



Sen. Sara Feigenholtz

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10400SB3706sam001

LRB104 20671 JRC 34571 a

1 AMENDMENT TO SENATE BILL 3706

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3706 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Adoption Act is amended by changing  
5 Section 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

1           adopted or surrendered person; or

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

4                   (6) any adult birth sibling of the adult adopted or  
5           surrendered person unless the birth parent has checked  
6           Option E on the Birth Parent Preference Form or has filed a  
7           Denial of Information Exchange with the Registry and is  
8           not deceased; or

9                   (7) any adult adopted birth sibling of an adult  
10          adopted or surrendered person; or

11                   (8) any adult birth sibling of the birth parent if the  
12          birth parent is deceased; or

13                   (9) any birth grandparent

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

24                   (a-4) The adoptive parent or legal guardian of an adopted  
25          or surrendered person under the age of 21 may also petition the  
26          court for the appointment of a confidential intermediary for

1 purposes of obtaining identifying information or arranging  
2 contact with a mutually consenting adoptive parent or legal  
3 guardian of a birth sibling of the petitioner's adopted or  
4 surrendered child under the age of 21.

5 (a-5) In addition, any former youth in care as defined in  
6 Section 4d of the Children and Family Services Act who was  
7 adopted or surrendered may petition the court in any county in  
8 the State for appointment of a confidential intermediary as  
9 provided in this Section for the purposes of obtaining  
10 identifying information or arranging contact with (i) siblings  
11 or birth relatives if the former youth in care is between the  
12 ages of 18 and 21 or (ii) former foster parents or foster  
13 siblings if the former youth in care is over the age of 18. A  
14 petitioner under this subsection is not required to register  
15 with the Illinois Adoption Registry and Medical Information  
16 Exchange.

17 (b) Petition. Upon petition, the court shall appoint a  
18 confidential intermediary. The petition shall indicate if the  
19 petitioner wants to do any one or more of the following as to  
20 the sought-after relative or relatives: exchange medical  
21 information with the biological relative or relatives, obtain  
22 identifying information from the biological relative or  
23 relatives, or to arrange contact with the biological relative.

24 (c) Order. The order appointing the confidential  
25 intermediary shall allow that intermediary to conduct a search  
26 for the sought-after relative by accessing those records

1 described in subsection (g) of this Section.

2 (d) Fees and expenses. The court shall not condition the  
3 appointment of the confidential intermediary on the payment of  
4 the intermediary's fees and expenses in advance of the  
5 commencement of the work of the confidential intermediary. No  
6 fee shall be charged to any petitioner.

7 (e) Eligibility of intermediary. The court may appoint as  
8 confidential intermediary any person certified by the  
9 Department of Children and Family Services as qualified to  
10 serve as a confidential intermediary. Certification shall be  
11 dependent upon the confidential intermediary completing a  
12 course of training including, but not limited to, applicable  
13 federal and State privacy laws.

14 (f) (Blank).

15 (g) Confidential intermediary access to information.  
16 Subject to the limitations of subsection (i) of this Section,  
17 the confidential intermediary shall have access to vital  
18 records maintained by the Department of Public Health and its  
19 local designees for the maintenance of vital records, or a  
20 comparable public entity that maintains vital records in  
21 another state in accordance with that state's laws, and all  
22 records of the court or any adoption agency, public or  
23 private, as limited in this Section, which relate to the  
24 adoption or the identity and location of an adopted or  
25 surrendered person, of an adult child or surviving spouse of a  
26 deceased adopted or surrendered person, or of a birth parent,

1 birth sibling, or the sibling of a deceased birth parent. The  
2 confidential intermediary shall not have access to any  
3 personal health information protected by the Standards for  
4 Privacy of Individually Identifiable Health Information  
5 adopted by the U.S. Department of Health and Human Services  
6 under the Health Insurance Portability and Accountability Act  
7 of 1996 unless the confidential intermediary has obtained  
8 written consent from the person whose information is being  
9 sought by an adult adopted or surrendered person or, if that  
10 person is a minor child, that person's parent or guardian.  
11 Confidential intermediaries shall be authorized to inspect  
12 confidential relinquishment and adoption records. The  
13 confidential intermediary shall not be authorized to access  
14 medical records, financial records, credit records, banking  
15 records, home studies, attorney file records, or other  
16 personal records. In cases where a birth parent is being  
17 sought, an adoption agency shall inform the confidential  
18 intermediary of any statement filed pursuant to Section 18.3,  
19 hereinafter referred to as "the 18.3 statement", indicating a  
20 desire of the surrendering birth parent to have identifying  
21 information shared or to not have identifying information  
22 shared. Information provided to the confidential intermediary  
23 by an adoption agency shall be restricted to the full name,  
24 date of birth, place of birth, last known address, last known  
25 telephone number of the sought-after relative or, if  
26 applicable, of the children or siblings of the sought-after

1 relative, and the 18.3 statement. If the petitioner is an  
2 adult adopted or surrendered person or the adoptive parent of  
3 a minor and if the petitioner has signed a written  
4 authorization to disclose personal medical information, an  
5 adoption agency disclosing information to a confidential  
6 intermediary shall disclose available medical information  
7 about the adopted or surrendered person from birth through  
8 adoption.

9 (h) Disclosure of information ~~Missing or lost original~~  
10 ~~birth certificate; remedy.~~ Disclosure of information by the  
11 confidential intermediary shall be consistent with the public  
12 policy and intent of laws granting original birth certificate  
13 access as expressed in Section 18.04 of this Act. The  
14 confidential intermediary shall comply with the following  
15 procedures in disclosing information to the petitioners:

16 (1) If the petitioner is an adult adopted or  
17 surrendered person, or the adult child, adult grandchild,  
18 or surviving spouse of a deceased adopted or surrendered  
19 person, the confidential intermediary shall disclose:

20 (A) Missing or lost original birth certificate;  
21 remedy. Identifying ~~identifying~~ information about the  
22 birth parent of the adopted person and about the adult  
23 adopted or surrendered person, which, in the ordinary  
24 course of business, would have been reflected on the  
25 original filed certificate of birth, as of the date of  
26 birth, only if:

1 (i) the adopted person was born before January  
2 1, 1946 and the petitioner has requested a  
3 non-certified copy of the adopted person's  
4 original birth certificate under Section 18.1 of  
5 this Act, and the Illinois Department of Public  
6 Health has issued a certification that the  
7 original birth certificate was not found, or the  
8 petitioner has presented the confidential  
9 intermediary with the non-certified copy of the  
10 original birth certificate which omits the name of  
11 the birth parent;

12 (ii) the adopted person was born after January  
13 1, 1946, and the petitioner has requested a  
14 non-certified copy of the adopted person's  
15 original birth certificate under Section 18.1 of  
16 this Act and the Illinois Department of Public  
17 Health has issued a certification that the  
18 original birth certificate was not found.

19 In providing information pursuant to this  
20 subdivision (h)(1)(A), the confidential intermediary  
21 shall expressly inform the petitioner in writing that  
22 since the identifying information is not from an  
23 official original certificate of birth filed pursuant  
24 to the Vital Records Act, the confidential  
25 intermediary cannot attest to the complete accuracy of  
26 the information and the confidential intermediary

1 shall not be liable if the information disclosed is  
2 not accurate. Only information from the court files  
3 shall be provided to the petitioner in this Section.  
4 If the identifying information concerning a birth  
5 father is sought by the petitioner, the confidential  
6 intermediary shall disclose only the identifying  
7 information of the birth father as defined in Section  
8 18.06 of this Act;

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

14 (C) the name of the state in which the surrender  
15 occurred and ~~or~~ in which the adoption was finalized;  
16 and

17 (D) any information for which the sought-after  
18 relative has provided his or her consent to disclose  
19 under paragraphs (1) through (4) of subsection (i) of  
20 this Section.

21 (2) If the petitioner is an adult adopted or  
22 surrendered person, or the adoptive parent of an adult  
23 adopted or surrendered person under the age of 21, or the  
24 adoptive parent of a deceased adopted or surrendered  
25 person, or the adult child or grandchild of a deceased  
26 adopted or surrendered person, the confidential

1 intermediary shall provide, in addition to the information  
2 listed in paragraph (1) of this subsection (h):

3 (A) subject to subsection (g), any information  
4 which the adoption agency provides pursuant to  
5 subsection (i) of this Section pertaining to medical  
6 information about the adopted or surrendered person;  
7 and

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

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

14 (A) any information for which the sought-after  
15 relative has provided his or her consent under  
16 paragraphs (1) through (4) of subsection (i) of this  
17 Section;

18 (B) the name of the child welfare agency which had  
19 legal custody of the surrendered person or  
20 responsibility for placing, or assisting in the  
21 placement of, the surrendered person and any available  
22 contact information for such agency; and

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

25 (h-5) Disclosure of information shall be made by the  
26 confidential intermediary at any time from the appointment of

1 the confidential intermediary and the court's issuance of an  
2 order of dismissal.

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

1           In conducting a search under this Section, the  
2 confidential intermediary shall attempt to locate the relative  
3 or relatives from whom the petitioner has requested  
4 information. If the sought-after relative is deceased or  
5 cannot be located after a diligent search, the confidential  
6 intermediary may contact other adult relatives of the  
7 sought-after relative.

8           The confidential intermediary shall contact a sought-after  
9 relative on behalf of the petitioner in a manner that respects  
10 the sought-after relative's privacy and shall inform the  
11 sought-after relative of the petitioner's request for medical  
12 information, identifying information or contact as stated in  
13 the petition. Based upon the terms of the petitioner's  
14 request, the confidential intermediary shall contact a  
15 sought-after relative on behalf of the petitioner and inform  
16 the sought-after relative of the following options:

17           (1) The sought-after relative may totally reject one  
18 or all of the requests for medical information,  
19 identifying information or contact. The sought-after  
20 relative shall be informed that they can provide a medical  
21 questionnaire to be forwarded to the petitioner without  
22 releasing any identifying information. The confidential  
23 intermediary shall inform the petitioner of the  
24 sought-after relative's decision to reject the sharing of  
25 information or contact.

26           (2) The sought-after relative may consent to

1 completing a medical questionnaire only. In this case, the  
2 confidential intermediary shall provide the questionnaire  
3 and ask the sought-after relative to complete it. The  
4 confidential intermediary shall forward the completed  
5 questionnaire to the petitioner and inform the petitioner  
6 of the sought-after relative's desire to not provide any  
7 additional information.

8 (3) The sought-after relative may communicate with the  
9 petitioner without having his or her identity disclosed.  
10 In this case, the confidential intermediary shall arrange  
11 the desired communication in a manner that protects the  
12 identity of the sought-after relative. The confidential  
13 intermediary shall inform the petitioner of the  
14 sought-after relative's decision to communicate but not  
15 disclose his or her identity.

16 (4) The sought-after relative may consent to initiate  
17 contact with the petitioner. The confidential intermediary  
18 shall obtain written consents from both parties that they  
19 wish to disclose their identities to each other and to  
20 have contact with each other.

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

25 (1) I will not disclose to the petitioner, directly or  
26 indirectly, any confidential information except in a

1 manner consistent with the law.

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

5 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert  
6 date)

7 ....."

8 (k) Sanctions.

9 (1) Any confidential intermediary who improperly  
10 discloses confidential information identifying a  
11 sought-after relative shall be liable to the sought-after  
12 relative for damages and may also be found in contempt of  
13 court.

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

20 (3) The Department shall fine any confidential  
21 intermediary who improperly discloses confidential  
22 information in violation of item (1) or (2) of this  
23 subsection (k) an amount up to \$2,000 per improper  
24 disclosure. This fine does not affect civil liability  
25 under item (2) of this subsection (k). The Department  
26 shall deposit all fines and penalties collected under this

1 Section into the Illinois Adoption Registry and Medical  
2 Information Fund.

3 (l) Death of person being sought. Notwithstanding any  
4 other provision of this Act, if the confidential intermediary  
5 discovers that the person being sought has died, he or she  
6 shall report this fact to the court, along with a copy of the  
7 death certificate. If the sought-after relative is a birth  
8 parent, the confidential intermediary shall also forward a  
9 copy of the birth parent's death certificate, if available, to  
10 the Registry for inclusion in the Registry file.

11 (m) Any confidential information obtained by the  
12 confidential intermediary during the course of his or her  
13 search shall be kept strictly confidential and shall be used  
14 for the purpose of arranging contact between the petitioner  
15 and the sought-after birth relative. At the time the case is  
16 closed, all identifying information shall be returned to the  
17 court for inclusion in the impounded adoption file.

18 (n) (Blank).

19 (o) Except as provided in subsection (k) of this Section,  
20 no liability shall accrue to the State, any State agency, any  
21 judge, any officer or employee of the court, any certified  
22 confidential intermediary, or any agency designated to oversee  
23 confidential intermediary services for acts, omissions, or  
24 efforts made in good faith within the scope of this Section.

25 (p) An adoption agency that has received a request from a  
26 confidential intermediary for the full name, date of birth,

1 last known address, or last known telephone number of a  
2 sought-after relative pursuant to subsection (g) of Section  
3 18.3a, or for medical information regarding a sought-after  
4 relative pursuant to subsection (h) of Section 18.3a, must  
5 satisfactorily comply with this court order within a period of  
6 45 days. The court shall order the adoption agency to  
7 reimburse the petitioner in an amount equal to all payments  
8 made by the petitioner to the confidential intermediary, and  
9 the adoption agency shall be subject to a civil monetary  
10 penalty of \$1,000 to be paid to the Department of Children and  
11 Family Services. Following the issuance of a court order  
12 finding that the adoption agency has not complied with Section  
13 18.3, the adoption agency shall be subject to a monetary  
14 penalty of \$500 per day for each subsequent day of  
15 non-compliance. Proceeds from such fines shall be utilized by  
16 the Department of Children and Family Services to subsidize  
17 the fees of petitioners as referenced in subsection (d) of  
18 this Section.

19 (q) (Blank).

20 Any reimbursements and fines, notwithstanding any  
21 reimbursement directly to the petitioner, paid under this  
22 subsection are in addition to other remedies a court may  
23 otherwise impose by law.

24 The Department of Children and Family Services shall  
25 submit reports to the Adoption Registry-Confidential  
26 Intermediary Advisory Council by July 1 and January 1 of each

1 year in order to report the penalties assessed and collected  
2 under this subsection, the amounts of related deposits into  
3 the DCFS Children's Services Fund, and any expenditures from  
4 such deposits.

5 (r) A confidential intermediary shall be permitted to  
6 access information from closed child welfare agencies whose  
7 records are housed in the State Central Storage consistent  
8 with paragraph (g) for all petitioners. If the petitioner is  
9 an adult adopted or surrendered person, the adoptive parent of  
10 an adult adopted person under the age of 21, ~~or~~ the adoptive  
11 parent of a deceased adopted or surrendered person, or an  
12 adult child or grandchild of a deceased adopted or surrendered  
13 person, the confidential intermediary may request any  
14 non-identifying information, including any available medical  
15 information about the adopted or surrendered person from birth  
16 through adoption, any non-identifying information described in  
17 Section 18.4, and the Section 18.3 statement, and, subject to  
18 subsection (g), the confidential intermediary shall disclose  
19 the non-identifying information to a petitioner who is an  
20 adult adopted or surrendered person, the adoptive parent of an  
21 adult adopted person under the age of 21, the adoptive parent  
22 of a deceased adopted or surrendered person, or an adult child  
23 or grandchild of a deceased adopted or surrendered person.

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