this subsection, the confidential intermediary
6 shall provide to the petitioner:

7 (A) any information for which the sought-after
8 relative has provided his or her consent under
9 paragraphs (1) through (4) of subsection (i) of this
10 Section;

11 (B) the name of the child welfare agency which had
12 legal custody of the surrendered person or
13 responsibility for placing, or assisting in the
14 placement of, the surrendered person and any available
15 contact information for such agency; and

16 (C) the name of the state in which the surrender
17 occurred or in which the adoption was finalized.

18 (h-5) Disclosure of information shall be made by the
19 confidential intermediary at any time from the appointment of
20 the confidential intermediary and the court's issuance of an
21 order of dismissal.

22 (i) Duties of confidential intermediary in conducting a
23 search. In conducting a search under this Section, the
24 confidential intermediary shall first determine whether there
25 is a Denial of Information Exchange or a Birth Parent
26 Preference Form with Option E selected or an 18.3 statement

1 referenced in subsection (g) of this Section on file with the
2 Illinois Adoption Registry. If there is a denial, the Birth
3 Parent Preference Form on file with the Registry and the birth
4 parent who completed the form selected Option E, or if there is
5 an 18.3 statement indicating the birth parent's intent not to
6 have identifying information shared and the birth parent did
7 not later file an Information Exchange Authorization with the
8 Registry, the confidential intermediary must discontinue the
9 search unless 5 years or more have elapsed since the execution
10 of the Denial of Information Exchange, Birth Parent Preference
11 Form, or the 18.3 statement. If a birth parent was previously
12 the subject of a search through the State confidential
13 intermediary program, the confidential intermediary shall
14 inform the petitioner of the need to discontinue the search
15 until 10 years or more have elapsed since the initial search
16 was closed. In cases where a birth parent has been the object
17 of 2 searches through the State confidential intermediary
18 program, no subsequent search for the birth parent shall be
19 authorized absent a court order to the contrary.

20 In conducting a search under this Section, the
21 confidential intermediary shall attempt to locate the relative
22 or relatives from whom the petitioner has requested
23 information. If the sought-after relative is deceased or
24 cannot be located after a diligent search, the confidential
25 intermediary may contact other adult relatives of the
26 sought-after relative.

1 The confidential intermediary shall contact a sought-after
2 relative on behalf of the petitioner in a manner that respects
3 the sought-after relative's privacy and shall inform the
4 sought-after relative of the petitioner's request for medical
5 information, identifying information or contact as stated in
6 the petition. Based upon the terms of the petitioner's
7 request, the confidential intermediary shall contact a
8 sought-after relative on behalf of the petitioner and inform
9 the sought-after relative of the following options:

10 (1) The sought-after relative may totally reject one
11 or all of the requests for medical information,
12 identifying information or contact. The sought-after
13 relative shall be informed that they can provide a medical
14 questionnaire to be forwarded to the petitioner without
15 releasing any identifying information. The confidential
16 intermediary shall inform the petitioner of the
17 sought-after relative's decision to reject the sharing of
18 information or contact.

19 (2) The sought-after relative may consent to
20 completing a medical questionnaire only. In this case, the
21 confidential intermediary shall provide the questionnaire
22 and ask the sought-after relative to complete it. The
23 confidential intermediary shall forward the completed
24 questionnaire to the petitioner and inform the petitioner
25 of the sought-after relative's desire to not provide any
26 additional information.

1 (3) The sought-after relative may communicate with the
2 petitioner without having his or her identity disclosed.

3 In this case, the confidential intermediary shall arrange
4 the desired communication in a manner that protects the
5 identity of the sought-after relative. The confidential
6 intermediary shall inform the petitioner of the
7 sought-after relative's decision to communicate but not
8 disclose his or her identity.

9 (4) The sought-after relative may consent to initiate
10 contact with the petitioner. The confidential intermediary
11 shall obtain written consents from both parties that they
12 wish to disclose their identities to each other and to
13 have contact with each other.

14 (j) Oath. The confidential intermediary shall sign an oath
15 of confidentiality substantially as follows: "I,,
16 being duly sworn, on oath depose and say: As a condition of
17 appointment as a confidential intermediary, I affirm that:

18 (1) I will not disclose to the petitioner, directly or
19 indirectly, any confidential information except in a
20 manner consistent with the law.

21 (2) I recognize that violation of this oath subjects
22 me to civil liability and to a potential finding of
23 contempt of court.

24 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert
25 date)

26 "

1 (k) Sanctions.

2 (1) Any confidential intermediary who improperly
3 discloses confidential information identifying a
4 sought-after relative shall be liable to the sought-after
5 relative for damages and may also be found in contempt of
6 court.

7 (2) Any person who learns a sought-after relative's
8 identity, directly or indirectly, through the use of
9 procedures provided in this Section and who improperly
10 discloses information identifying the sought-after
11 relative shall be liable to the sought-after relative for
12 actual damages plus minimum punitive damages of \$10,000.

13 (3) The Department shall fine any confidential
14 intermediary who improperly discloses confidential
15 information in violation of item (1) or (2) of this
16 subsection (k) an amount up to \$2,000 per improper
17 disclosure. This fine does not affect civil liability
18 under item (2) of this subsection (k). The Department
19 shall deposit all fines and penalties collected under this
20 Section into the Illinois Adoption Registry and Medical
21 Information Fund.

22 (l) Death of person being sought. Notwithstanding any
23 other provision of this Act, if the confidential intermediary
24 discovers that the person being sought has died, he or she
25 shall report this fact to the court, along with a copy of the
26 death certificate. If the sought-after relative is a birth

1 parent, the confidential intermediary shall also forward a
2 copy of the birth parent's death certificate, if available, to
3 the Registry for inclusion in the Registry file.

4 (m) Any confidential information obtained by the
5 confidential intermediary during the course of his or her
6 search shall be kept strictly confidential and shall be used
7 for the purpose of arranging contact between the petitioner
8 and the sought-after birth relative. At the time the case is
9 closed, all identifying information shall be returned to the
10 court for inclusion in the impounded adoption file.

11 (n) (Blank).

12 (o) Except as provided in subsection (k) of this Section,
13 no liability shall accrue to the State, any State agency, any
14 judge, any officer or employee of the court, any certified
15 confidential intermediary, or any agency designated to oversee
16 confidential intermediary services for acts, omissions, or
17 efforts made in good faith within the scope of this Section.

18 (p) An adoption agency that has received a request from a
19 confidential intermediary for the full name, date of birth,
20 last known address, or last known telephone number of a
21 sought-after relative pursuant to subsection (g) of Section
22 18.3a, or for medical information regarding a sought-after
23 relative pursuant to subsection (h) of Section 18.3a, must
24 satisfactorily comply with this court order within a period of
25 45 days. The court shall order the adoption agency to
26 reimburse the petitioner in an amount equal to all payments

1 made by the petitioner to the confidential intermediary, and
2 the adoption agency shall be subject to a civil monetary
3 penalty of \$1,000 to be paid to the Department of Children and
4 Family Services. Following the issuance of a court order
5 finding that the adoption agency has not complied with Section
6 18.3, the adoption agency shall be subject to a monetary
7 penalty of \$500 per day for each subsequent day of
8 non-compliance. Proceeds from such fines shall be utilized by
9 the Department of Children and Family Services to subsidize
10 the fees of petitioners as referenced in subsection (d) of
11 this Section.

12 (q) (Blank).

13 Any reimbursements and fines, notwithstanding any
14 reimbursement directly to the petitioner, paid under this
15 subsection are in addition to other remedies a court may
16 otherwise impose by law.

17 The Department of Children and Family Services shall
18 submit reports to the Adoption Registry-Confidential
19 Intermediary Advisory Council by July 1 and January 1 of each
20 year in order to report the penalties assessed and collected
21 under this subsection, the amounts of related deposits into
22 the DCFS Children's Services Fund, and any expenditures from
23 such deposits.

24 (r) A confidential intermediary shall be permitted to
25 access information from closed child welfare agencies whose
26 records are housed in the State Central Storage consistent

1 with paragraph (g) for all petitioners. If the petitioner is
2 an adult adopted or surrendered person, the adoptive parent of
3 an adult adopted person under the age of 21, ~~or~~ the adoptive
4 parent of a deceased adopted or surrendered person, or an
5 adult child or grandchild of a deceased adopted or surrendered
6 person, the confidential intermediary may request any
7 non-identifying information, including any available medical
8 information about the adopted or surrendered person from birth
9 through adoption, any non-identifying information described in
10 Section 18.4, and the Section 18.3 statement, and, subject to
11 subsection (g), the confidential intermediary shall disclose
12 the non-identifying information to a petitioner who is an
13 adult adopted or surrendered person, the adoptive parent of an
14 adult adopted person under the age of 21, the adoptive parent
15 of a deceased adopted or surrendered person, or an adult child
16 or grandchild of a deceased adopted or surrendered person.

17 (Source: P.A. 104-69, eff. 1-1-26.)