



January 18, 2023

The Honorable Wendell S. Walker  
Chair, Subcommittee #3  
Committee on Health, Welfare and Institutions  
Virginia House of Delegates  
1000 Bank Street  
Richmond, VA 23219

**RE: FAVORABLE REPORT ON HB1969**

Dear Chairman Walker and Members of the Subcommittee:

I am the executive director of Adoptees United Inc., a national nonprofit organization dedicated to equality for all adopted people. I am also an attorney and the founder of Adoptee Rights Law Center, a law firm where I represent adult adopted people. I am considered a national expert on issues related to adult adopted people and their rights to identity, heritage, and citizenship. I have testified in legislatures across the country on bills that impact adopted people. I write to you personally, on behalf of hundreds of thousands adopted people in Virginia and across the country, and in my capacity as an attorney. **I ask that you report HB1969, with one minor amendment,<sup>1</sup> favorably to the full Health, Welfare and Institutions Committee.**

The issue HB1969 raises is fundamentally about fairness to the person whose own record is at stake: the adopted person. More importantly, as legislators in a number of diverse states have recently pointed out—most notably last year with Louisiana and Vermont’s passage of similar bills—there can be no alleged “state promise” of anonymity for birthparents when 1) the vital record is not their own; and 2) a promise of anonymity is impossible.

If there is one thing I hope to get across to members of the subcommittee it is this: state enforcement of a non-existent promise of anonymity actually *undermines birthparent*

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<sup>1</sup> The bill likely needs to be amended to indicate that the Virginia Department of Health, rather than the Virginia Department of Social Services, is authorized to release a copy of the adopted person’s original (pre-adoptive) birth certificate. The VDH holds that record as part of its vital records division.

*privacy* (which is different from anonymity), *incentivizes the use of other effective tools* (most prominently DNA testing), and *makes the entire situation worse for all persons and families involved* (by spreading personal information across the family, often through generations). This is best shown by the attached illustrations. In the first one, the adopted person requests his or her own original birth record at age 18—as proposed in HB1969—and he or she receives it in a few weeks, like all other Virginians. That’s it. The adopted person may do nothing with that single piece of paper, other than to confirm information already known. Or the adopted person may seek to find out more information about parents listed on the record—though increasingly, adoptees discover that their birthparents are now deceased. But they are not forced to contact multiple family members across generations to identify a birthparent, often asking very personal questions, such as “do you know someone in the family who relinquished a child for adoption in 1968.”

**This is what the second illustration shows, and it is the result of the state incentivizing the most effective tool left to adoptees who are not provided their own birth record on request: consumer DNA testing.** As you can see from the illustration—which is something I have witnessed multiple times in representing adult adopted people—inexpensive consumer DNA testing often lead to second or third cousin matches. These matches are then contacted through 23andMe or ancestry.com (or any number of companies that hold DNA data for tens of millions of people) and are asked about the biological connection to the adoptee. From there, multiple family members get involved, as it becomes a genealogical mystery to solve, a mystery played out millions of times every day within a multi-billion dollar genealogical industry. Indeed, as a search angel testified by affidavit in one of my court cases:

Through contacting other top matches, [the adoptee] has gained additional biological relatives. We do not fully know the precise relationship between them yet but future efforts will require multiple contacts across an entire family line, with many others in that family also making their own contacts and inquiries. It will result, as it always does with DNA registries, with numerous birth relatives of various connections making inquiries about a relative who may have surrendered a child to adoption in 1975.

Currently, three of [the adoptee’s] birth relatives are actively searching for the family connections, and I have contacted well over 200 people trying to determine how [the adoptee] fits in with her biological family. There is no anonymity in this process, as DNA results and people’s information is listed publicly in databases or on social media—matches and their relatives are

therefore *easily contacted through email, messaging, Facebook, or by phone.*

**Incentivizing DNA as a tool to “out” birthparents is the wrong approach.** It makes an adoptee’s simple request for basic information on their own birth record more public, more widely shared, and less private for all involved, including the adoptee. HB1969 does what is fair: making the right to your own birth record a right enjoyed by all Virginians, not just those who were never adopted. What an adoptee does with that record is up to them, but possessing that single piece of paper does not lead to widespread publication of information that occurs without it.

I ask that you support HB1969, with a recommended amendment to substitute the correct Virginia agency authorized to release the birth record. The bill is by far the simplest and best approach to this important issue.

Best regards,

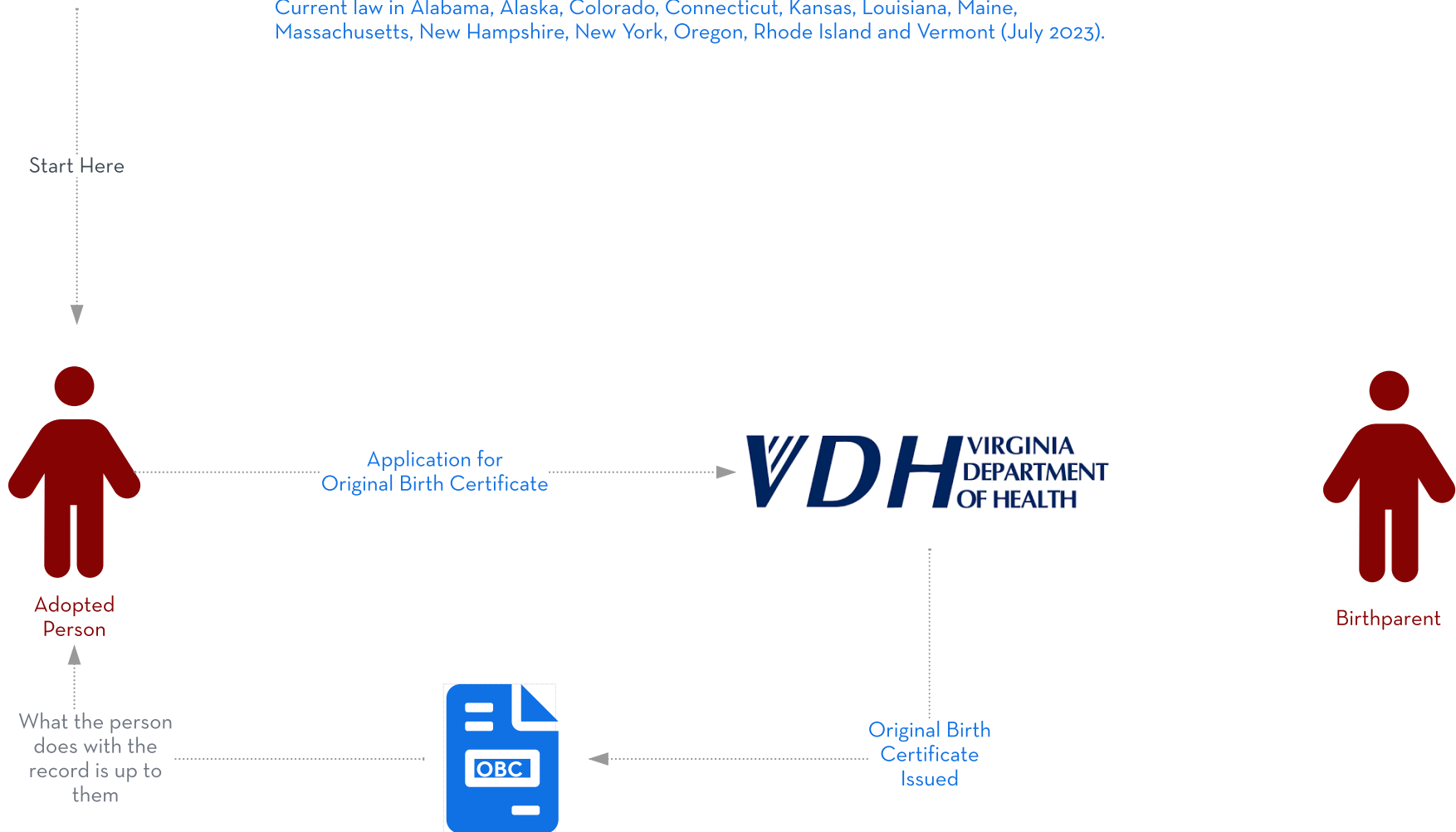
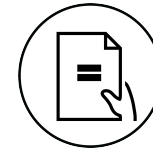
**ADOPTEE RIGHTS LAW CENTER PLLC**

A handwritten signature in blue ink, consisting of a stylized 'G' followed by a series of loops and a final flourish.

Gregory D. Luce

# When Adult Adopted People Have a Right to Request and Obtain their Own Birth Records

Current law in Alabama, Alaska, Colorado, Connecticut, Kansas, Louisiana, Maine, Massachusetts, New Hampshire, New York, Oregon, Rhode Island and Vermont (July 2023).



# When Virginia Denies Adoptees their Own Birth Records - and Compels DNA Testing Instead

