

Virginia Delegate Robert D. Orrock
Chair of the Health, Welfare and Institutions Committee
Pocahontas Building
900 East Main Street
Richmond, VA 23219

January 30, 2023

Chairman Orrock and Honorable Committee Delegates, staff and counsel,

This statement is furnished to express continued, detailed support by the [American Adoption Congress](#) for Virginia [HB1969](#). We continue to thank Delegate Wendell S. Walker. for introducing it, and **we celebrate last week's uncontested passage in sub-committee.**

When enacted, HB1969 will:

- **Restore unrestricted access** to original birth certificates (OBC) for all adult adoptees.
 - **NOTE:** *We had suggested edit to issuance by the Department of Health, the keeper of such vital records (as opposed to the "Commissioner" - Department of Social Services). The goal of editing (via the [approved amendment](#) at subcommittee) has been to ensure that adult adoptees may receive their original birth certificate in the same way as other Virginia citizens, upon proof of identification and payment of nominal fee.*

Adults of Virginia have the legal right to obtain their original birth certificate, unless they are adopted. The American Adoption Congress feels that now Virginia is poised to join the thirteen other states with unrestricted access policy. This belief is consistent with our [formal legislative policy](#) for clean adoption reform.

Further, we expect that the proper reform in Virginia will help lead other states to enact proper reform. The time is now. The right to know one's identity is a human right that should not be incrementally bestowed or denied to any American.

Recent reform: We are thankful for your recent review of advocacy in Louisiana, where a clean adoption reform law was enacted last session. Like-minded grassroots led advocacy was critical to, in part, allaying concerns around reproduction, partly aided by [data from AAC](#) and others. Together, we successfully demonstrated that if restored access has had any affect in other states, it has been to increase adoption and decrease abortion. Despite this, opponents still mistakenly conflated concepts of "*privacy and confidentiality*," which were ephemeral assurances from practitioners, with lifelong, *anonymity* from surrendered sons and daughters, which was not legally possible. Of course, this challenge was also overcome on the way to enactment.

Such merits are similarly supported by existing Virginia statutes (see below)

“CONFIDENTIALITY” / “PRIVACY” VERSUS ANONYMITY:

- **“Confidentiality” / “privacy”**: Any potential, personal assurances of “confidentiality” or “privacy” to birth parents were ephemeral, related to not revealing the news of a pregnancy in progress to the community at large.
- **Anonymity**: No legal promise of lifelong anonymity from surrendered sons and daughters was possible. Reasons include:

1. **Law**: The law does not provide birth parents with anonymity or any additional rights that supersede the rights of adopted people:
 - Open adoption provisions: [§ 63.2-1230](#), [§ 63.2-1231](#), [§ 63.2-1232](#), [§ 63.2-1233](#), [§ 63.2-1234](#), [§ 63.2-1235](#), [§ 63.2-1236](#), [§ 63.2-1237](#)
 - Pertaining to birth fathers: [§ 63.2-1222](#)
2. **Access**: Virginia law already allows for petition to courts to unseal records of adoption proceedings. However, our understanding is that such petitions, as in other states, have a likelihood of failure. And this avenue provides no right to equality for adopted persons, which is unacceptable.
 - Order of a court (original birth certificate): [§ 32.1-261-B](#)
 - Annulment of adoption: [§ 32.1-261-D](#)
 - Records / identifying information: [§ 63.2-1246](#), [§ 63.2-1246.1](#), [§ 63.2-1247](#)
3. **Surrender***: Birth parent final surrender forms have never been produced that provide assurances of lifelong anonymity from surrendered sons and daughters to them. They also, at times, included pledges *from* them not to interfere with adoptive families.

* Source: *Professor Elizabeth J. Samuels University of Baltimore School of Law.*
Author research page: <http://law.ubalt.edu/faculty/emeritus-faculty/samuels.cfm>

Surrender and Subordination: Birth Mothers and Adoption Law Reform (2013):
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2233400

4. **Foster care youth**: There was no guarantee of an adoption, in which case the birth certificate would remain unsealed. Per the [Virginia Department of Social Services](#) – **“Youth Rights Acknowledgement Form”**
 - Page 2, item 2: “At age 18, you shall be provided an official or certified copy of my **(1) birth certificate**; (2) social security card; (3) health insurance information; (4) medical records; (5) driver’s license or state-issued identification card.”

In other words, adopted citizens of Virginia are not denied their original birth certificates because they were surrendered by birth parents. They are only denied because they were *adopted*. As such, this is discrimination that must end in The Old Dominion State, in favor of true reform and equality.

The proper reform will be in accordance with best practices in adoption:

- Adoption in America Today: The Good, The Bad, and A Path to Reform (2016):
<http://www.slideshare.net/DonaldsonAdoptionInstitute/adoption-in-america-today-the-good-the-bad-and-a-path-to-reform>

We thank you for your ongoing consideration of HB1969 and adoptee human and civil rights.

Respectfully,

Tim

Tim Monti-Wohlpart
American Adoption Congress
National Legislative Chair

.cc Capitol Coalition for Adoptee Rights ([CCAR](#)) Prior letters: [1/17/23](#) and [1/26/23](#)