



Date: March 22, 2015

To: Judiciary Committee Co-Chairs Senator Eric Coleman and Representative William Tong and Members of the Judiciary Committee:

From: Karen Caffrey  
President, Access Connecticut Now, Inc.

**Re: Senate Bill 1067: An Act Concerning A Biological Parent's Access To Certain Documents In Cases Involving A Voluntary Termination Of Parental Rights**

I am the President of Access Connecticut, the grassroots adoptee rights organization that advocated for Public Act 14-133. This law restored the right of adult adoptees over the age of 18 whose adoption was finalized after October 1, 1983 to obtain a copy of their original birth certificates.

Last year, some concerns were raised based on the belief that biological parents were promised confidentiality from their adult offspring. In fact, Public Act 14-133 extended the right of access only to adoptees whose adoption were finalized after October 1, 1983, because after that date every biological parent who voluntarily terminated their parental rights signed Form JD-JM-60. The Form is a sworn Affidavit containing a notice provision that the adult offspring of the biological parents might learn the parent's identity or the identity of other blood relatives once they reached age 18. Such a notice provision is, of course, inconsistent with a claim of guaranteed confidentiality.

Access Connecticut believes that the right to know one's origins is a basic human and civil right that cannot be bargained away by the state or others, however well-intended those others might be. We support Senate Bill 1067 because by granting biological parents the right to obtain their relinquishment documents more complete and accurate information will be available to guide future decision making regarding issues of adoptee rights and adoption policy.

I ask you to approve of Senate Bill 1067, for the following reasons:

- 1. It will ensure that biological parents have the legal right to obtain their relinquishment documents. These documents contain unique information that will dispel the myth that birth parents made agreements which promised confidentiality, anonymity or secrecy from their adult offspring.**

2. **It will help determine whether any adoption agencies, attorneys, or others made agreements of confidentiality contrary to existing statute prior to 1975, when access to original birth certificates by adult adoptees and adoptive parents of minors was the law.**
3. **It will help undo the chilling effect of decades of stigma against biological parents who voluntarily relinquished their children, which has deterred many from seeking to obtain copies of their relinquishment documents.**
4. **It will remedy practical barriers that prevent biological parents from obtaining relinquishment documents from their Probate Court files, even though that is theoretically possible under existing law.**
5. **It will provide biological parents with access to relinquishment documents that may not exist anywhere else, even in the Probate Court files on their termination of parental rights.**

Sincerely,

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## **Discussion**

**1. Senate Bill 1067 will ensure that biological parents have the legal right to obtain their relinquishment documents. These documents contain unique information that will dispel the myth that birth parents made agreements which promised confidentiality, anonymity or secrecy from their adult offspring.**

A prevalent myth surrounding adoption is that birth mothers made a bargain, a contract, to give their children away in exchange for a promise that those children would never be able to learn their identity. This myth was based on a powerful societal stigma against women's sexuality, particularly regarding sex outside of marriage.

The shame of pregnancy out of wedlock (evidence of sexual activity) was placed solely and squarely on the shoulders of the woman, and not the man who had sex with her. It was the woman who was judged. It was the woman who was kicked out of high school, censured for being "loose", a "slut" or a "sinner", and sent away to a maternity home. It was the woman who was provided no other options than to surrender her child, and who was told the false myth that she would forget the horror that had been done to her by her family, her church and her society.

Society constructed the myth that these women *deserved to be shamed and thus wanted secrecy from their children to hide their shame* to justify this inhuman and unnatural treatment. Because if they didn't deserve it, if instead they really wanted to parent their children, or to know they were growing up okay, or at least to know that sometime in the future they would see their children again, then society would have to admit what a horrible thing had been done to them. (Extensive, personal accounts of these events are contained in Ann Fessler's "The Girls Who Went Away", Penguin Books, 2006.)

Today, we recognize the error of this past way of thinking. The vast majority of young women who bear children out of wedlock today choose, and are able, to parent them. Those who do relinquish insist on receiving information about their children while they are growing up and when they become adults. The end of secrecy in adoption is being driven by birth mothers as much as by adoptees, who are secondary victims of shame by loss of their birth identity.

Given the historical environment, it was the almost universal practice of adoption agencies to not provide biological parents with copies of their relinquishment documents. Why would anyone want a copy of papers which proved they had done such a horrible thing? And due to the statutory and practical impediments to obtaining them after the fact, few biological parents have been able to obtain them. Senate Bill 1067 will remove at least one of these impediments, by guaranteeing Connecticut biological parents the right to obtain a copy of their relinquishment documents from the adoption agencies which possess them.

To date, the rare relinquishment documents that have been obtained do not contain a single promise or representation of confidentiality, privacy or anonymity. (See "Surrender and Subordination: Birth Mothers and Adoption Law Reform. Elizabeth J. Samuels. University of Baltimore School of Law 2013, 20 Michigan Journal of Gender and Law 33 (2013) ) In fact, a few state the birth mother guarantees she will not interfere with the adoptive family or the child. This is the *opposite* of a promise of confidentiality.

**2. Senate Bill 1067 will help determine whether any adoption agencies, attorneys, or others made agreements of confidentiality contrary to existing statute prior to 1975, when access to original birth certificates by adult adoptees and adoptive parents of minors was the law.**

Prior to 1975, Conn. Gen. Stat. Section 7-53 clearly stated that adult adoptees, adoptive parents of minors and third parties with a written court order could obtain a copy of the adoptee's original birth certificate which identified the biological parents. The law was, or should have been, known by adoption agencies and lawyers at the time. Prior to 1975, anyone who told a woman, her parents or her legal guardian that her relinquished adult offspring (or her child's adoptive parents) would not be able to learn her identity would have been misinforming her about the law.

In fact, the adoption agency which handled my adoption was so familiar with the law that they did not hesitate to provide my adoptive parents with my birth name. They also told my birth mother that when I was 18 I would have the right to know her identity.

Adoption agencies are licensed by the state, as are the social workers employed by them. Although neither is licensed to practice law, they are charged with being familiar with the law regarding adoption practices. I am aware of at least one adoption agency that appeared to have a practice of engaging lawyers to advise birth mothers on the legal consequences of terminating their parental rights, and requiring the birth mother to sign a document indicating that legal advice was given to her. Prior to 1975, lawyers correctly advising these women on their rights under the law could not have promised them confidentiality from their adult offspring.

**3. Senate Bill 1067 will help undo the chilling effect of decades of stigma against biological parents who voluntarily relinquished their children, which has deterred many from seeking to obtain copies of their relinquishment documents.**

Enacting a law which explicitly guarantees biological parents the right to their relinquishment documents is necessary to undo the chilling effect of decades of stigma and shame. Women relinquishing a child were told in so many ways that they were bad, they had no rights, and what happened to them was all their fault. As a society, we need to take affirmative steps to correct these past wrongs. Affirming that birth mothers, and birth fathers, have the right to obtain a copy of any written document they signed is a step in this direction. It will help birth parents heal wounds from their own past. And it will significantly increase the availability of accurate information about a period in our history that is shrouded in myth and misinformation.

**4. Senate Bill 1067 will remedy the practical barriers that prevent biological parents from obtaining relinquishment documents from their Probate Court files, even though it is theoretically possible under existing law.**

Historically, Connecticut adoption agencies required biological parents to sign waivers of notice of their termination of parental rights (TPR) hearings. As a result parents do not know which probate court has their file. Historically there was also no uniform practice on the part of adoption agencies as to which probate court the TPR was filed in. For example, I was born in Middletown, my biological parents resided in Higganum, the adoption agency was in Hartford, my adoptive parents lived in Orange, and I was in foster care in Southington (a fact of which my birth parents were unaware). Guess where my birth parent's TPR papers were filed? Southington. They never knew this.

Furthermore, neither the Office of the Probate Court Administrator nor DCF maintains an index of voluntary TPR proceedings. So there is no central registry where a biological parent can learn which Probate Court has their TPR file. Prior to consolidation in 2009, there were over 100 Probate Courts in Connecticut. Currently there are 54. A biological parent might, in theory, have to inquire of every probate court in the state to find their file, a project which would be extremely time consuming and burdensome. In contrast, every biological parent knows what adoption agency they worked with and would only need to make a single request to obtain their relinquishment documents from that agency.

**5. Senate Bill 1067 will provide biological parents with access to relinquishment documents that may not exist anywhere else, even in the probate court file on their termination of parental rights.**

Based on information received from the Probate Court Administrator's office, Access Connecticut has learned that prior to the promulgation of JD-JM-60 on October 1, 1983 there was no single court form used to obtain the consent of biological parents to voluntary termination of their parental rights and responsibilities. A few rarely obtained relinquishment documents, as well as anecdotal reports from biological parents, indicate that adoption agencies created various self-generated forms for this purpose. However, these forms were not always filed in the TPR proceeding with the Probate Court. Further, some Probate Courts have culled and microfiched older TPR files, resulting in the loss of documents that now may still exist only in adoption agency files (which are mandated by statute to be kept in perpetuity.)

