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2003 HOUSE JUDICIARY

HB 1035

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1035

House Judiciary Committee

Conference Committee

Hearing Date 1-14-03

Tape Number	Side A	Side B	Meter #
1	xx		0-42
2		xx	15-middle
Committee Clerk Signature <i>R. Rinose</i>			

**Minutes:** 12 members present, 1 absent (Rep. Bernstein)

**Chairman DeKrey:** Called the meeting to order.

**Rep. Delmore:** Introduced HB 1035 and turned the floor over to Jennifer Clark.

**Jennifer Clark, LC, Interim Committee:** I would like to defer to Julie Hoffman and will remain to answer any questions.

**Julie Hoffman, Administrator of Adoption Services for the Dept. of Human Services:** (see testimony). The department supports passage of this bill.

**Rep. Delmore:** Julie, refresh that fourth party for me, that was done more for information of a biological nature?

**Ms. Hoffman:** If the adoptee has died, and they have children, and they want medical information regarding the birth family, they cannot search. The adoptee has the first right to search, when the adoptee has died, the family could search.

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**Chairman DeKrey:** If we change the rules now how would this effect the adoptions that were done under the old rules, in previous years of adoptions?

**Ms. Hoffman:** We talked about this at length, whether it would start now. We weren't able to come up with something workable, because the provision doesn't change that somebody being searched for still has the right to say no to disclosure, we felt comfortable in making these changes now for all adoptions.

**Chairman DeKrey:** What about the birth parent, if one parent gives the information about the party not wanting information released?

**Ms. Hoffman:** A lot of times the birth father was not listed on the birth certificate, and so the mother can be contacted.

**Chairman DeKrey:** What if the birth father was identified on the birth records?

**Ms. Hoffman:** If he was, he would have to be contacted and if he denied disclosure, then nobody would any contact currently.

**Chairman DeKrey:** Currently, but under this bill, they would still have disclosure and the birth mother could certainly tell the child who the birth father was and then his confidentiality is gone.

**Ms. Hoffman:** We understand that risk, we know there is a risk here. People are asking us to move to more openness, and when two parties agree, that they should be able to have that contact.

**Chairman DeKrey:** I have three adopted children. One the old school route, one identified adoption and one special needs adoption. The rules should not be changed for those that are under the old rules.

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**Rep. Galvin:** If adoption procedures are initiated, there is a fee right up front and two weeks later, and you want to withdraw from this, is there no way that this fee can be recovered. Is this the case.

**Ms. Hoffman:** I believe if a fee has been paid and certain services have been given, even if the family withdraws at whatever point, I don't believe there would be reimbursement of that fee.

**Rep. Grande:** As far as contracts goes, if I signed a contract, does that make the previous contract null and void. It should not be able to my contract.

**Chairman DeKrey:** I think if we pass this, I would think there would a lawsuit, if they felt they went into an adoption with their identity was protected, and now two people choose to talk.

**Rep. Grande:** If the father's name is in the records, could the records strike his name and black it out.

**Ms. Hoffman:** Currently there is definition of corroborating information and if that birth father is named in any of the documents in the file, there has to be corroborating evidence in the file that he was involved in the planning. If he knew about the pregnancy, that he made some payment toward the costs of the birth mother, that he signed off on it, something corroborating. Merely having him named, is not sufficient to consider him a birth parent that must be contacted. But if there is corroborating evidence, then he would be contacted in regard to the search and he would have the right to either authorize or not authorize disclosure. But if the other two parties get together, what is to stop them from talking about the third party and disclosing his/her information.

**Rep. Delmore:** Some of that could still take place and if we look at the whole scenario, it could be a young father, who would like to share information about his son or daughter, it works both

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ways. We have gotten much more open as a society, and more than anything, I believe these people have a right to medical knowledge that for many years has not been passed down and some of it can very significantly affect that child's life and I think we have to look at the whole scenario because while we look out for the idea of privacy, some of that, if contact is made, would be shared even though the law says it shouldn't.

**Rep. Klemin:** I have a question about the distinction between identifying and non-identifying information. Could you just go over the procedures are for each category under this bill?

**Ms. Hoffman:** Currently, identifying information would include anything that would identify a person by name, address, phone number, etc. to allow someone to be located. Non-identifying information runs a whole gamut of other information including heritage, medical information, social situation, likes, dislikes, etc.

**Rep. Klemin:** What would this bill change?

**Ms. Hoffman:** If two people wanted disclosure and agreed to it, they would be able to receive information about each other, but the agency would not be able to disclose the name of the birth mother. The one child parented by her mother would be able to, on her own, disclose that information, and that is the risk of what we are proposing.

**Rep. Onstad:** When you talk about three parties involved, does one party consist of birth mother and father, is that considered one party?

**Ms. Hoffman:** Yes.

**Rep. Onstad:** And then you have the adoptee.

**Ms. Hoffman:** Yes. Then you have the birth sibling of the adoptee.

