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Monday 21 April 2008

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Lundi 21 avril 2008

Standing Committee on Social Policy

Access to Adoption Records Act (Vital Statistics Statute Law Amendment), 2008

Comité permanent de la politique sociale

Loi de 2008 sur l'accès aux dossiers d'adoption (modification de lois en ce qui concerne les statistiques de l'état civil)

Chair: Shafiq Qaadri
Clerk: Katch Koch

Président : Shafiq Qaadri
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Hansard Reporting and Interpretation Services
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

Monday 21 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Lundi 21 avril 2008

The committee met at 1532 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Shafiq Qaadri): Ladies and gentlemen, colleagues, I'd like to welcome you to the Standing Committee on Social Policy deliberations on Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act.

As you'll know, your subcommittee met on Tuesday, April 15, and I would invite Ms. Broten to read that, to enter it into the record.

Ms. Laurel C. Broten: This is the report of the subcommittee of the Standing Committee on Social Policy.

Your subcommittee on committee business met on Tuesday, April 15, 2008, to consider the method of proceeding on Bill 12, An Act to amend the Vital Statistics Act in relation to adoption information and to make consequential amendments to the Child and Family Services Act, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings in Toronto on Monday, April 21, 2008.

(2) That the clerk of the committee post the information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That interested people who wish to be considered to make an oral presentation on the bill should contact the clerk of the committee by Friday, April 18, 2008, at noon.

(4) That the presenters be offered 15 minutes in which to make a statement and answer questions.

(5) That the clerk of the committee, in consultation with the Chair, be authorized to schedule witnesses on a first-come, first-served basis.

(6) That the deadline for written submissions be Monday, April 21, 2008, at 5 p.m.

(7) That amendments to the bill be filed with the clerk of the committee by Tuesday, April 22, 2008, at noon.

(8) That the committee meet on Tuesday, April 22, 2008, for clause-by-clause consideration of the bill.

(9) That the research officer prepare a one-page background on the bill.

(10) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Shafiq Qaadri): Are there any questions, comments or issues to be dealt with? If not, is the subcommittee report adopted as read? All in favour? Adopted.

ACCESS TO ADOPTION RECORDS ACT (VITAL STATISTICS STATUTE LAW AMENDMENT), 2008

LOI DE 2008 SUR L'ACCÈS AUX DOSSIERS D'ADOPTION (MODIFICATION DE LOIS EN CE QUI CONCERNE LES STATISTIQUES DE L'ÉTAT CIVIL)

GAIL SELLERS

The Chair (Mr. Shafiq Qaadri): We'll now move to the presentations from members of the public. I would invite, by teleconference, Mrs. Gail Sellers and Fred Dixon. To you, Mrs. Sellers and Mr. Dixon, and to those who are listening now, I would just remind everyone collectively that we have 15 minutes in which to make presentations, and any time remaining will be strictly divided in three to the parties for any kinds of questions or comments. Mrs. Sellers, Mr. Dixon, are you there?

Mrs. Gail Sellers: It's just Mrs. Sellers. Unfortunately, there was a mix-up and my brother—

The Chair (Mr. Shafiq Qaadri): Fair enough. I would invite you, Mrs. Sellers, to begin now.

Mrs. Gail Sellers Okay. The reason I have sent a written presentation to you and I'm talking to you today is to let you know the wonderful impact that finding a full sibling, a full brother—it has changed my life and it has changed my brother's life.

I did not know that I had a sibling. My parents have died and my adopted brother's parents passed away many years ago. It was through the diligent efforts of my brother's daughter—she played a pivotal role in us coming together.

What has transpired in the last 15 months can surely be said to be the better part of a miracle. As I say, my brother—I was approached by my cousin and subsequently talked to my brother. It was a non-identifying

document that my brother had received from the children's aid. Even though it was non-identifying, it spoke specifically of places and times and events that were true only to my family. My brother and I have come together in a very special way over the last 15 months. We've come to know and love each other as true brother and sister.

My life was profoundly changed a number of years ago when my 13-year-old child, my only son, was killed. Over these years, I've suffered with severe depression. Although I've had a very supportive husband, some loving stepsons and some family and close friends, I've often felt very much alone. Essentially, having my brother and his wonderful family in my life has given me back my life, and it's a relationship that we treasure. Both our families and friends truly support the relationship we have. We have shared many family outings together and holiday celebrations, and we look forward to many days ahead.

One of the most remarkable things we discovered in our times together were photographs. As it has always been said, a picture is worth a thousand words. I think we've found a million. I found pictures in my possession that were my mother's that indicate my mother with my brother, and we've confirmed the pictures to know, in fact, that it was him. I found them in other family members' possession. But the most remarkable picture we found of all was the picture that my brother had from his adoptive mother. It was one of my mother and my brother, taken when he was about three months old. It was wonderful to be able to confirm to my brother that that was, in fact, his mother.

When I see my brother, I'm reminded of both our parents. In his expressions and his kindness, he's a blend of both mum and dad. My brother was raised by loving adoptive parents, and the remarkable person I believe he's become today can be attributed not only to genetics but to the loving family that raised him.

Our relationship goes far beyond merely exchanging family history. We are as devoted as any brother and sister could possibly be and are committed to each other. We've made the commitment that we want to be with each other's families for the rest of our lives. It's had that much of an impact on both of us.

We were disappointed last September when we learned that the adoption law we were eagerly awaiting had been quashed and my brother could no longer apply for the long form of his birth certificate or any other pertinent adoption records. I was prompted last year, in the light of all this, to write for my long form of my birth certificate, and it clearly stated in my father's handwriting that mum had had one child prior to my birth.

What my brother and I deem ourselves to be is a success story. We're not kids. I'm in my late 50s and he's in his late 60s. We're the only ones alive to benefit from any information we might receive. Our parents took to their graves a precious part of our family history, and we both realize that if they were alive, they would embrace the relationship we have and would be eager to be reunited with their son.

1540

A lot of the things that I see in my brother, I see in my dad and my mom. It's like going home again for me, which is a place that I felt that I'd never achieved before. My brother feels as if it is the family coming together, and he's learned so much about himself as an individual. He has always had a passion for flying, and he learned that not only was his father—and he became a pilot—a pilot but also his half-sister.

I believe, as I say, that the remarkable person he has become is not only in part genetics but also the loving care he was raised in. I know it must have been an extremely difficult situation for my mother in 1938 to have to part with her baby. My mother was the type of person who was very loving and caring, and she showered a great amount of love on myself and my son—her grandson.

We both understand, my brother and I, the rights of individuals who do not wish information to be disclosed. We also believe strongly that laws should be in place in order to protect adoptees and birth parents from not having information divulged. I know that for some people it's not a success story, and we understand that. But for the individuals where families have embraced new relationships, and how new relationships have become significant in their lives—we feel that it's very important for the ones who have the desires and rights to know their family heritage.

That was the reason why we wanted to speak to you today. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Sellers, for bringing forward your story. We have ample time for questions. I would offer it now to the Conservative side.

Interjection.

I'll now offer it to the NDP.

Mr. Michael Prue: Pass.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Khalil Ramal: I just want to thank you for your deputation. I have no questions. Thank you very much for presenting to us.

Ms. Sellers: Thank you. There is a written report that is to follow.

The Chair (Mr. Shafiq Qaadri): I think you've just faxed it to us. We'll make sure that each member of the committee receives it. Thank you once again for coming forward and sharing your very personal and moving story.

BASTARD NATION: THE ADOPTEE RIGHTS ORGANIZATION

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters, who may introduce themselves but I shall call them the Adoptee Rights Organization: Natalie Proctor Servant, the eastern Canadian regional director.

Welcome. As you've just seen, you'll have 15 minutes in which to make your deputation. I would invite you to begin now.

Ms. Natalie Proctor Servant: Good afternoon, Mr. Chairman, members of the committee and in fact my own MPP, Mr. Sterling; good to see you. Thank you for the opportunity to appear before you today. My name is Natalie Proctor Servant. I'm an engineer by training and a mother of two young children—Sam, who's with me today. But I'm here once again to speak to you as an adoptee rights activist. I am an adoptee and I'm here in my capacity as the eastern Canada regional director for Bastard Nation: The Adoptee Rights Organization.

Bastard Nation was formed as an international group in 1996 with a single goal: to restore the right of adult adoptees to have unconditional access to their own birth information. Our members are adoptees, adoptive parents, birth parents and others connected with adoption. We've had great successes, starting in 1997 with ballot measure 58 in Oregon. In Alabama, our members also helped to work to pass a bill in 2000. In 2004, Representative Janet Allen was able to speak in support of New Hampshire's Senate Bill 335 in their own House of Representatives. She then became the first adoptee in New Hampshire to get her original birth certificate.

I'm here to offer a few comments about this legislation and the process of its implementation to try to ensure as much openness as possible. My comments are to do with limits on vetoes, family medical history, inconsistencies between the two types of vetoes, and fraud prevention.

While Bastard Nation does not support contact vetoes or disclosure vetoes, we know that Judge Belobaba's decision meant that the government introduced Bill 12 in order for the previously passed legislation to take effect in this province.

The new disclosure veto does expire on the death of the person who filed it, but it would be preferable to have a disclosure veto that requires renewal after a number of years. It is my understanding that when New Zealand had information vetoes expire after a 10-year period, there were very few renewals. A person's situation can change in a decade. Vetoes that expire are more likely to be removed than vetoes that have to be actively revoked. Veto expiry would result in more openness.

Along the same lines: At the moment, no-contact notices don't expire on death like disclosure vetoes do. While the two types of vetoes do serve different purposes, I'm afraid that perpetual no-contact notices could mean that some adoptees will choose never to receive their original birth information. They may be unwilling to receive their original birth information if they must first sign what is equivalent to a restraining order. If the person who filed the no-contact notice dies, it seems wrong to continue to withhold the identifying information from the adoptee.

Second, I am concerned that the medical information that may be included in a no-contact notice or a disclosure veto will be inadequate. Both subsections 48.4(4) and 48.5(7) specify that a brief statement about medical and family history can be included. The current no-contact notice forms only include a blank space for including medical information. Given all that we know about genetics and medical health issues, I believe that more needs to be done to ensure that as much meaningful health information is passed on as possible. I know that a number of the committee members have worked for a considerable amount of time in the health field, and I'm sure they'll understand what I'm talking about.

Other jurisdictions with open adoption records provide forms for passing on medical information that are similar to what you might have to fill out when you go to a new health provider. As part of my submission, I've provided forms from Oregon, Alabama and New Hampshire to the clerk. These sample forms that I've included prompt for health issues and conditions in a number of areas like respiratory illnesses, gastrointestinal, cardiovascular, immune etc. Each form specifically covers at least 30 conditions and allows space for additional conditions that may not be listed. If you're presented with half a blank page in which to include family health history, you may only come up with one or two conditions. Having the list of potential problem areas laid out and prompting for details is much more likely to trigger specific memories of health issues in a person's family. I am certain that this can save lives. I urge you to do whatever is possible to help improve this area of the bill in its implementation.

Third, the bill seems a bit inconsistent in determining which birth parent that a veto affects when an adoptee applies for a no-contact notice versus a disclosure veto. In subsection 48.5(3) of the disclosure veto, it says, "If there are two birth parents, the adopted person may specify in the disclosure veto that it is to be effective only against one of the birth parents." From this it seems that a disclosure veto will apply by default to both parents if they are both listed. Section 48.4, which deals with no-contact notices, has no such stipulation. In fact, the way the no-contact notice forms have been currently implemented requires that adoptees explicitly submit a separate form for each parent. This inconsistency seems confusing, and I do not understand the need to specify this for the disclosure veto and not the no-contact notice. If they will be implemented in a similar way, then it seems logical to have them handled in the same way in the legislation.

Finally, I'm concerned about fraudulent use of vetoes. I'm really happy to see the updated wording in sections 48.4 and 48.5 that makes it extremely clear that the Registrar General will be confirming the identity of people filing no-contact notices and disclosure vetoes. However, I remained concerned that with the forms that have been developed to date, there still remains a risk of fraudulent vetoes being filed. I'm worried that people other than those permitted to file the veto may have enough knowledge of the adoption to convincingly apply for a veto. It is one thing for an adoptee's right to have their information overridden by this legislation by the right to privacy of their birth parents, but it would be

something else entirely to have that negated by someone else. While I recognize that this is likely only a matter for implementation, I think it's important enough to raise it here for the committee.

In summary, I hope that my comments will help increase the openness of this legislation. I would like to see changes in the areas of a time limit on vetoes, an expiry on no-contact notices, a more detailed method for collecting family medical history, consistent application of adoptee veto applications to birth parents, as well as a greater effort to prevent fraudulent vetoes from being filed.

Thank you very much for your time. I'm happy to answer any questions you might have for me today.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Proctor Servant. We have a little under three minutes per side, beginning with Mr. Prue.

Mr. Michael Prue: I'm most intrigued with the idea of the time limit. Have you bounced this off any lawyers or has anybody commented? We are here because of Judge Belobaba's decision. We are constrained in what we need to do, but I'm intrigued if we can do this.

Ms. Natalie Proctor Servant: I think it's doable. Other jurisdictions have done it and then later on gotten rid of the vetoes altogether. If other jurisdictions can do it, why not us?

Mr. Michael Prue: His ruling was quite specific, though. His ruling did not go into this area.

Ms. Natalie Proctor Servant: I'm not a lawyer.

Mr. Michael Prue: That's why I'm asking. Did your group consult with a lawyer or anyone else in coming to this recommendation?

Ms. Natalie Proctor Servant: We did not consult with a constitutional lawyer to determine whether or not expiry of vetoes would be acceptable under Judge Belobaba's decision.

1550

Mr. Michael Prue: In terms of the time limit, you are suggesting 10 years. Is that the norm outside of Ontario?

Ms. Natalie Proctor Servant: That's what I've seen in New Zealand and Australia.

Mr. Michael Prue: I've not heard whether there have been any constitutional challenges of that.

Ms. Natalie Proctor Servant: I don't believe so.

Mr. Michael Prue: So, this would be a way for the Legislature to get around, in a small way, Judge Belobaba's decision and allow people to change their minds over time?

Ms. Natalie Proctor Servant: We think it would allow for more openness, yes.

The Chair (Mr. Shafiq Qaadri): To the government side. Mr. Ramal.

Mr. Khalil Ramal: Thank you very much for your deputation. As my colleague Mr. Prue mentioned, we are here just to comply with the court order. I think we are limited in our movements and manoeuvres in this regard.

I wish you good luck. Thank you for coming.

Ms. Natalie Proctor Servant: I really did think it important to get these issues on the record, given that this bill will come up for review in five years. I think these are issues that are important and will certainly be worth considering at that time.

Mr. Norman W. Sterling: I think it's important to note that the judge pointed out that probably the only reason that the legislation in New South Wales, Australia, is standing up—which is the only one that is wider, in terms of disclosure to past records—is because they don't have a charter of rights, and therefore there's no way to get at the legislative authority of their states or provinces.

I think it would be a mistake to tinker with the provisions of this legislation at this stage. The result would be a further delay in terms of people who might want to gain access and where people were willing to give access in terms of past adoptions. I think the government made a big mistake in the beginning in not listening to our concerns and the privacy commissioner's concerns with regard to the constitutionality of the past law. By tinkering with small details, you might inhibit people from gaining access to records in the future.

Ms. Natalie Proctor Servant: I'm sorry, I didn't catch a question. Is there a question?

Mr. Norman W. Sterling: There isn't a question.

The Chair (Mr. Shafiq Qaadri): Thanks to you for coming forward as well as for the written materials you've submitted on behalf of the Adoptee Rights Organization.

COALITION FOR OPEN ADOPTION RECORDS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward. That is Ms. Wendy Rowney, who is representing—

Interjection.

The Chair (Mr. Shafiq Qaadri): She's coming. She's holding the baby.

Thank you, Ms. Rowney. You're representing the Coalition for Open Adoption Records. I welcome you to the Standing Committee on Social Policy and invite you to begin your deputation now.

Ms. Wendy Rowney: I apologize for the baby-passing-off delay there.

My name is Wendy Rowney. I'm here today to speak to you on behalf of the Coalition for Open Adoption Records. The Coalition for Open Adoption Records, or COAR, represents every major adoption group in the province. These groups include the Adoption Council of Ontario and the Ontario chapter of the Adoption Council of Canada. Both are organizations that represent adoptive parents. Every Parent Finders group in the province also supports COAR, as does the Canadian Council of Natural Mothers, from whom you will hear later. COAR also represents many, many adopted people, birth parents, adoptive parents and concerned residents of the province who have joined us because they support open records in Ontario.

I myself was born, adopted and reunited through the government of Ontario. For more than a decade, I have been involved in the adoption community in many different capacities. I'm a former board member of the Adoption Council of Ontario, and I currently serve on the boards of the Infertility Network and the American Adoption Congress. I'm the president of Adoption Support Kinship, the only Toronto group representing the interests of adopted adults and birth parents, and I am on the coordinating committee of COAR. I have worked with representatives at the OACAS, adoption workers from several children's aid societies in southern Ontario, and both Ontario politicians and government employees. I have spoken to and corresponded with hundreds of adoptees and their parents, siblings and grandparents by both birth and adoption. I've spent time meeting and talking with individuals who support and those who oppose openness in adoption.

When I speak to you today on behalf of COAR, I can truly say that I do so with a deep understanding of the issues involved and the real people whose lives they impact. It is important to understand that Bill 12 and the changes it proposes to the Vital Statistics Act will have an enormous impact on many, many people in Ontario. It will allow the vast majority of adopted adults and their birth parents to discover information about each other. My name appears on several adoption websites, and so I regularly receive e-mail messages from people whom I have never met and likely never will. Most of the writers are adoptees. They write me because they long for information about their beginnings. They are like books without a first chapter or movies without the credits. They write to me of their pain, their sadness and their confusion because they cannot know their ethnicity, their background and their name.

These are all things that most people take for granted. I am often asked by people unconnected to adoption why these things matter to me when I have, and had throughout my life, loving parents and a secure home. I can only reply that they do matter; they matter because I am human, and humans feel a connection with the people who came before them. If they did not, genealogy websites would fail, no one would watch History Television and museum exhibits about ancient peoples and those who lived only 100 years ago would falter. But they do not falter; they succeed because humans do need to know their beginnings.

Real people write to me because they are human and they are seeking the key to unlock the door to their own personal past. They hope, because they found my name linked with adoption, that I hold that key or can tell them where to go to have it cut. Poignantly they tell me, "People say I look Italian, but I'm not really sure," and "I just want to find her to say 'Thank you,'" and "I've thought about my baby every day for the last 44 years and I need to know she's okay." I reply to each of these messages and explain to the writer that the government is working on legislation that may help them. "I hope you can be patient," I say. "I hope the changes come soon," they reply.

Much has been said in the press and elsewhere that implies that desperate adoptees will violate contact vetoes with no thought of the consequences. We have been accused of being selfish, without conscience and obsessed. We are none of these things. We are ordinary people who hold down jobs, raise families and own homes. We are desperate for information, but that does not mean that we are going to act desperately. I know that adoptees and birth parents will respect contact vetoes because they have been respecting the wishes of no contact for decades.

Adopted adults and birth parents have been searching and finding each other for years. Of the hundreds of adoptees and birth parents with whom I have had contact, I am not aware of a single one who has repeatedly or persistently forced himself or herself on an unwilling birth parent. No one wants to face that kind of repeated rejection, and anyone who tells you otherwise is reacting to fear of what might be rather than reflecting upon a real situation.

I understand that the court's ruling on information release in adoption makes it pointless to speak against a disclosure veto, and this is something I have no intention of doing. I do, however, want to leave you today with an understanding of the impact these vetoes have on the individuals affected by them. We know, by looking at other jurisdictions that have given adoptees and birth parents the option of filing a disclosure veto, that very few people will opt in. The vast majority of people will be able to access information they seek, but I want to focus for a moment on the 2% to 3% who won't.

We all, I think, understand that there are some adopted adults who do not want their birth parents to find them. We understand that there are some birth mothers who do not wish to meet the adult version of the child they surrendered many years ago. No one thinks that these people should be forced into an uncomfortable or unwanted situation.

Many people unconnected with adoption welcomed the court's ruling on adoption disclosure because I think they felt sympathy for the people, particularly birth mothers, who did not want to delve into the past. What they seem to have forgotten, however, is that for every disclosure veto filed, someone else's dreams are dashed. A disclosure veto, it is true, provides a protection of sorts for the person who files it, but it also blocks an equal number of people from ever knowing their own name, ethnicity, medical history and beginning. It means that there will be adults who were adopted as children who will never know how they began. It means that there are women and men who will never know what became of the child they created and often unwillingly placed for adoption in an era when there were few other options for unmarried women. We cannot forget these people. We cannot forget their pain and confusion as they struggle in the face of rejection of the most personal sort.

1600

We need to look to the bill itself and focus efforts in the regulations, in the advertising campaign and, in subsequent years, on the bill's intent: openness in adoption for adults.

COAR urges the government to regulate the release of non-identifying information, the operation of a government-run mutual match registry and a search service. We hope the government will permit not only adopted adults and their birth parents to access these services, but also other birth relatives. Birth siblings and grandparents often long for information about their missing relatives.

I myself was matched on the government registry with my grandmother, my birth mother's mother, who had sought information about me when I became an adult. Both my grandmother and I wanted to find each other. The government-operated registry allowed us to do so. The adult children of adoptees also seek information about their ancestors and heredity. Allow them to receive non-identifying information and place their names on a registry.

The sections of the bill that we were asked to address today mention the release of medical information, and I want to do the same. Disease does not recognize adoption. Cancer, kidney failure and heart disease do not seal themselves up along with the adoption order when it is signed. They stay within the adoptee's body and wait for the moment when the disease will manifest itself and show its hereditary nature.

COAR urges the government to make mandatory the release of medical information should an individual choose to file a disclosure veto. Alternatively, COAR urges the government to request periodic medical updates from individuals who file disclosure vetoes. We understand that no one can be compelled to release private medical information, but we hope that the government will at least level the playing field. In families not impacted by adoption, individuals can ask relatives for medical histories. They may not receive this information, but they can ask. Allow adoptees and birth relatives to ask, through the government, for these same medical histories.

Finally, we urge the government to reconsider the criteria for health searches. Recently, an adoptee applied for a medical search on behalf of her teenage son, who has been unable over a period of months to keep any food down. His weight has dropped drastically and his doctors are asking for family medical history. While the boy lay sick, unable to get out of bed, his mother was turned down for a medical search without any explanation by a doctor who had never met the boy or his attending physicians. They didn't even try to contact the birth family to discover if they would be willing to share their medical history. Privacy is important but so is life, and no one should lose theirs because they are denied access to information that should be readily available.

It is the holding of secrets that makes us think that the thing should be secret in the first place. In jurisdictions where adoption records have never been sealed, people are often confused as to why they should be. Openness breeds truth and honesty.

Send Bill 12 to third reading and bring truth and honesty into adoption in Ontario. Please do not allow those who seek to instil fear of what may occur to persuade you to make it more difficult for adults, who happen to have been adopted as children or happen to have surrendered a child, to behave as adults do and make decisions about their own personal lives. We need no more protection than what the bill already offers. We are real people who simply want to know who we are and how our children fare. COAR urges you to send Bill 12 to the Legislature for third reading without amendment.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Rowney.

We'll have about a minute or so per side. To the government side.

Mr. Khalil Ramal: Thank you very much for coming. It's nice to see you again. Hopefully, this time we'll get it right.

Ms. Wendy Rowney: I hope so.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal.

To the Conservative side. To the NDP.

Thank you, Ms. Rowney, for coming forward and for your written materials as well as all that you've shared today.

PARENT FINDERS

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter to please come forward, and that is Monica Byrne, who is the registrar of Parent Finders. Welcome. As you've seen, Ms. Byrne, you'll have 15 minutes in which to make your deputation. I'd invite you to begin now.

Ms. Monica Byrne: Good afternoon. My name is Monica Byrne and, as you've noted, I am the registrar of Parent Finders in Ottawa. We are part of a volunteer-run search and support group that runs across the country, and we are the Ottawa chapter. We have been in existence for more than 35 years and I personally have been involved for more than 22. So I have a lot of experience with adoption and adoption reunion. I have also been co-chair of the Adoption Council of Ontario at one point. I was the Canadian liaison to the American Adoption Congress, and I have a lot of other related experience.

I have also spoken before this committee on four previous occasions: in 1994 for Bill 158, for Bill 77 in 2002, for Bill 183 in 2005 and now this bill one more time. Most of the other bills never made it off the mark. They died in various ways. So for 20 years of my life and the lives of many of us here, we have been fighting for changes to Ontario's somewhat archaic adoption laws. We've waited for readings, next amendments, next challenges. We have argued the importance of every aspect of adoption reform. I, together with the adoption community, cheered greatly when Bill 183 was finally passed

and proclaimed in 2005. Our sadness was equally great when the disclosure clauses were struck down by a judge's decision. A suit brought by three adoptees and a birth father changed all our lives.

I am personally a reunited birth mother. That is, I gave away my child in the 1960s simply because I was not married. Through my own hard work and intense research and searching, I found her when she was 21. I had married her birth father. She turned up at a Parent Finders' meeting without knowing that I was running the meeting. It was somewhat of a shock for all of us. I did not, at that point, make myself known to her. I nearly died of shock at the time. As you can imagine, it was very frightening. I was the one who birthed her. She has a wonderful mother who raised her. There are two of us in this story—two mothers. We're very civilized about this reunion. My other children are her full siblings; life goes on; it's okay.

I am one of the older birth mothers—that is, from the 1950s and 1960s—about whom the privacy commissioner, Ms. Cavoukian, felt it so necessary to worry. I am the birth mother for whom she decided to speak here in this very room, and I am one of those birth mothers whose privacy she felt it very necessary to defend, lest it be violated by a searching adult child. Despite all sorts of evidence—documents, debates, statistics, world experience—to the contrary, the privacy commissioner and her office refused to listen to the majority vote of the adoption community.

I wrote to Ms. Cavoukian on a number of occasions, only to be ignored. In fact, she spoke here at the last hearings and told awful tales of calls and letters from terrified, anonymous birth parents about to commit suicide should their adult children be permitted to learn the truth of their identities. She chose to ignore the rest of us who welcomed openness.

Bill 183 was challenged in court, and the rest is history. A disclosure veto was added to Bill 183, and it's now called Bill 12. It has been estimated and corroborated by evidence from other communities that the new disclosure veto will affect between 2% and 5% of the adoption population. We all understand that there are a very few people who, for whatever reason, do not want to be found, and we respect them, but it is very necessary for the members of this committee and the public at large to recognize that this is a very small group. It in no way represents the majority. There's another 95% of people in the searching adoption community who want to find and be found. Therefore, a couple of notes need to be made about this disclosure veto, as I have been told to confine my remarks about the bill to the disclosure veto clauses.

(1) There is no statute of limitations on the life of this veto. It only dies when the person who places it dies or withdraws it. At first glance, that seems well and good. Once the government has proof of the death of the person, the veto is removed. But therein lies the problem. How exactly will this happen?

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Let me suggest a scenario where the birth mother moves to Florida, retires and dies. How will the information of her death ever make it back to the office of the Registrar General? We recommend that all vetoes require renewal after a certain length of time—five years, 10 years, whatever the choice would be. This would prevent the necessity of the adoptee pestering the Registrar General's office every year to see if his or her birth mother had passed away. That's what's going to happen. It will ensure that the Registrar General's office will be better able to monitor this list of vetoes. There is no other way to find out who has died and match it to the list. The clause says that the notification, once the person has died, will be matched and the person will then have to furnish proof that the person has died in order for the veto to be removed. If I'm the adoptee, how will I know that the person has died if I don't know the person's name? So the whole thing becomes very problematical.

(2) If a disclosure veto is placed, the proposed legislation states that the person "may" give a reason and provide medical history. "May" is the word in the act. We feel this should be a requirement, not a "may." It seems only fair that when someone is so drastically depriving someone else of their personal identity information, they should at least be required to give some information around that decision. We have found that when people are given an honest and real reason for not wishing to be in communication with the other person, as long as they feel it is the truth, they will be more likely to accept the situation. I know this from experience with Parent Finders, having made outreaches. If the person gives a reason—"My husband is ill," "My dog is not well," "My children don't know," whatever—something very, very specific, something reasonable with warmth and truth attached to it, the other person will be more likely to accept that. It's just human nature. If you just have a disclosure veto with nothing—so it's not "may" require; it should be "should" require.

A refusal with no reason is not acceptable and can cause much deep emotional pain. We recommend that all disclosure vetoes require a reason and a relevant family medical history. Further, as already pointed out, not being required to give a robust family medical history is not sensible, but at worst can be a life-threatening situation for some people and completely unacceptable.

The trouble with disclosure vetoes is that searchers, despite a refusal, often continue to seek the truth. I am not now debating whether we should have a disclosure veto, for I understand that that is fixed, but I do wish to make a remark about these disclosure vetoes. Over the years, I have made many outreaches—over 800 or 900—to persons who have categorically refused contact or information exchange through the old government search system, so I've come in after the old ADR—adoption disclosure registry—has made a search. The birth parent usually has refused and I've come in because I'm not bound by those rules—or I wasn't—and I have done a search for that person and contacted them six months, a

year, two years afterwards. I can swear on a bible that I have never been refused. I have made contact with people who did not know they were adopted. I have made contact with women who have been raped and with adult children who were the products of rape. I have talked to women who fear their husbands finding out about the baby. But in all cases a way has been found to make disclosure possible while protecting people from the harm that they may fear. Disclosure is complex, but it can be carefully handled. What I'm saying is that sometimes what seems like a drastic situation at one time becomes less so as time passes, or may become less so.

How will this disclosure veto allow for changes to the human circumstance? I urge the committee to understand what an information disclosure veto means to those on the receiving end of this life sentence and make the disclosure veto in Bill 12 as humane as possible and as positive as possible.

The members of this committee need to look at the meaning of an information veto and not just at the legal and bureaucratic words in Bill 12. These vetoes will bring untold sadness to a great number of people. I urge you to do the right thing and consider the effects of a veto over the life of a human being and of his or her children. This is the original identity of another person we're speaking about. Make the veto renewable and the information inclusive. Then, in time, we may do what other jurisdictions like Australia did after a 10-year term and scrap the disclosure veto once it becomes obvious that it was unnecessary and contrary to equality among the adoption triad.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Byrne. We'll have just under a minute per side, beginning with the PC side.

Mr. Norman W. Sterling: I defend our privacy commissioner very much. Is it not true that every other privacy commissioner, including the Privacy Commissioner of Canada, agreed with her on this issue?

Ms. Monica Byrne: I understand so.

Mr. Norman W. Sterling: The other question I have is with regard to a veto. Do you think that we are in a position to make that conditional?

Ms. Monica Byrne: I think so.

Mr. Norman W. Sterling: I read the judge's decision that the right is in the hands of the person who exercises that veto. Would it not be precarious for the committee to make that veto conditional upon giving health information? I am all for as much disclosure of health information as possible, but I'm looking at the legal aspect of it and how definitive the judge was with regard to his decision, that under the Charter of Rights a person has the right to a veto.

Ms. Monica Byrne: I understand that, Mr. Sterling, and I would—

The Chair (Mr. Shafiq Qaadri): Ms. Byrne, with respect, I will have to intervene there and now offer it to the NDP side.

Mr. Michael Prue: Go ahead.

Ms. Monica Byrne: Can I finish on that one?

Mr. Michael Prue: Yes, yes. I ask the same thing.

Ms. Monica Byrne: I would put some wording into the statement that these people sign when they are declaring this disclosure veto. I would put a statement in saying how extremely important it is that people give a full and robust medical history and a good reason—not just "may" but "should." There is a way to say it in such a way that it's reasonable.

Mr. Michael Prue: In terms of the statute of limitations, a previous deputant said 10 years. Do you—

Ms. Monica Byrne: I think 10 years is reasonable. I do know that people are going to come back every year to the Registrar General's office to find out if mum died, because that's the only way. They will have to go and check the death registries to see if Mrs. Jones, who's registered this disclosure veto, has died. It's going to become very—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Prue. To the government side.

Mr. Khalil Ramal: Thank you very much for coming again. I still remember you when you came the first time, and you were as passionate about it as you were today, maybe even more. As you know, we are back here to debate this very issue because of the court order—

Ms. Monica Byrne: We understand.

Mr. Khalil Ramal: —and hopefully in the future something will change. Thank you very much.

Ms. Monica Byrne: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal, and thanks to you as well, Ms. Byrne, for coming forward, for your story about Parent Finders and the organization.

STEPHEN FORREST

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenter, Mr. Stephen Forrest, to please come forward. Mr. Forrest, as you've seen, you have 15 minutes in which to make your deputation. I would invite you to begin now.

Mr. Stephen Forrest: As you know, my name is Stephen Forrest. I am an adoptee and I come to you now not on behalf of any organization but merely on my own behalf, offering the perspective of an adoptee to the committee.

I should say that this is actually the first time I have ever been in a room with other people who have been personally concerned with the issues of adoption disclosure, but I felt, in my own perspective, very much concerned with this enough to come forward.

I was born in 1977 in Hamilton, Ontario, and was adopted shortly after birth. The sum total of what I know about my birth family is contained in these documents, my non-identifying information. My adoptive parents, my parents—which, of course, when I use the term unqualified, is what I mean—were always very good with me regarding the issue of adoption. They never felt any need to conceal the knowledge from me. They informed me of the fact that I was adopted prior to even my

knowledge of the facts of life. The fact that my sister was adopted even permitted my parents to avoid certain awkward questions about the facts of life, because babies come from children's aid.

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I must say, from reading my non-identifying information, I'm very much aware that the successes that I've had in life and the opportunities that have been afforded me are greatly due to the circumstances of my adoption and the family with which I was placed. I am certainly a textbook case of evidence for the fact that the adoption situation worked out for me.

I was always interested in the issue of meeting my birth family. My parents had always told me that once I reached the age of majority, I could pursue some means of information-seeking or possible contact. I was a bit chagrined to learn, when I first turned 18 and looked into it, that there was probably about—at the time, the system in practice was the adoption disclosure register, and I was a bit chagrined to learn that it would be five years before an active search would be conducted on my behalf.

As far as the question of rights, this is something that I have had to think about for a great deal of time and ultimately settle on what I personally believe—because this is an issue of personal values. I do believe that every person, adoptee or otherwise, has a right to know as much about their origins as circumstances will allow. There are, of course, people for whom no information is available. For example, many of the children currently being adopted from China will never know the details of their particular origins. In my case, the details of my origin and my birth family are locked away in a safe somewhere. They are prohibited by my government from my knowledge.

As far as my motivation for being interested in contacting my birth family or possibly learning information about them, I do not expect or especially desire to have a relationship. I would certainly like to know what aspects of my personality traits, interests, that sort of thing, are related to theirs. But more or less, it's an issue of curiosity and an issue of my place in the world. It's a thing that not everyone can relate to—going through life every day and knowing people to whom you are biologically related.

Regarding the issue in question, it's my belief that of course we have to reach some sort of reasonable compromise between the rights to past information and the past promises that have been extended to birth family members.

The disclosure veto system has extensive precedent elsewhere in Canada and elsewhere in the world. I feel that it is at least measurably better than the current system—by which I mean the system preceding the introduction of Bill 183; that is, the adoption disclosure register. It's my belief—and this is speaking as someone who has not formerly met adoptees for the sake of meeting adoptees, but just essentially met other adoptees by chance through life circumstances—that the majority of people on either side of the adoption gulf will often not necessarily seek to traverse the adoption gulf but at the same time will not be traumatized or alarmed by someone else attempting to traverse it. There are, of course, a number of people who feel strongly about the matter one way or the other, but the benefit of a disclosure veto system is that at least it allows the people on one side of the gulf who are not necessarily averse to being contacted or having their information divulged—at least that allows their information to be released to the other people if they are concerned about that.

With regard to the more practical question regarding the legislation in question—and I actually thought of this myself independent of it being raised by past speakers. There is quite a logistical question in practice for the issue of a birth parent dying and how on earth we are to inform the government of this fact and suspend a disclosure veto. In truth, it seems to me that after the birth parent is deceased—many of these are people who in many cases had not told any of their close relatives or friends about the fact that they once gave a child up for adoption. There are many cases in which that information will not be revealed. So, if it is possible, I would personally support a system of regular renewals. There have been other issues raised on the panels thus far about its constitutionality and whether or not it would comply with Judge Belobaba's decision. If that is not possible, then, as a secondary idea, I would suggest a system whereby an adoptee who really wishes contact could make an official request of the government to attempt contact every so often; essentially, to try to check death records and such things to see if there's any evidence that this individual in question is deceased. This would, of course, have to be something that would be time-limited, something that they could only do every few years, because we wouldn't want to flood the government with such requests.

I would close my remarks by saying that I believe that the current proposed system is, as I say, measurably better than the existing status quo and would definitely grant a lot of the information that is being sought to many of the individuals in question who are seeking it currently, so I would encourage its passage.

The Chair (Mr. Shafiq Qaadri): We'll have under two minutes per side, beginning with the NDP.

Mr. Michael Prue: Again, it comes down to the limitations. You've heard a couple of previous deputants, because you've been in the room, talk about a 10-year limitation period. Do you concur with that time frame?

Mr. Stephen Forrest: That seems acceptable to me.

Mr. Michael Prue: That seems to be the nub of your argument. Other than that, you supported the previous bill and you support this bill.

Mr. Stephen Forrest: I support this bill because it is, in many ways, an issue of practical consideration. I am not exactly sure where my loyalties would lie if we were not so constrained by Judge Belobaba's decision. Given those constraints, I support this bill.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Khalil Ramal: Thank you very much for coming.

The Chair (Mr. Shafiq Qaadri): To the Conservative side.

Mr. Norman W. Sterling: I like your second idea in terms of a veto after someone would die, and that is that there'd be some obligation upon the government, on the request of somebody after a period of, let's say, 10 years, to attempt to re-contact the person who has exercised the veto. But I must say that I think you could be getting into problems again if you didn't make that contact and you took the veto off. I think your second choice is not a bad idea, and that is that an adoptee or a birth mother be able to contact somebody in the registry office and say, "Will you make an attempt to contact," and they'd just respond as to whether they were contacted or not contacted, and that would be it.

Mr. Stephen Forrest: As a response to that, though, I would say that it is very much a secondary choice. I think what it would essentially involve is setting up a bureaucratic structure rather like the adoption disclosure registry, and these searches for death records would be subject to availability of ministry employees.

Mr. Norman W. Sterling: But you're only dealing with 2% to 5% of the records. You're not dealing with a huge number of records when you're going through this kind of process, and you're only dealing with people who request it, so you're probably narrowing the real job to a relatively minor task.

Mr. Stephen Forrest: The other issue is, of course, as someone said, that people do change their minds and it is perhaps—anyway, I think I've made my point.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Thank you, Mr. Forrest, for coming forward and for your deputation.

Our next presenter, if they're available—I understand we had some problems contacting them—is Anazola Linton. Are they present? If not, we'll move, if possible, to the next presenter, and that is Erika Klein. Is Ms. Erika Klein here? If not, we will move to our next presenter.

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MARILYN CHURLEY

The Chair (Mr. Shafiq Qaadri): Our next presenter, whom I think, first of all, the committee is privileged to have in the person of the honourable Marilyn Churley, is a former member of provincial Parliament, elected September 6, 1990, and serving until November 29, 2005, and, of course, having been one of the spearheads in terms of this whole adoption process.

Ms. Churley, personally and on behalf of the committee, I welcome you. You've no doubt been long familiar with the drill. You have 15 minutes in which to make your deputation, and I would invite you to begin now.

Ms. Marilyn Churley: Thank you very much, Mr. Chair. It's a pleasure to be here on this side of the table. I think I did this many, many years ago, but not for the last 20 anyway.

I'm not going to say a lot. You've heard me say that before, of course, and then go and on, but I'm here mostly to follow through with this bill. As you know, I started—some people refer to me as the mother of the bill, although I think the real mothers of the bill are sitting back here today, the people who certainly inspired me, some of whom have already spoken to you.

I want to give you a little bit, though, of a history and understanding of why the adoption community at large—and you're hearing from most of them today, the leadership in this area—fought hard and why I fought hard for the disclosure veto. I understand that we're not fighting that battle today. I understand the court decision. I was in the court and, even though I'm not a lawyer, I would still say that if I had time today I'd make my case for why it's appealable, Norm, but I won't.

Mr. Norman W. Sterling: You're not a lawyer.

Ms. Marilyn Churley: No, I'm not a lawyer, nor an engineer, but I was the Registrar General of Ontario and I do understand these issues fairly well, and the Charter of Rights. But I'm not going to go into it, because here we are today with a bill before us which I am generally supporting. I think it should go back to the House without amendments and of course, as everybody says, the devil is in the details. Please, work with the experts from the community as well as the children's aid and others, who really understand what you need to put in the regulations to deal with some of the issues being raised today which are of vital importance.

What happened, and what led us to this situation—Mr. Sterling was around, I believe, at that time—is that in 1979 the first disclosure registry in North America was set up. Ontario was in the leadership; in fact, it was Ross McClellan, if you'll recall, from the NDP, who brought forward the amendment to set that up. Then, in 1986, John Sweeney amended the acts related to adoption disclosure. That was passed in 1987. In 1990, there was Bill 233, by Charles Beer. In 1994, my former colleague and now MP Tony Martin brought forward a bill. Then, in 1998, a Liberal former colleague and now my former colleague Alex Cullen brought forward a bill.

Then, in 1998, I brought forward Bill 88. In 2000, I brought forward Bill 108. In 2001, I brought forward Bill 77, which reached the committee, which is highly unusual for a private member's bill, as you well know. We came here and tried to get third reading, but again, weren't able to get it through the House. Then, in 2003, I brought forward Bill 16, the Adoption Disclosure Statute Law Amendment Act, and then Bill 60. Then, in 2003, another bill, Bill 14—I'm sorry; Bill 60 was a Conservative bill by Wayne Wettlaufer. Then, of course, as you know, Bill 183 was brought forward, and now here we are today with Bill 12.

My first bill, when I brought it forward, did have a disclosure veto as well as a contact veto, but after research around the world in other jurisdictions and consulting with the community, I came to the conclusion that because Ontario was so far behind many other jurisdictions—notwithstanding that British Columbia was the only province at that time which had brought forward new adoption disclosure laws. Looking at, for instance,

and it's cited a lot today, Western Australia adoption disclosure reform, they brought in a phased disclosure or information veto, as they call it. That was known from the beginning. They also did, over the years, in-depth studies to look at how it was working, how many people applied for them, and the reasons why the disclosure was put in place in the first place and whether or not it was working. They came up with some very strong research and statistics.

There are other jurisdictions, of course—England, Scotland; you've heard them all rhymed off—some of which never had disclosure vetoes. So I thought, because we were so far behind, that we should try to get ahead. And in some of the other jurisdictions, it's granted—privacy commissioners in Newfoundland and Alberta and BC also opposed the disclosure veto for the same reason. In fact, they started off opposing any kind of retroactivity.

That's what led us to this point. We believe very strongly that it was the right thing to do, that even if it's a small percentage of people who are being left off, their dreams will be dashed; their desire to know who they are, if they are an adoptee, will be dashed. The birth mother's hopes and dreams of finding out what happened to her child will be dashed.

That was the reason why—again, doing research, we saw that the contact vetoes worked, that the legislation was not about forming a relationship or the right to a relationship, but the right to information about yourself. I still firmly hold to that view. From my point of view, that will never change. I will continue that fight, but not here today. I know where we are today.

Having said all of that, I'm still pleased with the bill as it is. I'm disappointed in that aspect, but we have moved a long way from the days when I first started working on this bill—and many of the others in the room today—from the absolute attitude from many that there should be no retroactivity whatsoever. So we have come a long way. That's why I'm pleased to support the bill today and want it to go as is and then work with you, if you so invite me, on the regulations.

I do want to talk about two pieces. Am I almost done, after having said that I wouldn't talk long?

The Chair (Mr. Shafiq Qaadri): You have about eight minutes left.

Ms. Marilyn Churley: Good.

The health matter: Others have talked about it, so I don't need to go into a lot of details, but it is of vital importance. I understand that there's a privacy issue here and that you can't compel people to give information. But, as others have said, it is so important to do everything you can—even if it costs a little money, government people—to not pressure people but to make it as easy for them and compelling for them as possible to give that information.

Some of you may remember from when I was here that on one of my bills we had Dr. Philip Wyatt, a chief of genetics at the North York General Hospital, come in and talk about the number of inheritable diseases that are known about now: 2,500. That was a few years ago. They emphasized that every individual must understand his or her medical background so that he or she may decrease the chances of suffering from a potentially fatal inherited condition, such as breast and prostate cancers. There are so many more diseases that we now know and that there's special screening for. The government funds some of the special screening if you know these diseases are in your family. These people are left out. Again, granted, it's now going to be a smaller percentage, but there are still going to be some people out there who will not have access to their personal, private information.

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The other thing I want to touch on briefly is that I would like to see the registry brought back. I believe, Mr. Sterling, you may have raised that, in fact, and Mr. Prue. That's something that I was not in favour of getting rid of in the first bill, in Bill 183. There are some people who cannot afford—now, we weren't happy with the service under any government, including my own. The level of service that the registry was offering people got worse and worse progressively, but it's absolutely necessary to be there, because some people just will not be able to afford private investigators. You can set up a reasonable fee. I would really urge the government to look at bringing that back in some form.

The other issues have been touched on and will continue to be by others. I think I'll stop there and just thank you very much for this opportunity to come forward today and give you my views on Bill 12.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Churley. About a minute or so, a little bit more, per side. Mr. Ramal?

Mr. Khalil Ramal: Thank you very much. We got used to seeing you on the other side. Now you're on another side, still as passionate about this issue as you were in the past. I know what you're talking about. You remember our position as a government in the past. As a result of the court order—you, I and many people in Ontario are respecting and honouring it. That's why we're back today.

As you mentioned, this is still a progressive bill. It can speak to many different elements of our issue here. Hopefully, in the future, with your advocacy and many others, something will change.

Ms. Marilyn Churley: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Sterling?

Mr. Norman W. Sterling: I'd just like to congratulate you, Marilyn, on your advocacy on this issue for such a long period of time. I only wish that you had stayed with your original submission, to find the proper balance between privacy to people who had been promised it in the past and going forward. Had we done that, perhaps we could have been passing this law 10 years ago.

Ms. Marilyn Churley: Thank you for your compliment. I will say, however—Mr. Sterling, may I remind you that you and some others were adamantly opposed to any kind of retroactivity back in my first bill, and in Tony

Martin's and others before that? It ended up coming down to the disclosure piece in this last bill.

We have come a long way, and you've come a long way. You really have. I thank you for that. You started off being adamantly opposed to any retroactivity whatsoever. So I thank you, actually. I don't mean it facetiously. I think that it can be a difficult issue for people and I thank you for the years of—I know you've been dealing with this, as I have, for a long time, on different sides. But you have learned and listened, and I thank you for your support for the retroactivity.

The Chair (Mr. Shafiq Qaadri): To the NDP. Mr. Prue.

Mr. Michael Prue: Two groups, one before you got here and I think one while you were here—the first one, Bastard Nation: The Adoptee Rights Organization; and the second group, Parent Finders, with Monica Byrne—suggested a 10-year veto. You are asking to pass it as is. Are you suggesting you don't think we should include a 10-year veto?

Ms. Marilyn Churley: I would certainly support their position on this. I certainly don't want it watered down. Anything that will strengthen it, I would support. If the real experts here today support that, absolutely, yes.

Mr. Michael Prue: Okay, so you want us to pass it. But if I were, as an example, to put in a motion asking for a statute of limitations for 10 years, that would not cause you grief?

Ms. Marilyn Churley: That would not cause me grief. That would make me jump for joy. That would be a good thing.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): On behalf of the committee, Ms. Churley, I thank you on multiple fronts: for your continued advocacy in this issue, for your presence today and for your decade-and-a-half service to the people of Ontario as an elected representative.

Ms. Marilyn Churley: Thank you very much, Mr. Chair.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenter; again, if they'd be present, Anazola Linton. If not, then we'll move to Ms. Erika Klein. If not, we'll move to Ms. Joy Cheskes.

JOY CHESKES

The Chair (Mr. Shafiq Qaadri): Please come forward. As you've seen, you'll have 15 minutes in which to make your presentation. I invite you to begin now.

Ms. Joy Cheskes: Thank you for the opportunity to speak to you today. My name is Joy Cheskes. I'm here today as a non-searching adoptee to voice my support for Bill 12.

I am 43 years old, a teacher, a mom to a teenage daughter, a sister with four siblings and the daughter of two wonderful parents. I was adopted when I was a baby and raised from a very early age to know that I was adopted. In fact, I don't recall ever not knowing this fact. My parents obviously handled this information with care and sensitivity.

For whatever reason, my status as an adoptee never became an issue for me. I never felt the void that many other adoptees feel. I never wanted to look for information or seek out my birth parents. I lived my life knowing that if I ever changed my mind, however, there was a disclosure registry that I could use which would allow me to access information if my birth mother had registered as well. I chose not to use the registry. I chose to live my life looking forward into the future, not back into the past.

That's exactly what I did until I found out, through a newspaper editorial, that the very personal choice I had made not to join the registry and therefore keep my records sealed was in danger of being taken away from me and that the government was going to retroactively change the rules of the game by opening records without my consent. Up until this point, I have to admit I was very naïve to the fact that there were open-record activists in the adoption community and I had no idea that they had been working alongside the government for such a long time to unseal records at all costs.

Without going into too many details, my outrage and disbelief led me to try to do something to stop the original bill from going through without giving adoptees as well as birth parents the option to opt out of this retroactive legislation, in the form of a disclosure veto. I soon found out that Bill 183 was so extreme that it would truly be the only one like it in the world, except for New South Wales, which, as was mentioned earlier, does not have a bill of rights, as we do. I set up a website, wrote letters to the paper and to MPPs and started a petition, and of course, all of that was to no avail.

As you may know, I eventually became one of the four applicants in the charter challenge launched by Clayton Ruby, to whom I will be eternally grateful, against the new information disclosure act. All we wanted was the ability, as adults, to decide for ourselves if or when we would allow the government to release our personally identifying information. We felt it was the government's responsibility to protect our right to privacy and to respect our personal reasons for maintaining our privacy, without having to go through the trauma of pleading our case before a panel of strangers in hopes that they would deem our reasons to be worthy. We wanted the same rights afforded to other non-searching adoptees and birth parents in BC, Alberta and Newfoundland, all provinces that had passed retroactive adoption disclosure legislation. We simply wanted an automatic no-explanation-necessary disclosure veto, and we were not the only ones. Hundreds of letters were sent to me via my website, to the privacy commissioner and to members of the Legislature explaining the harm that would be caused by the disclosure of their names. Over and over again, the main message was that the disclosure without consent was the harm. Of course, the reason we're here today discussing Bill 12 is because Judge Belobaba of the Ontario Superior Court of Justice agreed that the law had

to include a disclosure veto and that the law, in fact, was in breach of the charter without one.

I'm relieved, to say the least, that finally we have a bill on the table that is balanced and fair. This law will allow the vast majority of searching adoptees and birth parents access to the information they want, including medical information, while protecting individuals in the adoption community who wish to maintain their privacy. This bill recognizes Privacy Commissioner Ann Cavoukian's expertise in privacy matters and rightly follows her advice. This bill complies with the Charter of Rights and Freedoms by including a disclosure veto.

In closing, I'd like to say that I certainly understand that many adoptees and birth parents have a great longing for information. I believe that making records more accessible on a retroactive basis is important. I also understand that many people in the adoption community have had to wait even longer for the changes in legislation to occur, given the result of the charter challenge. Therefore, I urge the government to do what is possible to pass this legislation in a timely manner so that searching adoptees and birth parents will be able to access their records. I also urge the government to make the disclosure veto one without a time limit, but instead make it easy for people to voluntarily rescind it if they choose and when they choose. I believe the other provinces set this up on a website so that you can go in and change that veto if you chose to do so.

Lastly, I urge that the government would word the legislation in some way that will strongly urge people who use a disclosure veto to regularly update medical information. I believe that this should be prominent in the government's information campaign to Ontarians about the new legislation. Thank you.

1650

The Chair (Mr. Shafiq Qaadri): We have about three minutes per side, beginning with the PC caucus.

Mr. Norman W. Sterling: I just want to congratulate you on taking your beliefs to the end, to the courts of Ontario. I know when Clayton Ruby was here with a previous bill, he sat at the very table you are sitting at and said that this is not constitutional. But the government of the day wouldn't listen to that and went on its merry way. As a consequence, we're now probably going to be a year, a year and a half behind where we might have been had they listened to a reasonable balance and the submissions that you, Mr. Ruby and Mr. Denbigh Patton put forward to this committee. But it takes extraordinary citizens to go to the length and ends that you have, not being part of a group that is—whatever. You were the leader, and I just want to congratulate you on this fortitude that you had, Joy.

The Chair (Mr. Shafiq Qaadri): Mr. Prue.

Mr. Michael Prue: Every deputant, including yourself, wants the bill to be passed. So far I haven't had anyone say, "Don't pass this bill." The only question comes down to whether we pass it as is or whether we take the suggestion of two or three of the deputants and put a 10-year time limit. You're suggesting that you don't want that time limit. Am I correct in that?

Ms. Joy Cheskes: That's what I'm suggesting. I'm no expert, but as far as I can tell, and I'm not sure if every other province has this—I don't know if you know that. Is that the experience of the other provinces? I don't know.

Mr. Michael Prue: I'm going to have to ask the lawyer that in the end.

Ms. Joy Cheskes: That is my suggestion, that there be a disclosure veto, no questions asked, and that there not be a time limit on it, but that there be something on the website, for example, where you can easily go in and rescind that at the time of your choosing, if you choose that.

Mr. Michael Prue: One of the first deputants—I'm not sure if you were in the room—talked about the difficulty if people die, and it's not generally known by the government if they die in a foreign jurisdiction, as an example. Would a time limit not aid someone in knowing—they wouldn't have to wait any longer than 10 years to find out that their birth parent, as an example, has died?

Ms. Joy Cheskes: I agree that that is a difficulty—I'm not going to argue with that—when it comes down to the particulars of it. I think we would have to consider too that a fairly small portion of the adoption community is going to use a disclosure veto. But I'm not an expert, as I said. I do realize that that's a difficult part, and I would hope we would look at other jurisdictions in Canada and see how they've tackled that one.

Mr. Michael Prue: How would it cause you personal difficulty to re-register every 10 years if you didn't want the disclosure? I'm just trying to think about the average citizen. Every 10 years doesn't seem onerous.

Ms. Joy Cheskes: It wouldn't be an enormous difficulty for me. I'm thinking that if I missed the deadline and the information was released, then it's being released without my consent. If the government takes that position, that I have a deadline to meet, and it's my responsibility to meet that and I don't, and they're going to release the information, it's against my consent, as far as I'm concerned, in that sense.

Mr. Michael Prue: Thank you.

The Chair (Mr. Shafiq Qaadri): To the government side.

Mr. Dave Levac: I appreciate the opportunity. I'd like to echo how my friend and colleague Mr. Sterling characterized your journey, as I did in the previous committee I sat on to do the bill for Ms. Churley; to congratulate all those who have advocated for the type of legislation that's necessary to bring to light some very difficult human stories. I was completely blown away by everyone's story, and I'm sure that you have gone through a story that needed to be told and needs to be rectified. I appreciate your courage and your fortitude to see it through.

However, you may be a little bit surprised to hear that I don't necessarily agree with the characterization of Mr.

Sterling that the government is as bad as he sometimes says it is. Having said that, there are many instances and examples in this topic alone where legislation is very complex and a complex issue that needs some time to flesh out. If you listened to Ms. Churley's presentation, you heard that there were no less than seven attempts to write legislation to get it right. So to you, I would say that we're going to get it right. I believe that we're going to get it right. There's probably some more work to do. All bills that I'm aware of eventually do get some amendments even though they're the bill of the day. So we'll probably pass this bill; I'm guessing we're going to pass this bill in the government with the support of everybody. It would still require us to take a look at it to see if there are some improvements to be made. I would encourage you to continue your journey and to pay attention to what's happening on this front, and I welcome your input. I thank you for your journey.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Levac, and thanks to you, Ms. Cheskes, for coming forward with your deputation.

CANADIAN COUNCIL OF NATURAL MOTHERS

The Chair (Mr. Shafiq Qaadri): I will now offer for the third time an invitation to Erika Klein. If not, then we'll move to our final presenter of the day, and that is Ms. Karen Lynn, who is the president of the Canadian Council of Natural Mothers. Ms. Lynn, as you've seen, you have 15 minutes in which to make your deputation. I would invite you to have a seat. I would respectfully ask you to begin now.

Ms. Karen Lynn: Thank you so much. Good afternoon, everyone. I would like to briefly explain the experience of unwed mothers in Ontario post-World War II and then how this relates to adoption disclosure. With me today is my son, whom I lost to adoption when he was only eight days old in 1963. We have been happily reunited since 1999, although we regret the loss of 35 years together.

After we reunited in 1999, I became very aware that the voice of natural mothers was simply unheard. No one wanted to listen to our story and everybody seemed to know all about it. Therefore, I met a few similar women on the Internet and we established the Canadian Council of Natural Mothers. We now have members across Canada and even around the world. For some reason, we have an awful lot of American women who have joined our group.

Our mandate is simply to be the voice of mothers who lost their children to adoption. Before I get into the main part, I just want to respond to some of the things that people mentioned earlier this afternoon. First of all, I want to make it clear—I'd like to dispel a myth—that there were no promises made to mothers who surrendered their children. We were not promised privacy and we were not promised confidentiality. No one said that we would get anything out of this deal. We simply signed—some of us signed—I signed a consent to adoption, and the deal was that I lost my parental rights—period. The contract—and anybody can read it; it's available—never said that I would get privacy or something—a synonym—out of it. It simply was not on. I understand that there were a few ill-advised social workers who did promise confidentiality, but how could they really do that? It wasn't legally done. I just wanted to clear that up.

Secondly, as Marilyn and others have mentioned, sunset clauses were introduced in New Zealand—I think it was in 1985—and it was for a 10-year period of time. What they found is that after 10 years, when people were invited to renew their vetoes, only 10% of the people did that; and every 10 years, only 10% of the people again, until eventually they've dwindled down to practically none. It's almost not even worth the effort anymore.

1700

Both New South Wales and Western Australia removed their disclosure veto. I'm not sure of the exact date when New South Wales did it, but I know that Western Australia removed the disclosure veto in 2003.

I think that it's a good idea to conduct government searches after a few years of a disclosure veto having been placed. I think that would be an excellent idea. It would be a tremendous service that the government could offer people in the adoption community.

Back to my speech: In 1969, in Toronto, a seven-months-pregnant 17-year-old was literally thrown out of her home onto the front lawn by her father on the advice of the family priest. She wandered, dazed and traumatized, around town until she found shelter in a maternity home.

One sunny afternoon in 1963, a young woman walked out of a hospital in Ontario and quietly slipped under a truck, hoping to end the pain of losing her first child. Fortunately, she was rescued by the attentive truck driver, who saved her life, and rescued her spirit as well, that day.

She said, "I fell between his front tires. He skidded to a halt, jumped out of the truck, screaming Italian. He crawled under the truck, dragged me out and hugged me to him, relieved that I was unhurt. As he held me, I realized I had not experienced any compassion since I told my family I was pregnant. That is my memory of relinquishing my darling daughter."

Still another, a 16-year-old, lived for three months in a field during pregnancy because she was forbidden to go home.

I realize that these stories sound melodramatic and that they're very uncomfortable to hear. This is not the Hollywood version, as in Juno. There are thousands of real stories like these, stories of young women, some still children themselves, who suffered society's harshest punishment: the loss of a baby, accompanied by social shunning and often the loss of their own families, for the crime of being unmarried and pregnant.

We are often blamed for the loss of our babies, yet—and few know this—administrators at maternity homes routinely denied us shelter unless we promised to sur-

render our children. When my son was born, the doctors and nurses refused to allow me to hold him. I was an unfit mother, not because I had ever hurt a child, but because I was unmarried. I was simply forbidden to mother my own child by the holders of the ethical authority of the day. This was just down the street from here, in the Toronto General Hospital.

But now, some 20 or 50 years later, when so many of us who suffered this may want to find out how our children are doing, what do we do? What do we do when those who have not had our experience insist that adoption disclosure be limited by a veto and even other restrictions to protect us?

We, the majority, are on the flip side of the privacy argument. We do not feel protected by any restrictions on disclosure. Instead, we feel patronized, invisible, misunderstood and threatened. We feel threatened because many mothers not as fortunate as me may not be able to find out what happened to their children. They may not be able to pass on important inheritable medical information to their children, information that we didn't know when we were 17. We did nothing wrong, yet our punishment continues, and it will continue forever until we all have access to information about our children.

Yes, there are a very few among us who fear that their good names may be sullied, that their husbands may leave them if their lost children find out their names. Where is the evidence for this? In places such as some US states, England and Australia where there are no disclosure vetoes, this has not happened. These fears are unfounded. It is the overwhelming experience of hundreds of mothers whom I have known, both in my own organization, the Canadian Council of Natural Mothers, and outside the organization, across Canada and around the world, that disclosure of our information does not cause shame and familial or public scorn to rain down on our heads, as it did in the past. Reunion, if it comes, brings joy, relief and healing.

Having fully open adoption records is an essential component of mothers' and women's rights. Let us finally bring to an end the agonizing era that blamed, traumatized and humiliated Ontario women. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you very much for your deputation. We'll have about three minutes or so per side, beginning with the NDP.

Mr. Michael Prue: Thank you for your deputation. There were several groups who came forward and, in meeting Judge Belobaba's decision, asked for a limiting 10-year veto so that it could be renewed, but—

Ms. Karen Lynn: Yes, the sunset clause at the end.

Mr. Michael Prue: —sunset clause, yes. Are you in agreement or not in agreement with that?

Ms. Karen Lynn: I'm totally in agreement. I would prefer no disclosure veto but, lacking that option, definitely a sunset clause is great. It seems to have worked where it's been tried before, and I can't see the harm. I'm sure that there could be some system put in place by a competent government to ensure that people didn't slip through the cracks.

Mr. Michael Prue: So a system whereby you'd register your address, and every 10 years they'd send you a note stating the time and, "Do you want to renew it?"—sort of like my driver's licence, I guess

Ms. Karen Lynn: Yes, kind of like that, only I wish it were every year.

Mr. Michael Prue: But whatever the time frame was, it would be done in much the same way: "The time has now come to renew your licence, your fishing licence, your veto, your whatever."

Ms. Karen Lynn: That's right. Think of it as a fishing licence.

Mr. Michael Prue: What you're suggesting, then, is that the government adopt such a system whereby people who have a veto would be notified and invited to re-veto, if that was the desire.

Ms. Karen Lynn: Yes, I do.

Mr. Khalil Ramal: Thank you very much for your advocacy on behalf of natural mothers. I remember when you came and you gave us your thoughts on Bill 183. Thank you for coming again to talk to us about your thoughts about this bill.

I agree with you, but as you know, as a government, as elected officials, we don't have the ultimate decision sometimes. There is a higher authority, the court, that ruled against Bill 183. That's why we are back to discuss this issue. Hopefully, many people among us, especially on the authoritarian level, will have more progressive minds, will open it again and relieve you and many others across the province, across Canada, from the suffering you had to pay for no reason—just some ethical stuff happened in the past—

Ms. Karen Lynn: Thank you for recognizing that.

Mr. Khalil Ramal: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Ramal. To the PC side?

Interjection.

The Chair (Mr. Shafiq Qaadri): Thank you.

Thank you very much for your deputation, Ms. Lynn, and for coming forward on behalf of the Canadian Council of Natural Mothers.

First of all, I have one final call. Yes, Mr. Sterling?

Mr. Norman W. Sterling: Well, maybe you want to make your final call, and then I'll—

The Chair (Mr. Shafiq Qaadri): Final call to Anazola Linton or Erika Klein. Fair enough.

Mr. Sterling.

Mr. Norman W. Sterling: Mr. Chairman, I just received the copy of the submission by the Ontario Association of Children's Aid Societies. In it, they're making the suggestion that the bill be amended to include a provision, going forward from September 1. The Ontario Association of Children's Aid Societies "recommends [that] amendments to Bill 12 include a determination of abuse provision for adoptions registered after September 1, 2008, prohibiting disclosure of information to a biological parent where an adopted person is a victim of violence, unless the adoptee waives this right of prohibition, once they are an adult."

I intend to put forward those amendments tomorrow on their behalf. I agree with their submission. I do not have those formally drafted at this time, but I will put them forward tomorrow.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Sterling. Just to remind the committee members as well as others that the amendments are to be filed with the clerk of the committee, Mr. Katch Koch, by Tuesday, April 22 at noon.

Mr. Michael Prue: If I could seek the advice of legislative research, I would like to put forward a motion along the vein of having a sunset clause as well, and I'm not sure exactly how that would be done. I don't want to get into a legal wrangle tomorrow afternoon. We've only got such a limited time. Could someone assist me in doing that?

The Chair (Mr. Shafiq Qaadri): Sure. I'll direct research to assist you in that.

If there are no further questions or comments, this committee stands adjourned for clause-by-clause hearings until tomorrow at 3:30 or after orders of the day.

Mr. Norman W. Sterling: Do we know if there are any amendments by the minister?

Mr. Khalil Ramal: Yes.

Mr. Norman W. Sterling: When are we going to get a copy of those?

Mr. Khalil Ramal: You'll be receiving it, I guess, tomorrow.

The Clerk of the Committee (Mr. Katch Koch): It was distributed Friday, but I can get you a copy.

Mr. Norman W. Sterling: Thank you.

The Chair (Mr. Shafiq Qaadri): The committee stands adjourned.

The committee adjourned at 1711.

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