



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4667/1
EAW:kjf

2019 BILL

1 **AN ACT** *to renumber and amend* 48.433 (8r) (b) and 48.433 (8r) (c); *to amend*
2 20.437 (1) (jj), 48.433 (title), 48.433 (1) (a), 48.433 (2), 48.433 (3) (intro.), 48.433
3 (5) (intro.), 48.433 (5) (a), 48.433 (6) (a), 48.433 (6) (d), 48.433 (7) (a) (intro.) and
4 3., (b), (c), (d), (e) and (f), 48.433 (8) (a), 48.433 (8) (b), 48.433 (8m), 48.433 (8r)
5 (d) and 48.433 (11); and **to create** 48.433 (1) (am), 48.433 (8r) (b) 1. and 2.,
6 48.433 (8r) (bm), 48.433 (8r) (c) (intro.), 48.433 (8r) (cm) 2. and 3. and 48.433 (8r)
7 (e) of the statutes; **relating to:** searching for a biological sibling who has been
8 adopted, granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a person 18 years of age or over whose birth parent's rights have been terminated or who has been adopted in this state may file an affidavit with the Department of Children and Families allowing DCF to release contact information about that person to his or her birth parents if they request it. Under current law, only a birth parent is allowed to request the information about his or her birth child.

This bill allows an adult biological sibling or the parent, guardian, or legal custodian of a biological sibling who is a minor child to request information about a person whose birth parent's parental rights have been terminated in this state, or

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about that person's adoptive parents, if that person is a minor child. Under the bill, DCF is required to release the information about an adult biological sibling or the adoptive parent of a minor biological sibling if the information is requested and if the adult sibling or adoptive parent has filed an affidavit authorizing the release of the information.

Under the bill, if there is no affidavit on file for a sibling or adoptive parent of a sibling, DCF or an agency contracted with by DCF is required to search for any biological siblings or adoptive parents of a biological sibling of the requester or the requester's child. If a search is conducted and an adult biological sibling or adoptive parent of a minor biological sibling of the requester or the requester's child is found, DCF or the contracted agency is required to inform the biological sibling or adoptive parent of the purpose of the search and to give him or her the opportunity to file an affidavit allowing his or her information to be released to the requester.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (1) (jj) of the statutes is amended to read:

2 20.437 (1) (jj) *Searches for birth parents, siblings, and adoption record*
3 *information; foreign adoptions.* The amounts in the schedule for paying the cost of
4 searches for birth parents under ss. 48.432 (4) and 48.433 (6) and for biological
5 siblings under s. 48.433 (8r) and for paying the costs of reviewing, certifying and
6 approving foreign adoption documents under s. 48.838 (2) and (3). All moneys
7 received as fees paid by persons requesting a search under s. 48.432 (3) (c) or (4),
8 48.433 (6) or (8r) (e), or 48.93 (1r) and paid by persons for the review, certification and
9 approval of foreign adoption documents under s. 48.838 (2) and (3) shall be credited
10 to this appropriation.

11 **SECTION 2.** 48.433 (title) of the statutes is amended to read:

12 **48.433 (title) Access to identifying information about parents and**
13 **biological siblings.**

14 **SECTION 3.** 48.433 (1) (a) of the statutes is amended to read:

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1 48.433 (1) (a) “Agency” ~~has the meaning given under s. 48.432 (1) (ag)~~ means
2 a county department or a licensed child welfare agency that the department
3 contracts with under sub. (11).

4 **SECTION 4.** 48.433 (1) (am) of the statutes is created to read:

5 48.433 (1) (am) “Biological sibling” means a person with whom an individual
6 shares at least one birth parent.

7 **SECTION 5.** 48.433 (2) of the statutes is amended to read:

8 48.433 (2) Any birth parent whose rights have been terminated in this state
9 at any time, or who has consented to the adoption of his or her child in this state
10 before February 1, 1982, may file an affidavit with the department, or agency
11 ~~contracted with under sub. (11), an affidavit~~ authorizing the department or agency
12 to provide the child with his or her original birth certificate and with any other
13 available information about the birth parent’s identity and location. An affidavit
14 filed under this subsection may be revoked at any time by notifying the department
15 or agency in writing.

16 **SECTION 6.** 48.433 (3) (intro.) of the statutes is amended to read:

17 48.433 (3) (intro.) Any ~~person 18 years of age or over~~ adult whose birth parent’s
18 rights have been terminated in this state or who has been adopted in this state with
19 the consent of his or her birth parent or parents before February 1, 1982, may request
20 the department, or agency ~~contracted with under sub. (11),~~ to provide the person with
21 the following:

22 **SECTION 7.** 48.433 (5) (intro.) of the statutes is amended to read:

23 48.433 (5) (intro.) The department, or agency ~~contracted with under sub. (11),~~
24 shall disclose the requested information in either of the following circumstances:

25 **SECTION 8.** 48.433 (5) (a) of the statutes is amended to read:

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1 48.433 (5) (a) The department, or agency ~~contracted with under sub. (11)~~, has
2 on file unrevoked affidavits filed under sub. (2) from both birth parents.

3 **SECTION 9.** 48.433 (6) (a) of the statutes is amended to read:

4 48.433 (6) (a) If the department, or agency ~~contracted with under sub. (11)~~, does
5 not have on file an affidavit from each known birth parent, it shall, within 3 months
6 after the date of the original request, undertake a diligent search for each birth
7 parent who has not filed an affidavit. The search shall be completed within 6 months
8 after the date of the request, unless the search falls within one of the exceptions
9 established by the department by rule. If any information has been provided under
10 sub. (5), the department or agency is not required to conduct a search.

11 **SECTION 10.** 48.433 (6) (d) of the statutes is amended to read:

12 48.433 (6) (d) The department, or agency ~~contracted with under sub. (11)~~, shall
13 charge the requester a reasonable fee for the cost of the search. When the
14 department or agency determines that the fee will exceed \$100 for either birth
15 parent, it shall notify the requester. No fee in excess of \$100 per birth parent may
16 be charged unless the requester, after receiving notification under this paragraph,
17 has given consent to proceed with the search.

18 **SECTION 11.** 48.433 (7) (a) (intro.) and 3., (b), (c), (d), (e) and (f) of the statutes
19 are amended to read:

20 48.433 (7) (a) (intro.) The department or agency conducting the search shall,
21 upon locating a birth parent, adult biological sibling, or adoptive parent of a minor
22 biological sibling, make at least one verbal contact and notify him or her of the
23 following:

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1 3. The fact that the birth parent, adult biological sibling, or adoptive parent of
2 a minor biological sibling has the right to file with the department the affidavit under
3 sub. (2) or (8r) (b).

4 (b) Within 3 working days after contacting a birth parent, adult biological
5 sibling, or adoptive parent of a minor biological sibling, the department, or agency
6 ~~contracted with under sub. (11)~~, shall send the birth parent, adult biological sibling,
7 or adoptive parent of a minor biological sibling a written copy of the information
8 specified under par. (a) and a blank copy of the appropriate affidavit.

9 (c) If the birth parent, adult biological sibling, or adoptive parent of a minor
10 biological sibling files the affidavit, the department, or agency ~~contracted with under~~
11 ~~sub. (11)~~, shall disclose the requested information if permitted under sub. (5) or (8r).

12 (d) If the department or an agency has contacted a birth parent, adult biological
13 sibling, or adoptive parent of a minor biological sibling under this subsection, and the
14 birth parent, adult biological sibling, or adoptive parent of a minor biological sibling
15 does not file the affidavit, the department may not disclose the requested
16 information.

17 (e) If, after a search under this subsection, a known birth parent cannot be
18 located, the department, or agency ~~contracted with under sub. (11)~~, may disclose the
19 requested information if the other birth parent has filed an unrevoked affidavit
20 under sub. (2).

21 (f) The department or agency conducting a search under this subsection may
22 not contact a birth parent, adult biological sibling, or adoptive parent of a minor
23 biological sibling again on behalf of the same requester until at least 12 months after
24 the date of the previous contact. Further contacts with a birth parent, adult
25 biological sibling, or adoptive parent of a minor biological sibling under this

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1 subsection on behalf of the same requester may be made only if 5 years have elapsed
2 since the date of the last contact.

3 **SECTION 12.** 48.433 (8) (a) of the statutes is amended to read:

4 48.433 (8) (a) If a birth parent is known to be deceased, the department, or
5 agency ~~contracted with under sub. (11)~~, shall so inform the requester. The
6 department or agency shall provide the requester with the identity of the deceased
7 parent. If both birth parents are known to be deceased, the department or agency
8 shall provide the requester with his or her original birth certificate. If only one birth
9 parent is known to be deceased, the department or agency shall provide the requester
10 with his or her original birth certificate and any available information it has on file
11 regarding the identity and location of the other birth parent if the other birth parent
12 has filed an unrevoked affidavit under sub. (2).

13 **SECTION 13.** 48.433 (8) (b) of the statutes is amended to read:

14 48.433 (8) (b) If a birth parent is known to be dead, the department, or agency
15 ~~contracted with under sub. (11)~~, in addition to the information provided under par.
16 (a), shall provide the requester with any nonidentifying social history information
17 about the deceased parent on file with the department or agency.

18 **SECTION 14.** 48.433 (8m) of the statutes is amended to read:

19 48.433 (8m) If the department, or agency ~~contracted with under sub. (11)~~, may
20 not disclose the information requested under this section, it shall provide the
21 requester with any nonidentifying social history information about either of the
22 birth parents that it has on file.

23 **SECTION 15.** 48.433 (8r) (b) of the statutes is renumbered 48.433 (8r) (b) (intro.)
24 and amended to read:

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1 48.433 **(8r)** (b) (intro.) Any person ~~18 years of age or over whose birth parent's~~
2 ~~rights have been terminated in this state or who has been adopted in this state with~~
3 ~~the consent of his or her birth parent or parents before February 1, 1982, of the~~
4 ~~following~~ may file with the department, or agency contracted with under sub. (11),
5 an affidavit authorizing the department or agency to provide the person's birth
6 parent with any available release information about the his or her identity and
7 location of the person. ~~An affidavit filed under this subsection may be revoked at any~~
8 ~~time by notifying the department or agency in writing. in accordance with this~~
9 section:

10 **SECTION 16.** 48.433 (8r) (b) 1. and 2. of the statutes are created to read:

11 48.433 **(8r)** (b) 1. An adult whose birth parent's rights have been terminated
12 in this state or who has been adopted in this state with the consent of his or her birth
13 parents before February 1, 1982.

14 2. An adoptive parent of a minor child whose birth parent's rights have been
15 terminated in this state.

16 **SECTION 17.** 48.433 (8r) (bm) of the statutes is created to read:

17 48.433 **(8r)** (bm) An affidavit filed under this subsection may be revoked at any
18 time by notifying the department or agency in writing.

19 **SECTION 18.** 48.433 (8r) (c) (intro.) of the statutes is created to read:

20 48.433 **(8r)** (c) (intro.) With respect to an individual who has filed an affidavit
21 under par. (b), any of the following requests for information may be submitted to the
22 department or agency:

23 **SECTION 19.** 48.433 (8r) (c) of the statutes is renumbered 48.433 (8r) (c) 1. and
24 amended to read:

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1 48.433 (8r) (c) 1. Any birth parent whose rights have been terminated in this
2 state at any time, or who has consented to the adoption of his or her child in this state
3 before February 1, 1982, may request ~~the department, or agency contracted with~~
4 ~~under sub. (11), to provide him or her with~~ any available information about the
5 identity and location of any ~~person 18 years of age or over~~ adult who was or may have
6 been his or her child. ~~Before acting on the request, the department or agency shall~~
7 ~~require the requester to provide adequate identification.~~

8 **SECTION 20.** 48.433 (8r) (cm) 2. and 3. of the statutes are created to read:

9 48.433 (8r) (cm) 2. Any adult who is or may be the biological sibling of a person
10 whose birth parent's rights have been terminated or who was adopted in this state
11 may request any available information about the identity and location of any adult
12 who is or may be the requester's biological sibling or of the adoptive parent of a minor
13 child who is or may be the requester's biological sibling.

14 3. The parent, guardian, or legal custodian of a minor child may request any
15 available information about the identity and location of any adult who is or may be
16 the biological sibling of the requester's minor child or of the adoptive parent of a
17 minor child who is or may be a biological sibling of the requester's minor child.

18 **SECTION 21.** 48.433 (8r) (d) of the statutes is amended to read:

19 48.433 (8r) (d) If the department, ~~or agency contracted with under sub. (11),~~
20 has on file an unrevoked affidavit filed under par. (a) ~~(b)~~ by a person 18 years of age
21 ~~or over who was or may have been a child of the requester,~~ the department or agency
22 shall disclose the information requested under par. ~~(b)~~ (c) related to the person who
23 filed the affidavit. Before acting on a request under this subsection, the department
24 or agency shall require the requester to provide adequate identification. In
25 disclosing information under this paragraph, the department or agency may not

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1 disclose any information that would reveal the identity or location of a birth parent
2 other than ~~the~~ a birth parent who is requesting the information.

3 **SECTION 22.** 48.433 (8r) (e) of the statutes is created to read:

4 48.433 **(8r)** (e) 1. If the department or agency does not have on file an affidavit
5 from any person described in a request for information under par. (c) 2. or 3., it shall,
6 within 3 months after the date of the request, undertake a diligent search for any
7 adult biological sibling or adoptive parent of a minor biological sibling. The search
8 shall be completed within 6 months after the date of the request, unless the search
9 falls within one of the exceptions established by the department by rule.

10 2. Employees of the department and any agency conducting a search under this
11 subsection may not inform any person other than the adult birth sibling of the
12 requester or the adoptive parent of a minor biological sibling of the requester of the
13 purpose of the search.

14 3. Upon locating an adult biological sibling or the adoptive parent of a minor
15 biological sibling, the department or agency shall follow the procedure described
16 under sub. (7).

17 4. The department or agency shall charge the requester a reasonable fee for the
18 cost of the search. When the department or agency determines that the fee for the
19 search will exceed \$100, it shall notify the requester. No fee in excess of \$100 may
20 be charged unless the requester, after receiving notification under this paragraph,
21 has given consent to proceed with the search.

22 **SECTION 23.** 48.433 (11) of the statutes is amended to read:

23 48.433 **(11)** The department shall promulgate rules to implement this section
24 and may contract with ~~an~~ a county department or a licensed child welfare agency to
25 administer this section.

