

Date of Hearing: June 30, 2026

ASSEMBLY COMMITTEE ON JUDICIARY  
Ash Kalra, Chair  
SB 381 (Wahab) – As Amended May 21, 2026

PROPOSED CONSENT

**SENATE VOTE:** 35-0

**SUBJECT:** VITAL RECORDS: ADOPTEES' BIRTH CERTIFICATES

**SYNOPSIS**

*When a child is adopted in California, their adoption records, including their original birth certificates reflecting their birth parents' names, are sealed. Existing law provides narrow avenues for adoptees to access their original birth certificates – namely through a petition in court demonstrating compelling cause to release the record. This privacy protection has been the state of the law for decades, although there have been numerous attempts to change it. This bill once again attempts to open access to adoptees and their descendants to access an adoptee's original birth certificate by requiring the State Registrar to make the original birth certificate available once the adoptee is 18. The sponsors of this measure, an organization representing the interests of adoptees, contend that this is a matter of civil rights and claim that they are entitled to their original birth certificate simply because it is theirs. However, there are a number of policy concerns, including the privacy interest of the birth parents, although the sponsors contend there is no such interest. These concerns are discussed in this analysis, along with some proposed amendments that may strike a better balance.*

*This bill is sponsored by the California Alliance for Adoptee Rights (CAAR). The bill enjoys additional support from organizations representing adoptees across the country and various adoption organizations. There is no known opposition. This bill was previously referred to the Committee on Health but due to logistical challenges related to the upcoming legislative deadlines, the bill was re-referred and will now only be heard by this Committee.*

**SUMMARY:** Makes previously sealed original birth certificates available to adoptees and the descendants of deceased adoptees. Specifically, **this bill:**

- 1) Authorizes an agency to disclose personal information in a manner that would link the disclosed information to the individual to whom it pertains, beginning on July 1, 2028, if the information is disclosed to an adopted person, or descendant of a deceased adopted person, limited to the adopted person's original birth certificate.
- 2) Defines "original birth certificate" to mean the birth certificate issued at a live birth of an individual that has been sealed and supplanted pursuant to existing law relating to adoptions.
- 3) Strikes the ability of adoptive parents to request that an adopted child's new birth certificate not include the specific name and address of the hospital or other facility where the birth occurred, the color and race of the parents, or both.

- 4) Strikes the ability of adoptive parents to request an amended birth certificate that omits the specific name and address of the hospital or other facility where the birth occurred; the city and county of birth; or the color and race of the parents.
- 5) Makes inoperative on July 1, 2028 the statute restricting all records specified in Article 2, Chapter 5, Part 1, Division 102 of the Health and Safety Code relating to adoption, including an original birth certificate, a California court report of adoption, and an out-of-state court report of adoption received by the State Registrar, from being made available only upon the order of the superior court of the county of residence of the adopted child or the superior court of the county granting the order of adoption.
- 6) Does all of the following beginning July 1, 2028:
  - a) Requires the State Registrar, notwithstanding any other provision of law, to provide to an adopted person who is 18 years of age or older and who was born in California, or to a person 18 years of age or older who is a descendant of a deceased adopted person who was born in California, a copy of the adopted person's original birth certificate previously filed with the State Registrar.
  - b) Requires the adopted person or descendant of a deceased adopted person to make the request to the State Registrar to receive a copy of an original birth certificate. Requires the copy of the original birth certificate to clearly indicate that it may not be used for identification purposes.
  - c) Requires all procedures, fees, and waiting periods relevant to accessing vital records and applicable to a nonadopted person's request for a copy of a birth certificate to be applied to requests made pursuant to 6) a).
  - d) Requires the State Registrar to provide a copy of the contact preference form, if such a form is attached to an original birth certificate, at the time the original birth certificate is produced to the adopted person or the descendant.
  - e) Makes all records and information specified in Article 2, Chapter 5, Part 1, Division 102 of the Health and Safety Code relating to adoption, other than the newly issued birth certificate, available only upon the order of the superior court of the county granting the order of adoption, and only after good cause is shown for granting the order.
- 7) On or before July 1, 2028, requires the State Registrar to make available to the public a contact preference form. Requires the contact preference form to include the following selections to be completed at the option of the birth parent:
  - a) "I would like to be contacted."
  - b) "I would prefer to be contacted only through an intermediary."
  - c) "I would prefer not to be contacted at this time. If I decide at a later time that I would like to be contacted, I will submit an updated contact preference form to the State Department of Public Health."

- 8) Requires the contact preference form to also include an additional blank space for the birth parent to provide any additional information they choose.
- 9) Requires the State Registrar to do the following if a birth parent of an adopted person submits a completed contact preference form to the State Registrar:
  - a) Match the contact preference form to the adopted person's original birth certificate;
  - b) Attach the contact preference form to the original birth certificate;
  - c) Replace any previously filed contact preference form with a newly completed contact preference form.
- 10) Makes a contact preference form submitted to the State Registrar a confidential communication between the birth parent and the adopted person or descendant of a deceased adopted person and, notwithstanding any other law, limits its release as provided under 6) e).
- 11) Requires the State Registrar, notwithstanding any other law, to announce and publicize the availability of the contact preference form utilizing a means of communication appropriate to inform the public effectively.

**EXISTING LAW:**

- 1) Provides that, among other rights, all people have an inalienable right to pursue and obtain privacy. (California Constitution, Article I, Section 1.)
- 2) Declares that the right to privacy is a personal and fundamental right protected by the California Constitution and that all individuals have a right of privacy in information pertaining to them. (Civil Code Section 1798.1, the Information Practices Act of 1977.)
- 3) Requires the Department of Social Services (DSS), with respect to adoptions in which the relinquishment for or consent to adoption was signed on or after January 1, 1984, to disclose the identity and address of the adopted person's birth parent to an adopted person 21 years of age or older if the birth parent has indicated consent to the disclosure in writing. (Family Code Section 9203.)
- 4) Requires DSS, at the time of the adoption, to tell the birth parent that the adopted person, upon reaching age 21, may request the name and address of the birth parent, and DSS must release this information if the birth parent consents in writing. Provides that the birth parents may check a box indicating whether or not they wish their name and address to be disclosed and may update this information at any time. (Family Code Section 8818.)
- 5) Prohibits, except where expressly permitted or required by statute, DSS or a licensed adoption agency from releasing information that would identify persons who receive, or have received, adoption services. (Family Code Section 9201 (a).)
- 6) Under a mutual consent registry, permits DSS or the licensed adoption agency to facilitate contact between an adult adopted person and his or her birth parents if each have filed a written consent with DSS or the agency. (Family Code Section 9204.)

- 7) Requires that, in an adoption proceeding, the adoption files are not open to inspection by any person other than the parties to the proceeding and their attorneys and DSS, except upon written authority of the judge of the superior court. Allows a judge to authorize any person to inspect the adoption files only in exceptional circumstances and for good cause approaching the necessitous. (Family Code Section 9200.)
- 8) Defines “descendants” to mean children, grandchildren, and their lineal descendants of all generations, with the relationship of parent and child at each generation being determined as specified. (Probate Code Section 6205.)
- 9) Requires every live birth, fetal death, death, and marriage that occurs in the state to be registered with the local registrar. (Health and Safety Code Section 102230.)
- 10) Requires the certificate of live birth to include specified information, including, among other things, the full name and sex of the child; date and place of birth as well as the full name, birthplace, and date of birth of each parent, including month, day, and year, and the parental relationship of the parent to the child. (Health and Safety Code Section 102425.)
- 11) Requires the State Registrar, local registrar, or county recorder, upon request and payment of a fee, to supply an applicant with a certified copy of the record of a birth, fetal death, death, marriage, or marriage dissolution registered with the official. (Health and Safety Code Section 103525.)
- 12) Requires, unless otherwise requested by the adopting parent, that the State Registrar issue a new birth certificate, bearing the names of the adoptive parents, when an adoption is recorded for a child born in California and the child’s birth certificate is on file with that office. (Health and Safety Code Section 102635.)
- 13) Requires the new birth certificate to bear the name of the child as shown in the report of adoption, the names and ages of the child’s adopting parents, the date and place of birth, and prohibits a reference to the adoption of the child from being made in the new birth certificate. Requires the new certificate to be identical with a birth certificate registered for the birth of a child of natural parents, except, when requested by the adopting parents, that it is prohibited from including the specific name and address of the hospital or other facility where the birth occurred, the color and race of the parents, or both. (Health and Safety Code Section 102645.)
- 14) Requires that the new birth certificate supplant any birth certificate previously registered for the child and shall be the only birth certificate open to public inspection. (Health and Safety Code Section 102680.)
- 15) Requires the original birth certificate and other records and information as specified, other than the newly issued birth certificate, to be available only upon the order of the superior court of the county of residence of the adopted child or the superior court of the county granting the order of adoption. Prohibits such order from being granted by the superior court unless a verified petition setting forth facts showing the necessity of the order has been presented to the court and good and compelling cause is shown for the granting of the order. Requires the clerk of the superior court to send a copy of the petition to DSS. Requires DSS to send a copy of all records and information it has concerning the adopted person with the

name and address of the natural parents removed to the court. Requires the court to review these records before making an order. (Health and Safety Code Section 102705.)

- 16) Requires, if the petition is by or on behalf of an adopted child who has attained majority, these facts to be given great weight, but makes the granting of any petition solely within the discretion of the court. Requires the name and address of the natural parents to be given to the petitioner only if they can demonstrate that the name and address, or either of them, are necessary to assist them in establishing a legal right. (*Ibid.*)
- 17) Prohibits an agency from disclosing any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the information is disclosed as follows:
- a) To an adopted person and disclosure is limited to general background information pertaining to the adopted person's biological parents, if the information does not include or reveal the identity of the biological parents; and,
  - b) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's biological parents. Prohibits the information, or the process for obtaining the information, from including or revealing the identity of the biological parents. Requires DSS to adopt regulations governing the release of information that require licensed adoption agencies to provide the same services provided by DSS, as specified. (Civil Code Section 1798.24 (q) and (r).)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:** According to the U.S. Department of Health and Human Service's Children's Bureau, between 2020 – 2022, an average of about 5,600 children were adopted in California each year. (U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Adoption Data* available at: <https://cwoutcomes.acf.hhs.gov/cwodatasite/adopted/index/>.) Birth parents may decide to relinquish their child for adoption for any number of reasons, from being unable to afford the care necessary to raise a child to simply not wanting to be a parent. In many cases, the decision to opt for adoption rather than raise a child themselves can be a challenging choice for a parent. Additionally, adoption itself can often bring long-term challenges to the adoptive family and, most notably, the adoptee. These challenges can include impacts on the adoptee's sense of identity: "If you were adopted and lack genetic, medical, religious, and other historical information about your birth family, you may want answers to questions that would help form your identity, such as why your birth parents placed you for adoption, what became of those parents, whether you have siblings, and whether you resemble your birth parents or extended family of origin in appearance or in other characteristics." (Child Welfare Information Gateway *The Impact of Adoption*, The Children's Bureau (October 2019) at p. 5.)

This bill targets a concern that adult adoptees, unlike most other people, are largely unable to obtain their original birth certificate and attempts to strike a balance between the understandable desire of some adult adoptees to know more about their backgrounds and histories, against the privacy interests of birth parents. According to the author:

In California, people have the right to access their own vital records—except adoptees. Sealing original birth certificates after adoption is an outdated and discriminatory practice

rooted in stigma, not necessity. In an era of DNA testing and genealogy databases, secrecy no longer exists. What remains is a policy that denies adoptees equal access to their own identity.

Withholding original birth certificates can also have real consequences, including limiting access to family medical history, cultural heritage, and critical health information. Adoptees deserve the same autonomy and dignity afforded to every other Californian.

SB 381 modernizes California law by ensuring adoptees have equal access to their original birth certificates. This bill also establishes a process to request an original birth certificate and considers the potential sensitivity of contact between the birth mother and an adoptee by requiring the State Registrar to create a nonbinding contact preference form for birth mothers, available for release when a request for an original birth certificate is made.

SB 381 is about equality, dignity, and bringing California's adoption laws into the modern era.

The bill undoubtedly identifies an understandable concern, and one that is emotionally fraught. Changes in this area of the law should be done cautiously and with an acknowledgement that birth parents who have decided to give their child up for adoption may make that personal and difficult decision *because* their identifying information will remain concealed. However, it is equally understandable that an adopted person, who did not play a role in the decision to be adopted, may wish to access information that they may understand to be foundational to their own identity. Also, birth parents may change their minds at some point, after giving up their child for adoption, and may be open to establishing a relationship with their children when they are adults. The Legislature has considered similarly narrowly crafted bills in the past, all aiming to ensure the greatest degree of privacy for birth parents while acknowledging the interests of adopted persons.

***Existing law relating to birth certificates and adoptions, briefly.*** When a child is born in California, existing law requires a record to be made of that birth, including the names of the birth parents and the location of the birth, among various other details. For the majority of the California-born population, that initial birth record will become their original, and only, birth certificate. People use their birth certificate for any number of administrative purposes such as obtaining a passport or applying for a marriage certificate. When a child is adopted, however, in many cases that original birth certificate reflecting the birth parents' names is supplanted with a new birth certificate bearing the names of the adoptive parents. Existing law does permit adoptive parents to request that a new birth certificate *not* be established. Absent that request, the child's original birth certificate is then sealed, along with the remaining adoption records including the court report of adoption. Existing law also allows adoptive parents to request the new birth certificate omit the specific name and address of the hospital where the child was born, and the color and race of the birth parents.

Once an original birth certificate is supplanted and the adoption records are sealed, the new birth certificate becomes the only record available for public inspection. The new birth certificate bears no indication that it is not an original birth certificate and does not reference the original birth certificate. In order to access any of the adoption records, a person must petition the superior court of the adopted child's county of residence, or the superior court that granted the adoption order. A court may only grant access to any of the records if the petition adequately sets forth facts showing the necessity of the order, and the court finds there is good and compelling

cause. If the petition is brought by or on behalf of the adoptee, the court is required to give the facts identified in the petition “great weight”, but it retains full discretion as to whether or not to grant the petition. The statute further specifies that the name and address of the birth parents may only be given to the petitioner if they can demonstrate that those facts are necessary to assist them in establishing a legal right.

There is very little case law under Health and Safety Code 102705, but Committee staff received anecdotal evidence that over the past ten years, Los Angeles County has received fewer than 900 petitions under the section. As Los Angeles County represents nearly a third of statewide civil filings, it seems reasonable to extrapolate that approximately 270 petitions may be filed annually requesting access to adoption records. It is not immediately evident how many of these petitions were granted, how many were filed by adoptees themselves, and what grounds may have been sufficient to justify a court granting the petition.

The Department of Social Services and licensed California adoption agencies also maintain a mutual consent registry. As thoroughly described by the Assembly Committee on Health in their analysis of this measure:

According to DSS’s website, an adoptee may complete a Consent for Contact form and submit it to DSS or the licensed California adoption agency that handled the adoption. If DSS or the licensed California adoption agency receives a consent form from the adult adoptee (18 years of age or older) and one from their birth parent(s), names and addresses can be disclosed to both parties so they may contact one another. The law prohibits DSS and licensed California adoption agencies from soliciting consents and providing search services for adoptees or birth parents. If an adoptee does not know which adoption agency handled their adoption, DSS can assist in finding that information. This process might result in an OBC being discovered in an adoption file, but as previously stated, only DPH maintains those official records. Additionally, according to the DSS “Adoptee Make Contact,” webpage, for adoptions completed after January 1, 1984, DSS or the licensed California adoption agency that handled the adoption can also disclose the name and address of an adoptee’s birth parent(s) if: the birth parent signed a relinquishment or consent for adoption or the parent’s rights were involuntarily terminated by court action after January 1, 1984; the birth parent signed an Adoptions Information Act Statement form granting permission for such disclosure; and, the adoptee submitted an Adoptions Information Act Statement form requesting disclosure of the name and address of the birth parent(s). The adoptee must be 21 years or older to complete the statement. (Assem. Com. on Health, Analysis of Sen. Bill No. 381 (2025 – 2026 Reg. Session) as amended May 21, 2026.)

In essence, the department functions as an intermediary between birth parents and adoptees to facilitate, in as many circumstances as may be appropriate, contact between the two parties.

***This bill*** aims to open access to California adoptees’ original birth certificates. Under its provisions, beginning July 1, 2028, the State Registrar would be required to provide an adult adoptee who was born in California, or their descendant if the adoptee is deceased, a copy of the adopted person’s original birth certificate. The bill applies the same procedures, fees, and waiting periods applicable to any other person requesting their birth certificate from the Registrar. Importantly, it appears the original birth certificate would remain confidential from the rest of the public, and the birth certificate created following the adoption would remain the only birth

certificate available for public inspection. Additionally, the bill maintains the remaining adoption records sealed and subject to release only by order of the court.

The bill also requires the State Registrar to develop and make available a “contact preference form” on or before July 1, 2028. The contact preference form must include specified sections to be completed by the birth parent, should they so choose, including an option for the birth parent to indicate any of the following:

- “I would like to be contacted.”
- “I would prefer to be contacted only through an intermediary.”
- “I would prefer not to be contacted at this time. If I decide at a later time that I would like to be contacted, I will submit an updated contact preference form to the State Department of Health.”

The form must also provide an additional space for the birth parent to include any other information they would like to. Upon submission by the birth parent, the State Registrar must attach the contact preference form to the relevant birth certificate and, if a birth parent submits a subsequent form, replace any previously filed form.

The bill also appears to strike existing authority for an adoptive parent to request that the child’s new birth certificate, reflecting the adoptive parents names, not include the specific name and address of the hospital or other facility where the birth occurred, or the color and race of the parents, or both. The bill also strikes a statute authorizing an adoptive parent to request a subsequent amended birth certificate after the initial new birth certificate that supplants the original birth certificate that omits any of those elements, as well as the city and county of the child’s birth. Recognizing that the goal of this measure is transparency, it is not immediately clear what this provision aims to achieve. The statutes amended by this bill reference only the *new* birth certificate, not the original birth certificate. Because this bill aims to grant access to the adoptee’s *original* birth certificate, whether or not an adoptive parent requests information be changed on the *new* birth certificate is arguably irrelevant to the underlying aim of the measure.

**Privacy concerns.** The sponsors of this measure argue that birth parents cannot truly have an expectation of privacy, due to the various ways identifying information about them now can be discovered including genealogy testing services such as 23andMe. They also identify various court processes that grant access to the original unredacted birth certificate to adoptive parents and adopted individuals, outside of a procedure such as the one considered here. According to these organizations, the sum of these methods amounts to a complete erasure of any expectation of privacy.

While it is undisputed that an adoptee may use existing private companies and DNA testing to identify their birth families, it is not a foregone conclusion that birth parents do not retain any expectation of privacy. The California Constitution expressly guarantees an inalienable right to pursue and obtain privacy. Since 1935 when California sealed original birth certificates, California state courts have not specifically addressed the birth parent’s right to privacy in adoption records. In the event that adoption records become unsealed, the California Supreme Court’s decision in *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal. 4th 1, provides guidance on how to determine and balance privacy rights against other competing factors. *Hill* established a three-prong test to determine a cause of action for violation of the state

constitutional right to privacy: (1) a legally protected privacy interest, (2) a reasonable expectation of privacy in the circumstances, and (3) conduct by the defendant constituting a serious invasion of privacy.

For the first element of the *Hill* test, these adoption records could implicate both informational privacy and autonomy privacy. On the one hand, the statute may not constitute a “dissemination or misuse” of identifying information since the disclosure is limited to the adult adoptee or their descendants if the adoptee is deceased. On the other hand, the release of an original birth certificate bearing a birth parent’s name could very well implicate autonomy privacy. As described by the court in *Hill*, autonomy privacy refers to “interests in making intimate personal decisions or conducting personal activities without observation, intrusion, or interference[.]” (*Hill* (1994) 7 Cal. 4th at 35.) Although the proposed statute does not make *all* adoption records available, it nevertheless requires the *state* to release a birth parent’s name in a proceeding relating to an undeniably intimate and personal decision, recognition of which may constitute observation or intrusion.

The second element of the *Hill* test requires the plaintiff to have a reasonable expectation of privacy in the information. Strong arguments exist on both sides. A birth parent may not have a reasonable expectation of privacy since the process is already open in various ways, particularly since the advent of commercial genetic testing kits provided by companies such as 23andMe. Birth records are not sealed at the time of relinquishment, but rather at the time of adoption, and adoptive parents, as parties to the action of adoption, already have a right to view the file and may choose whether to even have a new birth certificate issued and the original sealed. These choices reflect the birth parent’s existing lack of privacy in the adoption process.

However, numerous statutory provisions guarantee implied, perhaps even explicit, confidentiality to the birth parent. For example, under existing law, a new, amended birth certificate supplants any previously registered birth certificate and is the only one open to public inspection. Additionally, the state must, at the time of the adoption, inform the birth parent that the adoptee, upon reaching age 21, may request the name and address of the birth parent, and the DSS must release this information if the birth parent consents in writing. The birth parent is asked to check a box indicating whether or not they wish their name and address to be disclosed and they are also told that they can update this information at any time. A birth parent may also request the court to order the county clerk not to provide documents for inspection or copying to any other person unless the name of the birth parents or any identifying information related to them is redacted.

The third element of the *Hill* test requires a serious invasion of the privacy interest by the defendant. The *Hill* Court stated that an actionable invasion of privacy must be sufficient in “nature, scope, and actual or potential impact to constitute an egregious breach of the social norms underlying the privacy right.” Having relied on the confidentiality guaranteed by the system, birth parents who wish to remain anonymous may argue that they face a serious invasion of privacy.

Even if a court finds a protected right to privacy, this right is not absolute and must be balanced against other important interests. The adoptee has an important interest in accessing information about their origins. While some states have opened their adoption records, many others have struck the balance in favor of the birthparent’s confidentiality.

**Policy concerns.** Regardless of whether a court would find that allowing disclosure of previously confidential original birth certificates constitutes a violation of birth parent's right to privacy, there are other significant policy implications for the proposed measure.

First, the sponsors contend that the original law sealing original birth certificates was initially enacted to protect adoptive families and adoptees, not birth parents. However, the original underlying motive for the statute does not negate the fact that decades of birth parents may be relying on the promised confidentiality. Moreover, while the sponsors also point to the fact that there has been no opposition to the bill, it is not entirely fair to point to a lack of opposition from a population that is attempting to maintain confidentiality as an indication that there is no potential harm or distress that could stem from the proposed change in the law. Additionally, while the bill enjoys support from some birth parents and such support is meaningful, it also does not indicate the position of birth parents who do not wish to be identified. It merely indicates that *these* birth parents support the proposed change.

As with every element of reproductive health decision making, the choice to put a child up for adoption is a personal one. Ultimately, someone's choice to pursue adoption, regardless of the reasons behind it, is a decision to terminate, or never initiate, a parental relationship with a biological child. A birth parent may elect to continue with a pregnancy based on the promise of a closed adoption and the knowledge that no other individual, including the child, will know the birth parent's identity. While some birth parents may later come to change their mind, their initial decision is not one that should be modified without at least alerting the birth parent to its possibility. While it is true that DNA testing programs exist, and many people may in fact be able to identify their birth parents through them, their availability does not necessarily lead to the conclusion that the Legislature should lead the way in breaking down the protections that birth parents may rely on.

There is no doubt that an adoptee's inability to access their original birth certificate poses frustrating circumstances for those who wish to obtain that aptly named vital record. It is a challenging truth that a person's life may be fundamentally altered through decisions made by people who the child has never met and without any input from the child. That is, at its core, unfair. However, the reality that such circumstance is unfair does not, standing on its own, justify a wholesale change in the status quo. As mentioned numerous times already, birth parents may be going through life on the understanding that the original birth certificate bearing their name will never be released absent their consent and to pull that shield away without any forewarning or opportunity to object may ultimately just replace one unfairness with another.

It seems that the author and sponsors have acknowledged the potential impact on birth parents should this measure go into effect. They have incorporated two provisions into this bill in an attempt to stem any harm: the "contact preference" form and a requirement that the State Registrar announce and publicize the availability of the contact preference form.

There are a couple notable points about both. First, the contact preference form, while potentially informative to the adoptee, is not binding in any meaningful way. Should a birth parent indicate that they would prefer not to be contacted, it seems an adoptee is free to ignore that preference completely. Therefore, while it may be instructive to the *adoptee* and potentially allow them to better prepare themselves for disappointment in the event their birth parent reacts negatively to any outreach, it does next to nothing to protect the privacy and wellbeing of the birth parent. Second, while somewhat helpful in notifying birth parents of the already-changed law, the

requirement that the State Registrar “announce and publicize the availability of the contact preference form” would only serve to alert birth parents who may be paying particular attention to the actions of the State Registrar that there is a new form available. While these provisions potentially provide some avenue for birth parents who truly wish to have no contact from the adoptee to communicate as much, it seems entirely likely that many, if not most, birth parents in that situation may have no say whatsoever in the availability of a document which they previously understood to be confidential.

**Potential amendments.** Understanding the sponsors’ deep investment and understandable desire to access their original birth certificate, the author may wish to consider the following amendments to better balance the interests of all involved.

*A mutual consent registry for birth certificates.* As suggested by the Assembly Committee on Health, *the author may wish to consider requiring the State Registrar to disclose a copy of the adoptee’s original birth certificate if the birth parents have indicated written consent to the disclosure.* Additionally, the previously proposed amendments suggested authorizing the Department of Public Health to disclose a copy of the original birth certificate with the birth parents’ personally identifying information redacted if one or both birth parents declined to consent. In order to ensure that adoptees still had an avenue to obtain their full unredacted birth certificate in the event one or both parents refuses to consent, the amendments proposed by Health Committee would have also reinstated the court process in existing law.

*Advertisement of the change in the law.* As previously discussed, this measure only requires the State Registrar to “announce and publicize the availability of the contact preference form utilizing a means of communication appropriate to inform the public effectively.” While it is possible that notice of the contact preference form itself may allow birth parents to deduce a potential change in the law, this provision on its own is insufficient to ensure that birth parents will be made aware that the original birth certificate bearing their names may be made available to the adopted person. As such, *the author may wish to consider requiring the State Registrar to provide individual notice to birth parents whose address is on record with the Registrar of the change in the law.* The sponsors contend that this measure is also supported by California birth parents who wish to have greater contact with their birth children. By engaging in a meaningful notice campaign, this amendment would not only allow an adoptee potentially greater access to both their birth parents’ information and original birth certificate, but also allow birth parents themselves greater latitude to engage with their birth child. Acknowledging the potential financial impact of such a requirement, *the author may otherwise wish to consider expanding this provision to require the State Registrar to engage in a meaningful notice campaign designed to provide birth parents reasonable notice of the change in the law, including that an adopted child may request their original birth certificate in full absent consent from the birth parent, before the law actually changes.* In order to achieve this campaign, *the author may also wish to consider further extending the bill’s delayed implementation date to allow the State Registrar sufficient time to appropriately notice birth parents in the state.* It is no secret that the state is facing harsh budgets, and that departments across the state are clamoring for more funding to provide for their current programs. However, a lack of funding is no excuse to enact a policy change that undoes decades of an expectation of confidentiality without appropriate notice. Therefore, if the author is concerned about potential financial implications of this measure in its most complete form that acknowledges the interests of birth parents as well as adoptees, *the author may wish to consider waiting until there is a healthier budget that would allow the Registrar to engage in an appropriate notice campaign.*

*Prospective application.* Finally, *the author may wish to consider making this bill applicable on a prospective basis.* There is no doubt that the sponsors of this measure, who are adoptees themselves and therefore have intimate first-hand experience with the impact of restricted access to their original birth certificates, have touched on a matter of significant and meaningful concern. There is also, as repeatedly mentioned in this analysis, the interest of birth parents that the Legislature must weigh against that of the adoptees. As discussed already, the circumstances invoked by this measure involve an unfairness to adoptees and a potential unfairness to adopted parents. It is an undeniably challenging circumstance, one filled with justifiably heightened emotions. Acknowledging there is an interest in accessing original birth certificates and that other states have seemingly successfully done so, as well as the fact that upending decades of the status quo that many birth parents may be relying on, it seems that an approach, which may admittedly be potentially insufficient to the current sponsors of this measure, to make the bill prospective in nature and allow adult adoptees adopted on or after July 1, 2028 to access their original birth certificates may strike the appropriate balance.

**ARGUMENTS IN SUPPORT:** This bill is sponsored by the California Alliance for Adoptee Rights (CAAR). The bill enjoys additional support from organizations representing adoptees across the country and various adoption organizations. In support of their measure, CAAR submits:

Adoptees are asking only for their own birth record, a vital record issued by the State for all live births. It is independent from and precedes any future adoption or adoption records. Adoptees are the only group of people born in California denied access to their true birth record. Adoptees want and deserve their OBC simply because it is theirs. In passing similar laws in other states, legislators have recognized that it is a fundamental human right to have access to one's OBC. It is a matter of transparency, dignity, and equal rights. SB 381 restores equal rights to adoptees by giving them access to their OBCs.

In addition, granting access will avoid the negative consequences that can arise from not having one's OBC. Of significance to this committee are potential health risks from not having access to family health history, including missed preventive measures, incorrect diagnoses, and delayed or ineffective treatments, all of which might result in multi-generational harm. As a result, adoptees and their descendants might face higher health costs from having to treat diseases that could have been prevented with accurate information. Further, it is critical to one's mental health and integral to one's identity to have information about one's biological, historical, and cultural roots. Adoptees might also be denied membership in groups to which they belong (such as Native Americans) without their OBC to prove their lineage. And, without their OBC, adoptees adopted at an older age (often from foster care) might be denied a passport if the filing of their amended birth certificate is more than one year after their date of birth. Finally, maintaining secrecy perpetuates the stigma and shame previously associated with being adopted.

The law sealing adoptees' OBCs was passed back in the 1930's to protect adoptive families and adoptees, not birth parents. This intent is further supported in how the law is implemented; first, relinquishment alone doesn't lead to sealing (only adoption does) and second, there is no wholesale prohibition against access as there are exceptions – notably, courts retain discretion, with no notice to or input from birth parents, to grant access to one's OBC upon a proper showing. Courts and legislators in other states have concluded under

similar circumstances that there is thus no guarantee of, nor even a reasonable expectation of, confidentiality that would preclude granting access.

Not insignificantly, the large majority of birth mothers support providing adoptees access to their OBCs. Birth mothers say they might have wanted confidentiality from their community or their family at the time they relinquished, but they never wanted nor were they promised confidentiality from their own child. This is a women's rights issue and an adoptee rights' issue. Women don't want the government trying to "protect" them or speak for them, and don't want their voices as birth mothers weaponized against adult adoptees. Birth mothers and birth mother organizations have submitted numerous letters of support, including one letter with over 1,300 signatures, and have likewise appeared at our hearings in large numbers to offer support on the record. They have shown up time and time again across the country to provide support for similar bills.

[...]

Even if a birth parent hopes for confidentiality from their child despite the lack of a guarantee or of a reasonable expectation thereof, modern technology with DNA testing has made anonymity nonexistent. Birth parents know they can be found. The current law does not prevent learning one's identity or contacting one's parents. Our goal is not contact but, simply, to gain access to our OBC and our true identity. But it is worth noting that SB 381 will provide access to one's identity in a far less intrusive way that is more private for all parties. When access is denied, people are forced to turn to DNA testing, with an ensuing family whisper campaign as relatives try to figure out who relinquished a child. By contrast, SB 381 will give access to exactly one person – the adoptee (or his/her direct descendant if the adoptee is deceased). Furthermore, with the contact preference form (CPF), SB 381 provides something that birth parents don't have when reached by DNA testing – opportunity for a direct, confidential communication to their child to (1) state contact preference (which might have changed since relinquishment) and (2) through additional blank spaces on the CPF, provide whatever information they'd like (e.g. explain why they do or don't want contact /provide updated health information/say anything at all). In fact, there might be birth parents, particularly older ones, who have been searching for their child and perhaps won't find them before they die but will now have an opportunity to say something to their child should their child one day request their OBC.

Seventeen states now provide adult adoptees with unrestricted access to their OBC, and bills are pending in both South Carolina and Pennsylvania in addition to California. Hundreds of thousands of OBCs have been released over several decades (and, in the case of Alaska and Kansas, which never sealed their records, far longer). The benefits to adoptees have been huge (positive identity development, psychological benefits, health history knowledge, etc.), whereas there have been no known negative consequences. There have been court challenges in only two states (Oregon state, and Tennessee state and federal claims), both during the 1990's, and the courts upheld the laws granting access, finding no violation of the state contracts clause, and concluding that providing an adoptee with his own birth record would not trigger any statutory or constitutional right to privacy concerns. There have been no challenges since.

[...]

Access is supported in law, and SB 381 endorsed by adoptees, birth and adoptive parents, lawyers and mental health professionals working with all members of the adoption triad, organizations making policy recommendations within the foster care and adoption arena, and more. There have been only positive results in the states that provide access. Knowing where you come from should not depend on court order, parental approval, or luck. Providing unrestricted access will restore equal treatment and align California with the growing national trend for truth and fairness. For these reasons, we respectfully urge a YES vote on SB 381.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Alliance for Adoptee Rights (CAAR) (sponsor)  
Academy of Adoption and Assisted Reproduction Attorneys  
Adoptee Advocates of Michigan  
Adoptee Rights Law Center PLLC  
Adoptees' Liberty Movement Association (ALMA)  
Adoption Knowledge Affiliates  
Bastard Nation: the Adoptee Rights Organization  
California Alliance of Child and Family Services  
California Association of Adoption Agencies  
Catholic Mothers for Truth & Transparency  
Concerned United Birthparents  
Ethical Family Building  
Mothers for Open Records Everywhere  
National Center on Adoption and Permanency  
Saving Our Sisters - Sos, Incorporated  
Women's Collective for Adoptee Equality

**Opposition**

None on file

**Analysis Prepared by:** Manuela Boucher-de la Cadena / JUD. / (916) 319-2334