

Legislation in Delaware Grants Adoptees Access to Original Birth Certificates

by Carolyn Hoard

In 1995 I was invited to participate on a task force formed by the Delaware Division of Services for Children, Youth and their Families. We were to review the 1994 draft of the Uniform Adoption Act (UAA) and, if acceptable, present it to the Legislature for possible enactment into law. Never in my wildest dreams did I expect the UAA to lead to a bill which will permit many Delaware adoptees to obtain their original birth certificates, but that is just what happened.

Unlike most states, Delaware does not allow attorney-assisted adoptions; all adoptions must be processed by a licensed adoption agency. Therefore, on the direct placement issue alone, the UAA was controversial. The makeup of the task force was also controversial: nine social workers, five attorneys and/or judges; three legislators; three adoptive parents; one adoptee; and one birth mother. Two members, Judge Battle Robinson and attorney Joel Tenenbaum, had participated in the drafting of the 1994 UAA.

After 18 months of meetings, Delaware's version of the UAA was introduced as House Bill 365. The single most divisive issue continued to be direct placement and, since the task force was unable to unanimously endorse the bill, a decision was made to hold public hearings. From those hearings House Bill 522, the bill which gives adoptees the right to obtain their original birth records, was born.

Those of you familiar with the UAA know that it seals birth records for 99 years. It also imposes criminal and financial penalties on individuals who

divulge or accept unauthorized identifying information. No matter how much we addressed the issue of direct placement, and its lack of safeguards for children, the rallying cry among adoptees in Delaware became sealed records. The first public hearing drew a crowd of 85 to 100. Of the 20 speakers, two supported the UAA, four spoke against direct placement, and 14 spoke against sealed records. The second hearing was attended by 60 to 65 people, including Representative Wallace Caulk, an adoptive parent, his daughter Shawn, and Shawn's birth grandparents. By the end of the evening, Representative Caulk had vowed to do away with sealed records in Delaware. He introduced House Bill 522, giving adoptees the right to a non-certified copy of their original birth record at age 21, on March 27, 1998. After a well-attended House Committee hearing, it was sent to the full Republican-led House of Representatives where it passed 39-0 with two absent.

On to the Democratic-led Senate where we faced a formidable challenge from a longtime Senator, Steve Amick, an attorney and adoptive father. At every opportunity he spoke against the bill and, along with Catholic Charities, garnered enough support that we were forced to accept an amendment or face defeat in the Senate. With the amendment, birth parents may come forward and file a disclosure veto; the veto expires unless it is renewed every three years.

Even with the amendment, and despite it being 2:00 in the morning of July 1, the bill caused a debate in the Senate. It was only after Senator Dori Connor, an adoptive mother, rose and asked the members to pass the bill for her sons that they did just that at 2:15 a.m. by a vote of 15 to 5! What an exhausting but exhilarating experience! Little did we know that we were not home free.

On Saturday, July 18, the last day on

which the Governor could sign or veto legislation, our sponsor received a call from Governor Carper's legal counsel, stating that there had been a misunderstanding about the bill being retroactive. HB 522 is a concise, three-page bill that does not contain any date restrictions. In a letter of opposition to the House of Representatives, Catholic Charities acknowledged that it was retroactive. The amendment was written to cover birth parents who had relinquished children years before. We find it inconceivable that there was a misunderstanding. Fortunately, a few weeks earlier Governor Carper had written a letter in support of the bill and, at the 11th hour, he signed HB 522 into law. It is effective January 18, 1999.

There are still a few hurdles to overcome. We have been meeting with the Governor's staff to work out procedures for notifying birthparents of the new law. It is anticipated that Vital Statistics will make a reasonable effort to notify a birthparent identified on the original birth certificate at the time an adoptee applies for a copy. If the birthparent does not file a written disclosure veto within a specified time, most likely 30 to 45 days, or if no response is received, the original birth record will be released. Meanwhile, Senator Amick has been re-elected and has stated he intends to reintroduce the UAA in the next legislative session.

[*Note: Carolyn Hoard, the State Representative for Delaware, was recently appointed to the Board to serve in the position of chair of the Legislative Committee. For updated information, contact Carolyn by email: choard@herc.com.*]

Access to Records Bill in Massachusetts

A bill granting adult adoptees access to their birth records, without restriction, has been introduced in Massachusetts. For more information, contact New England Regional Director Deb Schwarz at (617) 624-4364 or debspr@aol.com.