

February 23, 2016

TO: Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair
Committee on Judiciary

FR: Rhonda McCormick
Adoption Circle of Hawaii

RE: HB 2082 HD1
Relating to Adoption Records

I am submitting testimony for HB 2082 HD1. I support the intent of this bill to amend the requirements relating to adoption records.

I am a birthmother, and I strongly support the right of adult adopted persons, as well as other parties to the adoption, to gain access to their sealed adoption records, at age 18 and over, if they wish to do so.

I reconnected with my child in 1982. For years I wondered where my child was, and was my child happy and healthy. After we met, I found out we shared the same feelings. Although we have had the usual ups and downs of any relationship over the years, neither of us have any regrets about reuniting. Getting information about medical issues and forming close relationships with all of the family members on both sides has been a joy for both of us.

I truly believe that adopted persons have the right to know about their medical background, family heritage, and know who and where they come from.



February 22, 2016

Written comments regarding HD2082 HD1, respectfully submitted by Adam Pertman, President and CEO of the National Center on Adoption and Permanency:

Thank you for reviewing these comments on HD2082 HD1, restoring the right of adopted persons to obtain copies of their original birth certificates (and additional documents) upon reaching the age of majority. The issue you are examining is far more important than most people perceive it to be, both in practical terms for the tens of millions of Americans it stigmatizes – I refer here to both first/birth parents and adopted people – and symbolically, because we keep secrets about things we are ashamed of or embarrassed about. So, when we seal adoption records, we implicitly send the clear signal that adoption is somehow a lesser way of forming a family, because it has something to hide from the very start.

Thank God, we are emerging from the period of our history in which people actually believed that was true, a period in which adoption was a shadowy secret, in which we denigrated nearly everyone touched by this wondrous institution, in which we even turned the words “you’re adopted” into an insult. My children are not an insult, and neither are anyone else’s, regardless of how they came into a family or why they left one. But some remnants of those dark days remain, and sealed adoption records are one such remnant.

It is also difficult to learn much about secrets. As a result, many myths, misconceptions and stereotypes have come to be widely accepted – even by some professionals in the adoption field. The National Center on Adoption and Permanency, which I am proud to head, has no formal ties with any interest group. It is an independent, nonpartisan, not-for-profit education organization that was created for one principal reason: to improve laws, policies and practices – based on the best available research and experience – so that they empower children and their families to succeed. Providing accurate information to policymakers is one way that NCAP furthers its mission.

I’d like to start by offering an obvious observation, one I hope you will keep in mind as you listen to the arguments of those who want to retain the status quo. It is simply this: The critics of restoring the right to access original birth certificates (and related adoption documents) warn that approving this change in law will set off an array of dire consequences – from ruined lives, to increased abortions, to fewer adoptions, and on and on. Whether the critics are right is no longer the subject of conjecture or speculation. Over a dozen states around the country have done what you are considering doing, and two states, Kansas and Alaska, never sealed their adoption-related records.

So now, we can see with our own eyes what calamities might have transpired as a result. And the answer, very simply, is “none.” The newspapers in those very diverse states – from Alabama to New Hampshire to Tennessee to Oregon – contain no horror stories about stalker adoptees or weeping women. Furthermore, the statistics in those states show no inkling of rising rates of abortion or falling rates of adoption.

All of this information, and far more, is contained in two comprehensive, research-based reports issued by the Donaldson Adoption Institute, of which I am Executive Director Emeritus. They are entitled “For the Records I” and “For the Records II” and are available for reading/download at these online addresses: <http://tinyurl.com/RecordsI> and <http://tinyurl.com/RecordsII>. I can also provide printed copies upon request.

Viscerally appealing arguments can be made by anyone, on any subject. Compelling anecdotes and singular experiences can be produced by any side, in any argument. So, in order to form the best possible laws, policies and practices, it is vital that we examine real evidence, solid research, and broad-based knowledge. Here, in bullet form, are a few things we do indeed know. I will steer away from any disputed findings, and will stick to only those confirmed by hard data, accepted studies, or pervasive experience.

- First, as you may already know, it is a historical fact that adoption-related records – in Hawaii, as in every state except Alaska and Kansas – were sealed explicitly to protect adopted children from the stigma and shame of illegitimacy, and to prevent first/birth mothers from trying to see their children again; in addition, some social workers also personally wanted to protect biological mothers from the stigma and shame of unwed motherhood. The clear legislative and professional intent was to prevent access to those records by the public, not by the parties to an adoption themselves. Historically, the notion that original birth certificates (and related documents) were sealed to ensure the anonymity/privacy of first/birth mothers is untrue, irrespective of whether providing anonymity/privacy is a good idea or not.

- Second, it's important to stress that adopted persons are not stalkers, ingrates or children in search of new mommies or daddies. They are simply adults who want the same information the rest of us receive as a birthright. In his book "Roots," Alex Haley wrote: "In all of us there is a hunger, marrow deep, to know our heritage, to know who we are and where we have come from. Without this enriching knowledge, there is a hollow yearning; no matter what our attainments in life, there is the most disquieting loneliness." Research, experience and instinct all affirm Haley's eloquent observation. And adopted people are not exempt from the laws of nature. They love their parents – their adoptive parents – just as much and are just as loyal as if they had been born to them. But a large majority also want to know about their genetic, medical and cultural roots.

Adopted persons who obtain their original birth certificates in states where that is permissible may or may not form relationships with their biological kin; those decisions are up to the adults involved, and I believe it should not be the role of government to make the decision for them. Moreover, many if not most adult adoptees do not even make contact; for them, just having the most basic information about themselves is enough; it makes them feel they are treated equally, and it makes them feel whole. The fact is that access to their documents has become an issue that is separable from the question of "search" anyway. That is because, as a result of the Internet and other modern-day resources, many if not most adoptees who want to find their birth relatives can do so with or without their original birth certificates.

- Third, the notion that a lack of anonymity leads women to have abortions rather than place their children for adoption is fiction. It may sound correct intuitively but, in fact, just the opposite occurs in practice; moreover, it appears that women are at least as likely to carry their babies to term and place them into adoptive homes if they believe they will have ongoing knowledge about what happened to those children. The evidence is in the growing number of states where adoption records have most recently been unsealed, and it extends much further and for much longer: In Kansas and Alaska, the only states in which records were never closed, there consistently have been fewer abortions and more adoptions than in states that border them or in the country as a whole.

- Fourth, on the critically important question of the first/birth mothers' desires, the research is unambiguous: Every study I am aware of relating to whether they want anonymity/privacy clearly shows the vast majority do not – and that applies to those who were verbally assured of anonymity as well as those who were verbally assured they would one day have contact with the children they bore; yes, many were promised exactly the opposite of anonymity, but those promises are seldom publicly discussed.

Depending on the study, between 90 percent and 95 percent of birth mothers do indeed want some level of information or contact with the lives they created. That doesn't mean they want to give up their privacy, but there's a huge difference between privacy and secrecy. And it doesn't mean they necessarily want the information or contact right away – some only want it years later, when they've had enough time to deal with the personal and emotional consequences of their action or, increasingly often, when they discover they have genetic or medical information they want to share. It is also highly significant that only a tiny

proportion (less than 1%) have taken advantage of the opportunity to say “no” to the release of birth certificates and other records in all of the states that have unsealed them in recent years.

During my tenure leading the Donaldson Adoption Institute, I was proud to have instigated the most comprehensive study to date on birthparents; I would be happy to provide a copy upon request, or you may view it at: http://adoptioninstitute.org/research/2006_11_birthparent_wellbeing.php. Even among those who truly thought they wanted anonymity at the time of placement, the majority eventually change their minds. Life is not a snapshot, after all, and few of us would want to live forever with the decisions we made at the age of 17, or even 25. Yet the core argument against allowing access to birth certificates is predicated on the mistaken belief that birthmothers are of one mind – and that it will never change. This is not only a fundamental misunderstanding of research and experience, on a human level it assumes a woman can carry a child and then part with it and just “move on,” as though she has given away an old record player. That view – essentially relegating women to the role of baby-making machines – pervaded adoption for generations. Thank God, it is changing radically and adoption practices are being reshaped in comprehensive, historic ways as a result. The bottom line is that birth certificates (and related adoption documents) remain sealed in most of the U.S. because of lingering myths and mistaken stereotypes.

- Finally, denying access to adoption records contradicts the stated desires of almost everyone directly affected, and it flies in the face of majority opinion throughout our country. That applies to first/birth mothers, who seldom choose not to be contacted in states where they can state a preference; it applies to adopted people who – once they are adults – appear to overwhelmingly favor access to their records; it applies to a large and growing number of adoptive parents, a clear majority of whom have already told their children about their origins anyway; and, according to a national survey, it applies to the American public as a whole. The survey, which had a 3 percent margin of error, asked this question: “Should adopted children be granted full access to their adoption records when they become adults?” Eighty-four percent responded, “Yes.”

I respectfully ask you to put aside the aberrational anecdotes, emotional appeals, and corrosive myths on which too much public policy relating to adoption has been based for far too long. Instead, please examine the research that has been conducted and the experience of states across the U.S. I believe, after you do, you will come to the same conclusion as that 84 percent.

Please feel free to contact me at 617-332-8944 or apertman@ncap-us.org if you have any questions or want more information. With gratitude for your attention and important work,



Adam Pertman, President and CEO
National Center on Adoption and Permanency
www.ncap-us.org

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 10:21 AM
To: JUDtestimony
Cc: cornucopia@hawaii.rr.com
Subject: *Submitted testimony for HB2082 on Feb 23, 2016 14:00PM*

HB2082

Submitted on: 2/22/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gina Bailey	Cornucopia Consulting LLC	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Adoption Circle of Hawai'i
P.O. Box 10304, Honolulu, Hawaii 96816-0304
info@adoptioncirclehawaii.org



To: Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair
House Judiciary Committee

From: Tom Moore, President of Adoption Circle of Hawai'i

Re: H.B. 2082 HD1, Relating to Adoption Records

The Adoption Circle of Hawai'i (ACH) supports HB 2082 HD1. Adoption Circle of Hawai'i is an organization that provides information, advocacy and support to members of the triad (adopted persons, birth parents and adoptive parents) and educates the community about the adoption experience. We respectfully request your "yes" vote for the following reasons:

- 1. Current Hawai'i law treats similarly-situated people (adult adoptees) differently with respect to access to their adoption records.** Those whose adoptions were finalized on or after January 1, 1991 generally have direct access upon request and proof of identification, while those adopted before that date are required by law to utilize the services of a court-appointed searcher if Family Court's letters to the birth parents at the addresses found in the records are returned as undeliverable. This option is costly, burdensome, and daunting. It also takes longer for both Family Court staff and for the applicant to get through. **HB 2082 HD1 rectifies this problem of unequal treatment under the law.**
- 2. This bill balances the interests of parties to the adoption.** Some opponents have historically cited alleged promises of confidentiality made to birth parents when relinquishing their children for adoption. However, court rulings in Tennessee and Oregon following the passage of similar laws confirmed that birth parents do not have a constitutional right to privacy in the adoption context. Those courts also held that the new laws did not impair any contractual rights of birth parents. Any absolute promises that may have been made in the past were done so in excess of state and constitutional law. Moreover, in an examination of surrender documents signed by birth mothers, legal scholar Elizabeth Samuels found no promises of confidentiality to birth mothers in them. In addition, Kansas and Alaska never sealed birth certificates from adult adoptees. To our knowledge, no states have reported any significant negative outcomes since records have been made available to adult adoptees. No legal challenges have come up in other states since the Tennessee and Oregon rulings over 15 years ago.

3. Adopted adults will be better able to access vital information about themselves, including their heritage, family medical history, and sense of identity (who they are and where they come from) from the persons with whom they share blood. Having this information would relieve the burden upon the adopted person who doesn't have essential information to share with their doctors or any future generation. Antiquated, overreaching confidentiality laws rooted in shame and secrecy though generally well-intentioned, have proven to be short-sighted, failing to consider the well-being of *adult* adoptees.

4. Once adoptees are adults, thus have legal standing, and no children are involved that need protection, the state should not shelter adults from the consequences of their decisions or actions, or block them from the joy and healing that could possibly result if the parties have contact, or even from just having this fundamental birth information. This bill treats adult adopted individuals as the adults they are, rather than as children who need their birth parent's approval (*whose parental rights were severed*) before they can receive the most fundamental information about themselves. This bill reforms the process to **create equal treatment of adult adopted persons so they can access their birth information just like every other citizen.**

5. The following **organizations have endorsed access** to original birth records for adult adoptees for the well being of those involved: The American Academy of Pediatrics, Child Welfare League of America, The American Adoption Congress, Concerned United Birthparents, Evan B. Donaldson Adoption Institute, Holt International, and North American Council on Adoptable Children.

In summary, **we support HB 2082 HD1 because it treats all parties to the adoption as the adults they are**, and provides adopted persons the critical information about themselves that they and their successive generations need.

A recent news item in another state about a reunion of an 82-year-old adoptee with her 96-year-old birthmother after a 50-year search makes one wonder,

What purpose was achieved from keeping these two people and their families apart for all these years when they wanted to be together? and How do you even begin to assess the damage of lost time in their lives? What is the state's role in keeping secrets between adults and maintaining separation between families once all parties are adults?

The link to the story and a powerful short newscast video is

<http://www.pressherald.com/2016/02/05/woman-82-tracks-down-and-meets-96-year-old-birth-mother/>

See next page for a picture.

Mahalo for your consideration of our testimony.

Tom Moore
President, Adoption Circle of Hawai'i



82-year-old adoptee finds 96-year-old birth mother after a 50 year search!

5:25 48°



<http://www.pressherald.com/2016/02/05/woman-82-tracks-down-and-meets-96-year-old-birth-mother/>



P. O. Box 9959 | Spokane, WA 99209 | Phone 614-641-0294

www.bastards.org

To the Hon. Members of the Hawaii House of Representatives Judiciary Committee.

Bastard Nation: the Adoptee Rights Organization

Testimony in Support of HB 2082

Hearing: February 23, 2016

Submitted by Marley E. Greiner, Executive Chair

Bastard Nation: the Adoptee Rights Organization is the largest adoptee civil rights organization in the United States. We support only full unrestricted access for all adopted persons, to their original birth certificates (OBC). We do not support any restrictions such as the Affidavit of Non-Disclosure/Disclosure Vetoes (DV), Contact Vetoes (CV), white-outs, or any other form of redaction or restricted access to a true copy of the original birth certificate.

We are happy to support passage of HB 2082, an inclusive bill, that when passed will restore records access to all Hawaii-born adoptees upon request without restriction or condition. We urge you to support this bill and pass it out of the Judiciary Committee.

Our testimony is divided in three parts (1) general comments regarding sealed records and OBCs, and privacy v anonymity, (2) the consequences of continued sealing of records and (3) a short conclusion.

Privacy/Confidentiality v anonymity in Records Access

Unrestricted records access is not a “privacy” or “birthparent confidentiality” issue. There is no evidence in any state that records were sealed to “protect” the reputation or “privacy” of biological parents who relinquished children for adoption. On the contrary, records were sealed to protect the reputations of “bastard children” and to protect adoptive families from birthparent interference. In fact, Hawaii is unique in that even today, adoptive parents can at the time the petition for adoption is filed request that the court file remain unsealed upon finalization. Family Courts can and do grant that request without notice to or input from the birthparent(s).

”Privacy” and” anonymity” are not synonymous either legally or linguistically. Moreover, courts have ruled that adoption anonymity does not exist. (Doe v Sundquist, et. al., 943 F. Supp. 886, 893-94 (M.D. Tenn. 1996).and Does v. State of Oregon, 164 Or. App. 543, 993 P.2d 833, 834 (1999)). Laws change constantly, and the state, lawyers, social workers, and others were never in a position to promise anonymity in adoption. In fact, in the over 40 years of the adoptee rights battle, not one document has been submitted anywhere that promises or guarantees sealed records and an anonymity “right” to birthparents.

Identifying information about surrendering parents often appears in court documents given to adoptive parents who can at any point give that information to the adopted person. The names of surrendering parents are published in legal ads. Courts can open “sealed records” for “good cause.” Critically, the OBC is sealed at the time of adoption finalization, not surrender. If a child is not adopted, the record is never sealed. If a child is adopted, but the adoption is overturned or disrupted, the OBC is unsealed.

We are well into the 21st century. The information superhighway grows wider and longer each day, and adoptees and their birth and adoptive families are riding it, utilizing the Internet, social media, inexpensive and accessible DNA testing services, and a large network of volunteer “search angels” to locate their government-hidden information and histories.

Thousands of successful adoption searches happen each year—hundreds in Hawaii alone—making adoption secrecy virtually impossible. The minuscule number of birthparents or so-called “professional experts” who believe that restricted OBC or records access or no access equals adoption anonymity are greatly mistaken. The fact is, nearly all successful searches are done without the OBC and other court documents. Legislation needs to catch up with technological reality.

Consequences of Continued Records Sealing

Critically, in this age of heightened security, the government requires all of us to prove our identities and citizenship— a legal paper trail of identity. As a result, adopted persons without an OBC are in danger of losing even more rights than just their OBC access. US-born adoptees report increased problems in obtaining driver’s licenses, passports, professional certifications, Social Security benefits, pensions and security clearances due to what government bureaucrats refer to as “irregularities” in their amended birth certificates issued by Hawaii and all other states, and are demanding the OBC plus other documents setting out the adoption as proof of citizenship and identity.

A major irregularity is a “late birth certificate” filed a year or more after the birth of a child. Late filing is caused by various factors: delayed adoption, multiple/disrupted adoption, older child and foster care placement, and bureaucratic slowness. Until recently, states required that children live with their adoptive parent(s) for about a year before the adoption was finalized; thus a new amended birth certificate was issued “late”

According to the US Department of State a “late birth certificate” may only be accepted for passport application if it lists the documentation used to create it and is signed by the attending physician or midwife, or, lists an affidavit signed by the parents, or shows early public records indicating the birth. Obviously, in the case of sealed records adoption, this requirement is impossible to meet. Reportedly, some states are now backdating the filing date of amended birth certificates to “keep up” with federal requirements; thus creating an even larger legal fiction regarding adoptees’ births than now exists.

Other “irregularities” include age discrepancies between parents and child, missing information, and irregular signatures (ex: typed rather than signed). This problem will grow with the increase in adoption of older children from foster care, adoptions by same sex couples, Real ID, and other government “security” requirements.

Conclusion

There is no state interest in keeping original birth certificates or other adoption records sealed from the adult adoptees to which they pertain. Nor does the state have a right or duty to mediate and oversee the personal relationships of adults. Those who claim a statutory right to parental anonymity through sealed records or through restricted access to them promote statutory privilege and state favoritism.

Hawaii's current complicated "search and consent" laws do not reflect current adoption best practice and culture, and as we've noted above, the reality of technology and social media which has been eagerly embraced by adoptees and their families in search of information that is rightfully theirs, denied them by the state.

This time, HB 2082, as presently amended, and its sponsors gets it right. HB 2082 creates not only equal access for all Hawaii-born adoptees but treats the state's adoptees as equal with the not-adopted, who unlike the adopted are not forced to undergo an onerous legal process simply to get their own birth certificates and adoption records. HB 2082 reflects the simple inclusive, unrestricted access process that eight states have on the books (Oregon, Alabama, Colorado, New Hampshire, Maine, and Rhode Island, Kansas and Alaska).

Support Hawaii in becoming a leader in adoptee rights and adoption reform. Please take the first step in returning unrestricted and unconditional records access to all Hawaii adoptees. Please vote DO PASS on HB 2082.

Bastard Nation Mission Statement

Bastard Nation is dedicated to the recognition of the full human and civil rights of adult adoptees. Toward that end, we advocate the opening to adoptees, upon request at age of majority, of those government documents which pertain to the adoptee's historical, genetic, and legal identity, including the unaltered original birth certificate and adoption decree. Bastard Nation asserts that it is the right of people everywhere to have their official original birth records unaltered and free from falsification, and that the adoptive status of any person should not prohibit him or her from choosing to exercise that right. We have reclaimed the badge of bastardy placed on us by those who would attempt to shame us; we see nothing shameful in having been born out of wedlock or in being adopted. Bastard Nation does not support mandated mutual consent registries or

intermediary systems in place of unconditional open records, nor any other system that is less than access on demand to the adult adoptee, without condition, and without qualification.

To: Representative Karl Rhoads, Chair of the Judiciary Committee

From: Doreen Akamine, RN and adoptive parent

Date: Feb. 21, 2016

Re: HB 2082 HD-1

I am writing in support of this bill.

As an actively employed registered nurse with over 30 years of acute care experience, not a day goes by where we as healthcare professionals will ask these two questions of nearly every new patient we encounter, "Do you have any known allergies" and "Can you tell me your family medical history?" Many patients may not have the answer to either question but it is not because they don't have access to obtaining the information, it is simply because they do not know the information. How critical the information is depends on the degree of clinical severity and safety risk for the patient. The more invasive the situation, the more essential the information. Life threatening conditions with fatal outcomes can be minimized or completely avoided with good preventive care. Such was the case for Angelina Jolie who opted for a bilateral mastectomy with the knowledge of breast cancer that killed her mother, grandmother and aunt. "On top of the BRCA gene, 3 women in my family have died from cancer," according to Jolie.

In addition, James Fixx, a guru of the running sport and author of the "Complete Book of Running" that helped shape the running boom of the 1970's, unfortunately died of a heart attack at the age of 52 while on a routine 10mile run. Fixx was genetically predisposed - his father died of a heart attack at 43 after a previous one at 35 which according to Fixx, he was able to stave off the inevitable.

These are just two examples of what these individuals chose to do based on the information of their family history. Unfortunately, adopted persons will not have the means to make a choice for their health based on the current law that prohibits them from obtaining their birth records.

As an adoptive parent, I feel completely helpless to not be able to provide any family medical history to my adopted children. Although, I am able to provide medical guidance for a healthy lifestyle, it does not remove the fear of every parent that their child could acquire a life threatening illness. The difference is, my adopted children and I will never know the likelihood and probability of it secretly developing.

I strongly urge that this bill be passed.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 21, 2016 7:35 PM
To: JUDtestimony
Cc: katedouglas13@gmail.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/21/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Katherine A Moore	Individual	Comments Only	No

Comments: I support adoptees' rights to have their records. I believe in openness, truth and transparency.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 21, 2016 7:31 PM
To: JUDtestimony
Cc: paulson_75@yahoo.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/21/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Laura Paulson	Individual	Support	No

Comments: Hello, I strongly support HB2082 HD1, which would allow adopted individuals who are 18+ years old and their natural parents access to the adopted individual's sealed adoption records upon submission to the family court of a written request for inspection. As an adoptee myself, I strongly feel other adoptees should be allowed access to their records for many reasons, including the impact on medical history and psychological well-being. From a medical standpoint, knowledge of our genetic history can impact our future medical care (ex. genetic diseases that run in the family). From a psychological standpoint, I believe that knowing our (birth) family history is important to our psychological health. Adoptees often feel incomplete because a whole piece of their history is, in a sense, missing or inaccessible, and as a result, many of us go through life searching for a sense of "wholeness." I admit, this experience of feeling "incomplete" is difficult to put into words, but the best way I can describe it is to say that when adoptees learn information about their birth family, there's a sense of feeling "grounded" and "complete." It's an important part of how we integrate what being adopted means into our current life. Is it true that sometimes our birth family histories are sad? Absolutely, but for us, knowing the truth is what matters. I think we all want to know where we came from. I remember, growing up, most of my (non-adopted) friends could just ask their parents about their family history. But, I couldn't. I often wondered and, at times, would even make up stories in my head, but that is never the same as knowing the truth, no matter what is is. Thank you very much for taking the time to read my testimony.

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I am writing in support of HB 2082 HD1, not as an adoptee but as a friend of one of the "Chosen", as I like to call them. From knowing her, I know how important family, OHANA, is to her. She loves the parents who chose her, but she still longs and needs to know more about the family that gave her life. Like an unfinished book, without the right and ability to get access to her full birth records, there are missing pages and chapters of her story, her OLELO. I know she is not the only adoptee who feels this way. All of Hawai'i's, indeed the world's "HANAI" should have the right, if they so choose, to know their STORY. I feel this is important to adoptees, both on an emotional and also a PHYSICAL level. I, myself, have an autoimmune disease, a genetic chromosomal birth defect and a strong family history of pancreatic cancer. I personally know how important a full medical history of your family is. Many adoptees have little or no medical history in case of a medical issue or emergency. There is no way to know what medical screenings are particularly important for the adoptee to have. Devastating enough for the adoptee, doubly so for a potential CHILD of an adoptee who would be affected by something medical that could have been prevented if the issue was known to exist in the health history ahead of time. What about adoptees who meet someone and fall in love, only to find out too late that there are actually related? If full information was forthcoming, these things would not happen. I urge you to pass this bill on behalf of all the stories yet to be told...

Annamarie A. Pascuzzi

Testimony for HB 2082 HD1

I am Kenneth Kipnis, Professor of Philosophy at the University of Hawai'i at Manoa. I have lectured and published extensively on ethical and jurisprudential issues involving children.

When a child enters the world, one or both parents may have the legal power to give it up for adoption. Usually, without giving the matter much thought, we consider that all parental rights and responsibilities that belong to parents are thereby transferred to an adopting family. For babies born before 1991, the termination of parental responsibilities in Hawaii can be virtually total. Nondisclosure arrangements involving the court and biological and adoptive parents, supported by the State of Hawaii, in effect, allow biological parents to wash their hands of all parental obligations toward the child. During a time when many are trying to get young people to take responsibility for their offspring, it is ironic that one can bear or father a child and sever all legal ties to it. Legally, it can be as if nothing happened.

For courts and state legislatures trying to regulate important transactions (the sale of real estate, for example) a common responsibility is to see to it that the salient interests of unrepresented third parties are adequately protected in legal contracts. Perhaps the parties most profoundly affected by adoption are the grown adults these infants eventually become. But these parties cannot be present at the table when the terms of adoption agreements are hammered out. And yet he or she may come to have pressing needs for medical data, personal contact, cultural and genealogical information (especially here in Hawaii), and other matters that the designated adoptive parents are not in a position to provide. For this reason it has always been a mistake to require or permit biological parents to divest themselves of all of their responsibilities, including those responsibilities that only they only they -- not the adoptive parents -- can discharge. Likewise it has always been a mistake for these biological parents to assume that, years later, the courts will continue to obstruct efforts by emancipated sons and daughters to connect with their biological fathers and mothers

This mistake has been corrected for babies born in 1991 and afterwards. It should also be corrected for babies born before. The Senate should pass HB 2082 HD1, acknowledging that all who bring children into the world, and who later give them up, will retain certain enduring and inalienable obligations toward them, and that the sons and daughters they bring into the world, upon emancipation, will have residual claims that have not been extinguished by adoption.

Kenneth Kipnis
Professor of Philosophy
University of Hawai'i at Manoa

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 21, 2016 7:12 AM
To: JUDtestimony
Cc: Guillemette65@aol.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/21/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
James Sugimoto	Individual	Support	No

Comments: My Name is James Sugimoto and I was adopted in 1952. I started searching in 1997 and have never stopped. I did DNA testing to no avail and had to end up paying \$600.00 to the intermediary to search for my birth parents. I submitted the check on a Tuesday and by Friday I had a call from him giving me information about my parents. He said they could only release that information because they were deceased. The way he found them was an ancestry.com search, the same thing I have access to. I believe it the right of all adoptees to be able to have their adoption file opened at age 18 and that this would not hurt anyone, adoptees or birth parents. I am finally meeting my birth family (my mother is of course deceased) in June 2016. I am now 63 years old and will never hear my mother's voice or be able to meet her because of the law that forbid adoptees from "knowing". I do have a brother, step-father and aunt still living so this is very exciting for us all. Please pass this bill for all adoptees and make this information available to everyone over 18 without having to pay the outrageous fee of the intermediary because it is the right thing to do! Ohana means something for everybody! Thank you. Jeff Sugimoto

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 20, 2016 8:36 PM
To: JUDtestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for HB2082 on Feb 23, 2016 14:00PM*

HB2082

Submitted on: 2/20/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 20, 2016 6:42 PM
To: JUDtestimony
Cc: doctordarrow@gmail.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/20/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Darrow Hand	Individual	Support	No

Comments: Dear Chair Rhodes, Vice Chair San Buenaventura and Committee Members: I support HB 2082, HD 1. Adult adoptees should have the right to access their own records. When my mother was 66 she got a call from a younger sister that no-one in the extended family knew existed. My mother was a bit startled by the news initially, while I was excited. My mom met her unknown sister, and was brought to tears, saying she was so happy to see her mother's eyes again - after nearly 50 years. My aunt's eyes were like my grandmother's who died young. I now have a close relationship with my new aunt, who happens to have a lot of common interests. While I'm delighted that I now have a new aunt, its quite possible I may not have ever met her due to the laws of the State. I think adults should have unrestricted access to their birth records. It will facilitate bringing families together again. Please pass HB 2082, HD1 as is. Thank you for the opportunity to testify.

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Date: February 22, 2016

To: Representative Della Au Belatti, Chair,
Representative Richard P. Creagan, Vice Chair
House Health Committee

From: Kimberly T. Montoya, Hawaii Adoptee
Kmontoya7@outlook.com

Ref: HB 2082

I am an adoptee attempting to complete my "chapter one" in life. As most Americans have the legal availability of their beginnings, I don't. I'm one of the few Americans who don't have the choice of liberty to find my lineage, medical information, historical background, and much more at my own discretion, as an adult.

There are many financial, physical, emotional and social occurrences that complicate lives of adoptees and birth parents due to the current law on adoption records in Hawaii. Please understand the weight that thousands of hours searching on the internet, libraries, phone calls, faxes, emails, thousands of dollars in PI's, DNA tests, ancestry research, weeding through lies, misunderstandings, family fables, false dreams and hopes has. Along with, overcoming the mental oppression of the "ifs", along with emotional longing to belong. To see your reflection in someone else's face, to know where your hobbies, dislikes and habits come from, questions if I was loved or if they love me, do they forgive me or can I forgive them? Much of this is hidden behind the eyes and smile of adoptees and birth parents. These detriments are caused by a negative stigma, from the archaic laws that are still in effect, limiting the liberty of accessibility to birth and adoption records to those that rightfully need them.

Just recently, after obtaining my DNA and educating myself on how to utilize the information from it, I was able to locate the paternal side of my family. Also, I found out my lineage which originally was thought to be different. This precious piece of identity, some take for granted, was fulfilling and started adding to my chapter one. My whole family, sat around me, when my DNA results came in and watched the computer screen as I pushed the button that disclosed my lineage. Now my children are correcting the information they once thought was true of their lives. Many generations are impacted by and need the information that the adoption and birth records hold.

Aligning HB 2082 to SB 2153 and then passing, will give me and many others searching, closure to many of the complications mentioned above. Please consider the legal rights of adult adoptees to access their records without stigma, penalties and barriers. Please consider the rights of adoptees to access their medical history. Please allow adoptees to have full access to all the information in their adoption and birth files. Please allow adoptees to have access to their biological roots, medical history, to truth, to family history, and to healing.

I ask and petition too:

- 1) Remove the requirement for a notice to be sent to the birth parents last known address.
- 2) Allow unfettered access to adoption and birth records.
- 3) Remove the requirement for an intermediary process for those adopted prior to Dec 31, 1990.

Thank you in advance for your consideration,

Kimberly T. Montoya

NEIL F. HULBERT
Attorney at Law
1800 ASB Tower
1001 Bishop Street
Honolulu, HI 96813
(808) 222-1312

DATE: February 23, 2016

TO : Rep. Karl Rhoads, Chair,
House Committee on the Judiciary

RE : HB 2082, HD 1 Relating to Adoption Records

I support this bill; it is consistent with constitutional principles and respects the rights of adoptees.

The red herring usually introduced in debates over this issue is birth parent privacy. Generally suppressed in the debate is an adoptee's right to obtain complete information about his or her own adoption and birth heritage. The restriction placed on adoptees is a denial of equal protection for at least two reasons, first, all other citizens have a right to see State records that pertain to them and, second, adoptees are treated differently depending on when they were born.

Adoption Enjoys No Constitutional Status

Adoption is not a constitutional right, it is statutory. There is no constitutional right to give birth to a child and have someone else assume the legal obligation to raise that child. That right is granted by statute. Confidentiality in the adoption process is not a constitutional right or an enforceable contract right.

Birth Parents Have No Constitutional Right Of Privacy In Adoption Records

A review of Hawai'i adoption statutes proves that birth parent privacy was never a goal or motivating factor. Records were not sealed in Hawai'i until 1945, and have always been available to the parties and their lawyers and could be opened by court order to any "proper" person, without the consent of, or even notice to, the birth parents. *See* L 1945, c.40 pt. of §2 and HRS §578-15. Since 1919, service of notice of adoption proceedings has been permitted by publication, obviously a public event. *See, e.g.* L 1919 c. 3, §§4 and 5; HRS §578-7.

The only contract implicating birth parents that might have been created during the adoption process would have been between the birth parents and an adoption agency (or possibly with the potential adoptive parents). While the agency may have been able to agree to keep its own files confidential, it had no authority to bind the State to keep State records confidential. Nor would a State agency have been able to bind the State to absolute confidentiality contrary to the statute that has always allowed a court to open the records. This bill does not impact a private agency's

own files. Any “promise” or contract of perpetual confidentiality made by any private or state agency or lawyer was made without authority and was a misrepresentation of the law. Contracts in contravention of law are prohibited. HRS §1-5. A contract made by a minor birth parent may be avoided when the minor reaches the age of majority. *Douglas v. Pflueger Hawaii, Inc.*, 110 Hawai`i 520 (2006). An expectation of privacy entitled to constitutional protection must be a reasonable expectation. *State v. Klattenhoff*, 71 Haw. 598, 801 P.2d 548 (1990) (no reasonable expectation of privacy in bank records). Since any “promise” or “contract” of perpetual confidentiality was contrary to statute, unauthorized and a misrepresentation of the law, birth parents could not have had a reasonable expectation of privacy.

A birth has always been essentially a public event with records created and notices of births frequently published in newspapers. Adoption is an inherently non-private event and requires the participation of, at a minimum, willing birth parents, willing adoptive parents and the oversight and approval of the state. *Doe v. State of Oregon*, 164 Or. App. 543, 993 P.2d 822 (1999).

Adoptees Are Denied Equal Protection Since They Are Divided Into At Least Three Classes Regarding Access To Their Own Adoption Records

The current statute is unconstitutional because it creates at least three classes of adoptees for no rational reason: first, those born before 1945, second, those born between 1945 and prior to January 1, 1991, and, third, those born after December 31, 1990. The records of adoptees born before 1945 have never been sealed. The 1945 amendment closing the adoption records did not apply retroactively. HRS §1-3 provides that “[N]o law has any retrospective operation, unless otherwise expressed or obviously intended.” For those adoptees in the second and third classes there are different hurdles to overcome in order to obtain their records. HRS §578-15.

Current law places an undue burden on adoptees born after 1945 in obtaining access to their adoption records and denies them the right to life, liberty and the pursuit of happiness guaranteed under Art. I, Sec. 2 and equal protection of the law and the enjoyment of civil rights guaranteed under Art. I, Sec. 5 of the Hawai`i Constitution. I cannot think of a more basic human and civil right than the right to know one’s birth heritage.

February 22, 2016

MEMORANDUM

TO: The Honorable Karl Rhoads, Chair
Committee on Judiciary

FROM: Harry Akamine

SUBJECT: **H.B. 2082 H. D. 1 RELATING TO ADOPTION RECORDS**

Hearing: Tuesday, February 23, 2016; 2:00 p.m.
Conference Room 325, State Capitol

PURPOSE: The purpose of H.B. 2082 H. D. 1 is to allow access to adoption records by parties to the proceedings under certain circumstances.

POSITION: I am writing in support of this bill.

I believe that adult adoptees should be able to access their birth family's information without having to traverse a process designed to "protect" children. At the time they become adults, they are no longer in need of this "protection".

As an adoptive parent of two, I have experienced first hand what happens when a child given up for adoption struggles to deal with their feelings of abandonment, rejection and not knowing anything about their birth parents and family. These feelings will last a lifetime and will never disappear. Further, it is truly frustrating to not have any family medical history; the lack of this history severely hinders the medical provider's ability to provide proper medical care.

Therefore, I ask that this bill be passed.

Thank you for the opportunity to comment on this bill.

DATE: February 23, 2016, 2:30, Rm 325

TO : Representative Karl Rhoads, Chair,
Representative Joy San Buenaventura, Vice Chair
House Judiciary Committee

FR : Jan Takane
Adoptee

RE : H.B. 2082 HD1
Relating to Adoption Records

I support HB 2082 HD1 changes to reform our current adoption bill. I believe that while the law was intended to protect the adopted child. This is no longer the case as the child is an adult at 18 years old. **I believe that my rights to information critical about myself should not be kept from me by any government for any reason once I have become an adult as all other adults can view records that pertain to them.**

Beyond such issues is the pain and suffering of not knowing why I was given away. What compounded this was the lies that were given to my parents during the course of my adoption. Lies, even well meaning, were damaging as my parents then offered them to me as truths. Lies should not be condoned much less enabled by the legal system. By allowing the State to participate in protecting birth parents from their now adult children, they have engaged in protecting all those lies. Lies harm all and help none.

Besides, there was never a promise of absolute much less perpetual confidentiality, records could always be opened by court order without any notification or consent to the birth parents on record.

So I urge this Judiciary Committee to recognize that part of the reason for asking for changes to this bill is not only from being able to access medical and genetics history but also to improve mental health and well-being simply by having access to our truths. **I should not be discriminated against by having my information withheld from me simply because I am adopted.** As thankful as I am for the sacrifices that my birthmother made at a time when there were no easy choices, I believe that we can decide as most adults do, what kind of relationship we want to have. I should not be denied my birth information based upon someone else's embarrassment and shame over something that happened a lifetime ago. We all make mistakes or endured some kind of trauma, it should not be the State's position to be one of perpetual protector.

I understand that there may be issues with regards to removing the affidavit of confidentiality which by the way, **only gives power to the adult whose parental rights were legally terminated.** It's one thing to remain a secret to the general public, to remain confidential with their attorney but they should not be able to remain hidden from

the children they gave birth to because they hold vital health and medical information that may be critical to the adoptee's well-being.

Thankfully society is moving forward as state after state is changing such laws with the understanding that they are antiquated and based on society mores that no longer apply. We, as a society, must modernize laws as information changes. Our genetic and medical history play more of a part than when previously thought of ; adopted children are NOT blank slates to be molded by the adoptive family ; and openness and truth is the best policy. Truth can be dealt with but not having any information cannot. I would hope that Hawaii with its cultural practices of hanai and the appreciation of everyone's unique heritage, we can be counted as one of those states advocating for truth.

Thank you for your time and attention in hearing my testimony.

Mahalo, Jan Takane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 12:12 PM
To: JUDtestimony
Cc: Guillemette65@aol.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/22/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Patty Guillemette	Individual	Support	No

Comments: My name is Patty Guillemette. I am the wife of Jeff Sugimoto. I have searched with him for many years, even back when there were only phone books and phone operators to give you names and addresses. I would call and ask for all the Naka's listed and they would give me three. I would write each of them a letter and ask if they knew about Jeff or had any information they could give me. Most of them didn't answer, but occasionally we would get a response back, some even very helpful. That was when we thought his name was James Naka. That was what was written on the adoption records and signed with the lawyer, the Judge and my adoptive parents. This couldn't have been further from the truth, but for some reason, this was his so called birth name. .So, he was born James Naka on 10/27/1951 in Honolulu, Hawaii at Kapiolani Hospital. He was adopted in 1952 by adoptive parents from the Mainland. His adoptive father was stationed at Barber's Point. In 1997 we started our search for the truth. As I have said we wrote letters until there were computers and then we started sending E-mails. We wrote to the Hawaii Family Court and asked them how we could find out who his birth parents were. They told us we had to pay the court and it could be quite expensive if we had to come all the way to Hawaii (we live in Florida) for any further information. They quoted us the \$600.00, but we had no idea that was for the PI that worked with the Court. Why do I tell you all of this? Because we have searched a long long time. Jeff was born in 1951. It was several years back that we learned we could send for his non-ID information. We waited and waited and got back two lines on an 8x10 piece of paper. His father was of German descent and his mother was Japanese. We still thought he was James Naka, so we joined an adoption group to see if they could help. We looked for Naka's everywhere and always came up empty. Someone mentioned to us that maybe Jeff should do DNA testing, which he did. He came up with cousins, very close cousins on his father and found out his father's name. He found a few cousins on his mother's family, but still no name to attach it to. We talked about paying the \$600.00 to the intermediary and we said, if she isn't deceased, we may just throwing out a lot of money and coming away with nothing. So last year, we did just that. We sent him the money on a Tuesday and on Friday evening the phone rang and it was him. He said that his birth mother had died in 2007. She had not said she didn't want to be found, but it was too late. He found out her husband was still alive

and that there was a Jeff (a brother) that was also alive, along with an aunt and possibly an uncle. I remember him saying "I really was born. I really have a mother and father." I felt this kind of strange at first, but then he explained that to an adoptee it feels like they aren't born because nobody can tell them about themselves. So Jeff called his brother and step-father. His mother still has a childhood friend that is alive and was actually able to verify what Jeff shared with them about the adoption. She said she had always hoped it would all come out, but she promised she wouldn't be the one to do it. I know they were shocked, but they have found each other. His brother said he told his parents he always wanted an older brother and now he has one. His step-father I'm sure has many questions, but they have shared pictures and even a videotape so he could hear his mother's voice. And, like I said. His brother's name is spelled the same as my Jeff's. So Jeff is not James Naka. He was born Jeffery Sugimoto to a Mom who was afraid of her father, so her mother and older sister swore they would never tell him and they didn't. Many lives were changed on that day in 1951. If Jeff, or his mother had the opportunity to look at those adoption records when he turned 18, I think things would have been very different. But, things are different today. It is the right thing to do to open those records to all of those adoptees and allow these families that have been torn apart to become whole again. We are meeting his new family in June 2016 and I am hoping that we can be greeted with the knowledge that you all have made a difference for all adoptees by helping them find who they are before their mothers and fathers die, unlike Jeff. I wrote to Senator Gabbard and asked him if he would be willing to sponsor this bill and he graciously said he would. That was a couple of years ago, and he, like us, believes in family (Ohana), and knew this was the right thing to do. I have been asked by many other adoptees to be their voice, so I am doing just that. Jeff and I believe in family and what happened to him is what is happening to all of the adoptees. It isn't right! These are new times and we are more open minded than ever before, so please, I ask you all again, do the right thing and pass this bill! There has been too much pain and too many broken hearts from not knowing. Respectfully, Patty Guillemette

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HB2082

Submitted on: 2/22/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
martha w. hulbert	Individual	Support	Yes

Comments:

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DATE: February 23, 2016

TO : Representative Karl Rhoads, Chair,
Representative Joy San Buenaventura, Vice Chair
House Judiciary Committee

FR : George & Maile Takane
Adoptive Parents

RE : H.B. 2082 HD1
Relating to Adoption Records

We are in **complete support of HB2082 HD1**. We believe that these changes **address the denial of equal protection** since all other citizens have the right to see state records that pertain to them. It also **addresses the discrimination in treatment** of adult adoptees just on the basis of the year they were adopted. We like how it **balances the interests** of all parties to the adoption by treating them as equals and **redresses the myth** that one party had « rights » to privacy that was not given to them as the law clearly states that the records can be opened by court order at any time with no notice.

We also endorsed the removal of the affidavit of confidentiality because this also places a burden on all adoptees who are just seeking information critical about themselves such as medical family history. Such an affidavit would consign adopted adults to being unable to share information with their doctors as well as subject any future generations from information that could save their lives. We do not believe the state should be used to shield adults from their behaviors and consequences of their actions.

On a personal note, it wasn't until our daughter was full grown and we were attending a support group, the Adoption Circle of Hawaii, that she revealed her struggles with being adopted. Never really knowing why she was given up has been a source of great pain and adversity. What we learned is that we and all the love we had for her could not replace the loss of her birthparents, her medical history, her genealogy and we could not answer any questions regarding this. The only thing we could do is support her in whatever way possible to reunite her with them so that she could finally get her answers and be able to heal.

As an adoptive parent, a lawyer who also conducted adoptions and one who was once Chief Clerk of the House of Representatives, I find the so-called compelling state interest in withholding information from the adult parties through sealed records is not only archaic but has been detrimental and a great disservice to those seeking their birth origin, especially where information on one's health and ethnic origin are essential but not readily available under current laws. I should know because when my daughter was still a baby, she had a condition that the doctors could not diagnose. It would have incredibly helpful and less stressful as parents to be able to pick up the phone and call her birth

family to ask those critical medical and genetic questions. We never did find out what it was she had and were just lucky that it ending up not being life-threatening. So as adoptive parents, it would have been just as important for us to know and have contact with the birth family.

We believe that HB2082 HD1 changes reflect the current trend towards openness and the agreement that the birth parents' rights should not be superseded by the adult adoptee's right to know critical information not only for themselves but future generations of their family, too. We have always been as open as we could be given the information that was given to us.

We thank the committee for taking the time and effort to read our testimony.

Aloha,

George and Maile Takane

To: House of Representatives Committee on Judiciary:

From: Shea Grimm

(808) 217-3209

Re: Testimony in Support of HB 2082 HD 1

Hearing: February 23, 2016 2:00pm

I respectfully submit this testimony in support of HB 2082 HD 1. While I intend to appear in person at the hearing on February 23, 2016 to testify orally, due to the time limitations, I also submit this more extensive written testimony for the Committee's consideration.

I am an adult adoptee and resident of the State of Hawaii. I would like to thank the committee, and in particular my State Rep, Mark Nakashima, for taking this adoptee rights bill under consideration.

I became an adoptee rights activist 25 years ago when I learned, in the course of my own search for my birth parents, that records were sealed to adult adoptees throughout much of the United States. I subsequently co-wrote Measure 58 in Oregon, which was the first and only ballot measure to address the issue of adoptee records. It passed by a wide margin in 1998 and after unsuccessful legal challenges, went into effect in 2000, providing original birth certificates to adult adoptees on request. Since that time, due to the success of the law, Oregon went even further and opened the entire adoption file to adult adoptees on request.

I was also involved in the subsequent successful passage of unrestricted open records bills in Alabama, New Hampshire and Rhode Island.

Like most searching adoptees, I was able to find my birth parents despite the sealed records laws. In the process I created the first adoptee rights website on the Internet, entitled An Adoptees Right to Know. I wrote the first free electronic search handbook for adoptees which was distributed throughout the Internet beginning in the mid 1990s. I became what is now termed a "search angel" and performed hundreds of free searches for adoptees for many years. Now the search angel network has grown exponentially, with thousands of volunteers in every state and most countries volunteering their time and expertise to assist adoptees in searching. Many of these angels have become DNA experts and with the advent of inexpensive DNA testing and data bases, the ability to find one's birth family has become easier than ever.

I advise the committee of this because for me, HB 2082 is not primarily about search and reunion. While a very few adoptees who have been unable to find their birthfamilies using other means, including the state's expensive, invasive, and undignified confidential intermediary system, may well use the information disclosed to them through HB 2082 to search and find, many others will access the information for much simpler and pragmatic reasons.

Like many adoptees, even though I was adopted as an infant, my amended birth certificate is delayed by more than a year after my birth. As a result of the state department's policies concerning delayed birth certificates, I was denied the renewal of my passport in the early 1990s. I was fortunate in that it was not much later that I found my birth parents and was then able to obtain a copy of my original birth certificate plus my adoption decree, which I was then able to produce to verify my identity and explain the delay in my amended birth certificate. Many adoptees, even those who have successfully searched and found, are not so lucky. Now with the advent of Real ID, states are denying adoptees drivers' licenses due to irregularities in their amended birth certificates. HB 2082 would address this problem for most adoptees.

I am aware that the Committee has received written testimony that more thoroughly addresses the issue of the legal issues and implications of HB 2082. I only want to add, that birthparent anonymity is not something that was promised or could ever have been promised to birth parents, and that has only become exponentially more so for the DNA and search reasons I enumerated above. Laws change and the things that people were able to do or not do one year, might not be true the next year. Whether marriage equality or other laws that have evolved over time as our social mores and sense of justice has changed, the law must keep up with society. Times have changed. Adoption is, or shouldn't be, secret or shameful. There is not, or shouldn't be, a stigma associated with being adopted, or born out of wedlock, a birth parent, or an adoptive parent. Sealed records laws simply perpetuate these outmoded and harmful stereotypes and attitudes.

It is my belief that adult adoptees have a right to the original record of their birth as well as the records of their adoption. For those of you who are not restricted from your birth certificate, it might be difficult to imagine, but this record is the first page in the stories of our lives. This of course takes nothing away from our parents, in the truest sense of the word, those who raised us. But we also have an interest and right to know the other pieces of the puzzle. We have a right to be treated equally under the law. We should not be treated as shameful secrets by the state, or denied the equal protection and due process of law.

With regard to birthparent confidentiality, as adults, we are capable of managing our relationships, including those with our birthparents, far better than the state can. Yes, a very few birth parents will not want contact with their adult adopted offspring. I have seen it happen, albeit rarely. But whether the state opens records or not, adoptees will continue to search, and do so successfully, and will continue to be respectful of birth parents who do not want contact. But far better for an adoptee to make contact discreetly than for birth parents to receive mailed notices from the state or clumsy contact from unskilled confidential intermediaries who have no stake in the matter other than a paycheck, or have to resort to holding up signs with personal details on social media and sending out emails to random strangers who are DNA matches on testing services.

I would like to address just one concern I have with respect to HB 2082. While it allows the adoptee access to their court file, it does not specifically provide access to the original birth

certificate through the Department of Health. I am advised that usually, but not always, that the original birth certificate is contained in that court file. However, to more completely address the inequality present under current Hawaii law with respect to adoptees, and to avoid any potential conflicts between the two statutes, I request that HB 2082 be further amended to add an amendment to HRS 338-20(e) to the effect that “The sealed documents may be opened by the department only by an order of a court of record, or upon request by an adult adoptee age 18 years of age or older, or when requested in accordance with section 578-14.5 or 578-15”.

I therefore respectfully request that you pass HB 2082 as written except for the addition of the proposed amendment specifically concerning original birth certificates kept by the Department of Health as set forth above, open our records to us, the people to whom they inarguably most intimately pertain, restore to us our dignity and equality.

Shea Grimm

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2016 1:48 PM
To: JUDtestimony
Cc: dkk@hawaiiantel.net
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/22/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Kimball	Individual	Support	Yes

Comments: Aloha, I am Deborah Kimball, adoptee. In the 1980s I reunited with my birth family—so enlightening, enriching, gratifying!; and I also led Adoptee Support Groups for the Kaua'i YWCA. I have been affiliated with Adoption Circle of Hawai'i since 1992 but am not speaking for it today. I am very happy to wholly support HB2082 HD1. It is a reasonable modernization of a troubling law. I have waited 77 years to be seen as a responsible adult in the eyes of Family Court. Good grief! This bill with HD1 ends unequal treatment of adult adoptees in access to birth documents by eliminating the complicated and costly process for the older group. At least sixteen other states have now balanced the interests of parties to adoption. Court decisions in Tennessee and Oregon about 15 years ago found that such changes did not violate birth parents' constitutional right to privacy or any of their state constitutional rights. With hundreds of thousands of records released since in other states, no legal challenges have ensued. It is time to update the law, as the shame and stigma of unwed parenthood and of adoption are virtually gone, and the well-being of adoptees and their families are better understood. Please support HB2082 HD1. Mahalo.

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LATE

My name is Cody Castilla and I am a senior at Castle High School. I am 18 years old. I support adopted people getting their birth information. My mom is adopted and her family history is my family history. People deserve to know who their family are. Thank you for reading this.

Cody Castilla

To Judiciary Committee:

From Erin Iwalani Castillo
P.O. Box 4286
Kaneohe, Hi 96744
808.277.2967



Feb 22, 2016

Aloha. I am an adoptee that was relinquished and adopted here in Hawaii. I am kanaka maoli and have benefitted from my Hawaiian ancestry over the years. I am also a licensed clinical social worker and a mother to two children.

What really gets me angry is that strangers could go into my adoption file or my original birth certificate and see my information, but I could not do this myself.

Adopted people are treated differently than others. Everyone that is not adopted has their birth information, adoptees do not.

Once an adoptee becomes an adult, they should have the ability to obtain their birth information if they choose.

I hope this bill gets passed so others will not have to go through the heartache, expense, and pain in getting their information.

I think the description of this bill sums it up very nicely:

Amends requirements relating to adoption records. Allows adopted individuals who have attained the age of eighteen and their natural parents access to the adopted individual's sealed adoption records upon submission to the family court of a written request for inspection. (HB2082 HD1)

Thank you for your consideration.

LATE

**Michael S. Zola
Attorney at Law
PO Box 2165
Kamuela, HI 96743
(808) 329-1333
Email: michaelzolalaw@gmail.com**

Re: Testimony in Support of HB 2082 HD 1

Hearing: February 23, 2016 2:00pm

To the Honorable Members of the House of Representatives Committee on Judiciary:

I respectfully submit this testimony in support of HB 2082, as it is presently amended (HD 1).

I have been a family law attorney in Hawaii since 1980. I am not adopted, but I have an interest in the bill both as an attorney, and as I have family members and loved ones who are adopted. I support their right to access the records of their birth and adoption when they reach adulthood, which is what HB 2082 does. I am offering my testimony to address concerns expressed by some members of this committee and other lawmakers concerning birthparent confidentiality and the legal implications of HB 2082.

Present Hawaii law provides that upon the adoption of a child, their original birth certificate as well as the Family Court file which usually contains it together with other documents related to the adoption, is sealed. An amended birth certificate is then issued which replaces the names of the birth parents with the name of the adoptive parents. It is important to note that if a child is relinquished or the parental rights of the birth parents are otherwise terminated, the original birth certificate is NOT sealed. Therefore children who are placed in and age out of foster care, for example, or in a legal guardianship arrangement, do not have their original birth certificate sealed and always have access to that document which includes the identity of their birth parents. Moreover, Hawaii has a unique provision that allows the petitioner, the prospective adoptive parents, to choose whether or not to seal the file at the time the adoption is finalized. HB 2082 in fact includes that particular relevant provision. Section 578-15, Hawaii Revised Statutes, subsection (b) presently reads:

"(b) Upon the entry of the decree, or upon the later effective date of the decree, or upon the dismissal or discontinuance or other final disposition of the petition, the clerk of the court shall seal all records in the proceedings; provided that upon the written request of the petitioner or petitioners, the court may waive the requirement that the records be sealed."

It is therefore difficult for anyone to make the argument that present Hawaii law implicitly or explicitly promises birthparents anonymity or confidentiality from their biological

offspring or even the adoptive parents. It simply does not.

Moreover, while many states have moved to unrestricted access to adult adoptees of their original birth certificates and other identifying documents, there has never been a single successful lawsuit brought by parties opposed to such laws. To the contrary, attempts by birth parents or others to argue that the retroactive application of statutory amendments allowing disclosure of sealed adoption records to adult adoptees violates the vested rights of birthparents, has been unsuccessful.

Tennessee passed a substantive semi-open records law in 1996. This law was challenged in both federal and state courts. At the federal level the plaintiffs — two birth mothers, an adoptive couple and an adoption agency — asserted that opening records to adult adoptees violated their right to privacy, their parental rights and their right to equal protection as guaranteed by the Fourteenth Amendment to the United States Constitution.

Judge Nixon of the United States District Court sided with the Defendants, who argued that the new law opening records did not violate constitutional rights to familial and reproductive privacy and privacy against disclosure of confidential information. With regard to familial privacy, Judge Nixon explained that “[p]laintiffs’ claims are more accurately analyzed in terms of the release of confidential information, rather than in terms of familial privacy. The Act does not directly impinge upon birth parents’ rights to subsequently marry, have, and raise children as they see fit, or upon adoptive parents’ right to raise their adoptive children as they see fit. Thus, the Act does not fall within the scope of a Constitutional right to familial privacy and autonomy as deemed by case law.” *Doe v. Sundquist*, 943 F. Supp. 886, 893-94 (M.D. Tenn. 1996).

Judge Nixon also rejected the Plaintiffs’ argument that the right to relinquish a child for adoption was analogous to the right to an abortion and thus was a “reproductive choice” subject to constitutional protection. “[The open records law does] not interfere with a ‘reproductive right of privacy,’ since [it] fail[s] to impinge upon a woman’s right . . . to carry a pregnancy to term Since the [open records law] does not prohibit adoption, it cannot be deemed analogous to direct government restraints on private, fundamental decision making [such as laws that criminalize abortion].” *Id.* at 894-895.

The Plaintiffs appealed to the Sixth Circuit Court of Appeals, which affirmed Judge Nixon’s decision and his reasoning. Notably, the Court explained that “[a] birth is simultaneously an intimate occasion and a public event – the government has long kept records of when, where, and by whom babies are born. . . . [in passing its open records law], [t]he Tennessee legislature has resolved a conflict between the interest [of adoptees in knowing the circumstances of their birth] and the competing interest of some parents in concealing the circumstances of a birth.” 106 F.3d 703, 705 (6th Cir. 1997)

The Plaintiffs appealed to the United States Supreme Court, which denied certiorari (declined to hear the case) in 1997, upholding the Sixth Circuit Court decision and ending the federal case. The Supreme Court of Tennessee also rejected challenges to the law under its state constitution, and the law went into effect. *Doe v. Sundquist*, 2 S.W. 3d 919 (1999)

Measure 58, a ballot initiative passed in Oregon in 1998, approved the unconditional opening of original birth certificates to adult adoptees upon request. Immediately after the election, Measure 58 was challenged in court. Six anonymous birth mothers represented by an attorney with support from the National Council For Adoption, an anti-open records lobbying organization, filed suit in state court, claiming that open records violated contracts of anonymity made at the time of relinquishment as well as their right to privacy. This suit was dismissed in mid-1999. Judge Lipscomb stated, “this court may not set aside Measure 58 unless it runs afoul of the Oregon or United States Constitutions. It is my conclusion that it does not. Even assuming birth records to be an intimate personal matter, the effect of Ballot Measure 58 is only to give access to the person born, not to the general public. And significantly, there was no privacy or confidentiality at all which was attached to adoption records at the time of the enactment of either Constitutions.”

The Oregon Court of Appeals affirmed the lower court’s decision, holding that birth mothers have no constitutional guarantee of privacy regarding the fact that they relinquished a child, despite promises they may have received that their identities would be protected. Does v. State of Oregon, 164 Or. App. 543, 993 P.2d 833, 834 (1999)). The Court refused to extend an earlier stay blocking the law from taking effect, leaving the United States Supreme Court as the only option for the opponents. In May 2000 the Supreme Court rejected the six anonymous birth mothers’ request to stay the law. After nearly two years of court battles, Measure 58 went into effect.

The overarching determination of these legal decisions has been that opening records to adult adoptees is related to achieving goals in the public interest, that birth parents had no reasonable expectation that adoption records would be permanently sealed, and that amendments to sealed records laws were remedial in nature.

Despite the dire warnings of opponents in these and other open records states, opening records to adult adoptees has had no known deleterious effects. The abortion rate has not increased. Babies are not being abandoned at increased levels. Adoption has not declined as a result of affording adult adoptees the right to their original birth certificates and adoption file on request. Again, to the contrary, it should be noted that today “open adoptions”, where identifying information is shared between the birth parents and the adoptive parents, account for more than 90% of all adoptions, and this was done at the demand of prospective birth parents who have nearly universally rejected the concept of closed and sealed adoptions.

It is my considered legal opinion that HB 2082 in its present form does not pose any legal liability risk to the State, and does not interfere with the constitutional rights of any party. To the contrary, current Hawaii law, which unilaterally allows a birth parent to deny an adoptee access to the records of their birth and adoption, without any recourse or right of hearing by the adoptee, presents more of a problem in terms of liability and breach of constitutional rights than HB 2082, which simply does what is the norm in most of the rest of the world and is becoming increasingly common across the United States, acknowledges the right of an adult adoptee to the original

records of their birth and subsequent adoptions. I therefore urge the members of this Committee to vote yes on HB 2082 as it is currently written.

Dated: February 22, 2016, Honoka'a, Hawaii.

Michael S. Zola

LATE

Testifier: **Lawrence F. Newman**
1009 Kapiolani Blvd., Unit 2402
Honolulu, HI 96814

Committee: **COMMITTEE ON JUDICIARY**

Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair
Rep. Della Au Belatti Rep. Dee Morikawa
Rep. Tom Brower Rep. Mark M. Nakashima
Rep. Richard P. Creagan Rep. Gregg Takayama
Rep. Mark J. Hashem Rep. Justin H. Woodson
Rep. Derek S.K. Kawakami Rep. Bob McDermott
Rep. Chris Lee Rep. Cynthia Thielen

Hearing Date & Time: Tuesday, February 23, 2016 at 2:00 pm

Measure number: **HB 2082 HD1: RELATING TO ADOPTION RECORDS.**

Amends requirements relating to adoption records and the secrecy of proceedings and records. Allows access to adoption records by parties to the proceedings under certain circumstances.

Dear Members of the Committee on Judiciary,

My name is Larry Newman and as an adopted person, I emphatically support adoption reform that provides unfettered access to one's own adoption records as proposed in HB 2082 HD1.

With regard to ensuring equal justice under law, HB 2082 HD1 *restores* the rights of adult adoptees to access their birth records, which began to drastically erode in the 1940's. The intent of sealing birth records is deeply misunderstood by most of society and legislatures alike and has resulted in adult adoptees and their descendants being denied their identity and personal histories.

For example, while most believe sealed adoption records protect birth parents' confidentiality, adoption records are not sealed upon the relinquishment of the prospective adoptee. Rather, adoption records are sealed only upon the finalization of an adoption. Sealed records were intended to protect the adoptee and the adoptive family, not the birth parents. So for example, if a child was surrendered to an agency with the expectation of a timely adoption, but in fact, was never adopted, his birth records would never have been sealed. At the age of majority, his birth records would be available and as is always the case, birth parents are never informed of their surrendered child's placement.

Finally, HB 2082 HD1 is about access to one's own information, not contacting birth parents. Be it known that only a small minority of adoptees have an interest in meeting birth parents, siblings or relatives. For those do have an interest and were fortunate to be adopted through a professional and ethical agency (e.g. not a private attorney), most if not all provide post-adoption services including searching for birth-relatives. These searches are conducted and often successful *without* unsealing birth records, as was the case in my own reunion ten years ago.

I urge the Committee to release HB 2082 HD1 to bring access to adoption records one step closer to becoming law.

Thank you,

L. Newman

Martha W. Hulbert
Honolulu, Hawaii
tidemeadows@gmail.com

LATE

To: Representative Rhoads, Chair
Representative San Buenaventura, Vice Chair
House Committee on Judiciary

February 22, 2016

RE: IN SUPPORT, HB 2082, HD1 RELATING TO ADOPTION RECORDS

*If we have no peace,
it is because we have forgotten that we belong to each other.*
- Mother Theresa

NO CONTRACTURAL RIGHT TO PRIVACY EXISTS FOR BIRTH PARENTS WITH RESPECT TO STATE ADOPTION RECORDS

When, in 1967, I surrendered my child for adoption, the issue of confidentiality was never mentioned, either verbally or in writing.

I now understand that state statute allows records to be made available upon petition to the court and subsequent to granting of the petition. Therefore, any promise of confidentiality made to birth parents by adoption agencies or attorneys with respect to state adoption records are not valid.

However, promises of confidentiality made to birth mothers with respect to adoption agencies or attorney records are valid, as protected by client privilege. Though these records, too, are subject to court subpoena.

Vital Statistics in recent access states have determined that less than 0.1% of birth mothers request no contact.

IMPACT OF SECRECY AND LIES ON THE BIRTH MOTHER EXPERIENCE

To claim the myth of confidentiality as a reason to retain sealed records is to exploit, a second time, women abused in the loss of their children to the institution of closed, private adoption.

In 1967, I was told never to expect to see my child again. I had asked and was denied leaving with him a note of good-bye, a photo or knitted blanket. I asked and was denied my placing him in his adoptive mother's arms, to hold her eyes with my blessing and love. I was told that to do these things would frighten his new parents, especially his

mother, and that certainly I could understand this. I could not, until years later when I learned that such remembrances were perceived to undermine the state requirement that children placed for adoption be fully abandoned. The intent was that I be erased from my son's life.

The not knowing reinforces shame, grief, and a void so unimaginatively deep that no words suffice.

CLOSED ADOPTION LAWS FOUNDED IN AN UNETHICAL DISTORTION OF TRUTH

The Uniform Adoption Act, 1994, states, that an 'altered' certificate be created stating the child's new name and parentage "as if the child were born of the adoptive parents. The former [birth] relationship is treated as if it had never happened".

In mid-20th century, when closed, private adoption laws were originally conceived, no studies were undertaken to determine how the secrecy of sealed records and falsity of the altered birth certificate would impact the life experience of adopted persons, adoptive parents, birth parents and their respective families.

THE NATIONAL TREND IN ADOPTION, STATE BY STATE, IS ACCESS TO BIRTH ORIGINS AND MEDICAL HISTORY

I urge the State of Hawaii to surrender the culture of forgetting and remember our belonging to one another.

Sincerely,

Martha W. Hulbert, M.A.
Adoption Therapist (retired)
Recipient of Angel In Adoption Congressional Award

A BILL FOR AN ACT

LATE

RELATING TO ADOPTION RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. To protect adopted children from the stigma of
2 illegitimacy, states began sealing adoption records in the
3 middle of the 20th century. Although adoptees were generally
4 allowed to access their own adoption records, states later began
5 limiting adoptees' access to adoption records due to the
6 prevailing idea that adopted children were better off if they
7 were unaware of their adoption. However, current research has
8 illustrated that the secrecy surrounding an adoption has
9 significant negative psychological consequences on an adoptee.
10 Furthermore, cultural changes have largely diminished the stigma
11 surrounding adoption and recent genetics research has
12 highlighted the importance of genetic history to an individual's
13 medical care.

14 Although the legislature eased restrictions for some
15 adoptees to access adoption records in 1990, Hawaii's adoption
16 records law continues to condition access to records on
17 birthparent approval, which is a major hurdle for adoptees to



1 overcome. Additionally, it is common for adoptees to pay a
2 search agent approximately \$600 to locate birthparents who have
3 moved since the adoption proceedings.

4 The legislature finds that countries with open access laws
5 and other states that have restored open access to adoption
6 records have not experienced significant negative consequences
7 that critics predicted would befall birthparents that sought to
8 retain anonymity. Furthermore, the substantial interest that an
9 adoptee has in learning the adoptee's familial history outweighs
10 any vague discomfort that could befall a birthparent.

11 The purpose of this Act is to provide adoptees of a certain
12 age unfettered access to their adoption records.

13 SECTION 2. Section 578-15, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Upon the entry of the decree, or upon the later
16 effective date of the decree, or upon the dismissal or
17 discontinuance or other final disposition of the petition, the
18 clerk of the court shall seal all records in the proceedings;
19 provided that upon the written request of the petitioner or
20 petitioners, the court may waive the requirement that the
21 records be sealed. The seal shall not be broken and the records



1 shall not be inspected by any person, including the parties to
2 the proceedings, except:

3 (1) Upon order of the family court upon a showing of good
4 cause;

5 (2) [~~For adoptions which occurred prior to January 1,~~
6 ~~1991, after~~] After the adopted individual attains the
7 age of eighteen and upon submission to the family
8 court of a written request for inspection by the
9 adopted individual or the adoptive parents [~~in~~
10 ~~accordance with the following:~~

11 ~~(A) Within sixty calendar days after receipt of a~~
12 ~~request for inspection, the family court, by~~
13 ~~certified mail with return receipt requested,~~
14 ~~shall mail to the last known address of each~~
15 ~~natural parent a notice of the request for~~
16 ~~inspection of adoption records, a copy of the~~
17 ~~request for inspection and copies of any~~
18 ~~accompanying letters, photographs, or other~~
19 ~~documents submitted in support of the request.~~
20 ~~The notice shall inform the natural parent that~~
21 ~~unless an affidavit signed by the natural parent~~



1 ~~requesting confidentiality is received by the~~
2 ~~family court within sixty calendar days of the~~
3 ~~date of receipt of the notice, the natural parent~~
4 ~~will be deemed to have waived any rights of~~
5 ~~confidentiality and the records shall be subject~~
6 ~~to inspection by the adopted individual or the~~
7 ~~adoptive parent who submitted the request. The~~
8 ~~notice shall also inform the natural parent that~~
9 ~~an affidavit requesting confidentiality for a~~
10 ~~period of ten years may be filed. A blank~~
11 ~~affidavit to be completed and signed by the~~
12 ~~natural parent shall be mailed with the notice,~~

13 ~~(B) If the family court has received a return receipt~~
14 ~~for the notice but an affidavit requesting~~
15 ~~confidentiality is not received by the family~~
16 ~~court within sixty calendar days of the date of~~
17 ~~receipt of the notice, the family court shall~~
18 ~~allow inspection under this section,~~

19 ~~(C) If the notice is returned as undeliverable to a~~
20 ~~natural parent, the family court shall designate~~
21 ~~an agent or agency to conduct a good faith and~~



1 ~~diligent search to locate the natural parent and~~
2 ~~to provide the notice and all other documents~~
3 ~~required under subparagraph (A). The search~~
4 ~~shall extend over a period not to exceed one~~
5 ~~hundred eighty calendar days. Contacts with~~
6 ~~natural parents by a designated agent or agency~~
7 ~~under this section shall be personal, whenever~~
8 ~~possible, and confidential. The family court~~
9 ~~shall provide the designated agent or agency with~~
10 ~~a copy of the request for inspection and copies~~
11 ~~of any accompanying letters, photographs, or~~
12 ~~other documents submitted in support of the~~
13 ~~request, and the designated agent or agency shall~~
14 ~~present the copies to the natural parent when~~
15 ~~contacted. The family court and the designated~~
16 ~~agent or agency shall ensure that no person other~~
17 ~~than a natural parent or the agent or agency~~
18 ~~through which a natural parent obtained~~
19 ~~assistance for the adoption is informed of the~~
20 ~~adoptive individual's existence and the~~
21 ~~relationship to the natural parent;~~



- 1 ~~(D) If a natural parent cannot be located after the~~
2 ~~search conducted under subparagraph (C), the~~
3 ~~family court shall allow inspection under this~~
4 ~~section;~~
- 5 ~~(E) If an affidavit requesting confidentiality is~~
6 ~~received by the family court within sixty~~
7 ~~calendar days of the date of receipt of the~~
8 ~~notice provided under subparagraph (A) or (C),~~
9 ~~the family court shall not allow inspection~~
10 ~~during the effective period of the affidavit;~~
- 11 ~~(F) If a ten-year affidavit is filed under~~
12 ~~subparagraph (E), the natural parent may refile~~
13 ~~affidavits every ten years thereafter to maintain~~
14 ~~confidentiality, or the natural parent may file~~
15 ~~an affidavit effective for the remainder of the~~
16 ~~natural parent's lifetime. All affidavits~~
17 ~~subsequent to the initial affidavit may be filed~~
18 ~~within ninety calendar days before the last~~
19 ~~effective day of the initial affidavit. If there~~
20 ~~is no effective affidavit on file with the family~~
21 ~~court at the time a request for inspection is~~



1 ~~received by the court, the court shall allow~~
2 ~~inspection under this paragraph;~~

3 ~~(G) An affidavit requesting confidentiality shall be~~
4 ~~effective until the last day of the period for~~
5 ~~which the affidavit was filed, until the natural~~
6 ~~parent revokes the affidavit, or until the~~
7 ~~natural parent is deceased, whichever occurs~~
8 ~~sooner; and~~

9 ~~(H) Where two natural parents are involved and~~
10 ~~confidentiality is waived under this paragraph by~~
11 ~~only one natural parent, the inspection of the~~
12 ~~records shall not include any identifying~~
13 ~~information concerning the other natural parent;~~

14 ~~(3) For adoptions occurring after December 31, 1990, in~~
15 ~~accordance with the following:~~

16 ~~(A) Each natural parent shall be informed of the~~
17 ~~procedures required under this paragraph if the~~
18 ~~natural parent desires to maintain~~
19 ~~confidentiality after the adopted individual~~
20 ~~attains the age of eighteen;~~



1 ~~(B) Within ninety calendar days before the adopted~~
2 ~~individual attains the age of eighteen a natural~~
3 ~~parent may file an affidavit with the family~~
4 ~~court to request confidentiality and the natural~~
5 ~~parent may refile affidavits every ten years~~
6 ~~thereafter to maintain confidentiality or the~~
7 ~~natural parent may file an affidavit effective~~
8 ~~for the remainder of the natural parent's~~
9 ~~lifetime. All affidavits after the initial~~
10 ~~affidavit may be filed within ninety calendar~~
11 ~~days before the last effective day of the initial~~
12 ~~affidavit;~~

13 ~~(C) If a natural parent declines or fails to file an~~
14 ~~affidavit under subparagraph (B), the family~~
15 ~~court shall allow inspection of the record by the~~
16 ~~adopted individual or the adoptive parents at any~~
17 ~~time after the adopted individual has attained~~
18 ~~the age of eighteen; and~~

19 ~~(D) Where two natural parents are involved and~~
20 ~~confidentiality is waived under this paragraph by~~
21 ~~only one natural parent, the inspection of the~~



1 ~~records shall not include any identifying~~
2 ~~information concerning the other natural parent,~~
3 ~~(4) For all adoptions, regardless of date of occurrence,~~
4 ~~after the adopted individual attains the age of~~
5 ~~eighteen and upon submission to the family court of a~~
6 ~~written request for inspection by a natural parent,~~
7 ~~provided that the adopted individual shall have the~~
8 ~~same rights and obligations applicable to natural~~
9 ~~parents under paragraphs (2) and (3), including rights~~
10 ~~of notice and opportunity to file affidavits~~
11 ~~requesting confidentiality.~~
12 ~~(5) For all adoptions, regardless of date of occurrence,~~
13 ~~after] ;~~
14 (3) After the adopted individual attains the age of
15 eighteen and upon submission [of an affidavit by a
16 natural parent consenting to the inspection of records
17 by the adoptee or an affidavit submitted by an adoptee
18 consenting to the inspection of records] to the family
19 court of a written request for inspection by the
20 natural parents; [provided that where only one natural
21 parent files an affidavit for consent, the inspection



1 ~~of records shall not include any identifying~~
2 ~~information concerning the other natural parent,~~
3 ~~(6)]~~ (4) Upon request by the adopted individual or the
4 adoptive parents for information contained in the
5 records concerning ethnic background and necessary
6 medical information [~~, notwithstanding any affidavit~~
7 ~~requesting confidentiality]; or~~
8 ~~(7)]~~ (5) Upon request by a natural parent for a copy of
9 the original birth certificate.

10 As used in this subsection, "natural parent" means a biological
11 mother or father, or a legal parent who is not also the
12 biological parent."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Adoption; Adoption Records; Proceedings

Description:

Amends requirements relating to adoption records. Allows adopted individuals who have attained the age of eighteen and their natural parents access to the adopted individual's sealed adoption records upon submission to the family court of a written request for inspection. (HB2082 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Date: February 23, 2016, 2:00, Rm 325



To: Representative Karl Rhoads, Chair,
Representative Joy San Buenaventura, Vice Chair
House Judiciary Committee

From: Linda Wong: Private Citizen
3071 Pualei Circle
Honolulu, Hawai'i 96815

Re: H.B. 2082HD1, Relating to Adoption Records

Aloha Chair Rhodes and Judiciary Committee

I Am in strong support H.B. 2082 HD1:

I am an adult adoptee and this law change means a great deal to me. I truly believe the changes are fair and needed. I have been looking for my birth family, some semblance of who I am and/or my medical history since 1988 to no avail due to overly stringent adoption laws. I feel something like an amputee being stuck with out of date adoption laws. I imagine this injustice has contributed to my looking for right action in the Neighborhood Board System for many years here in Honolulu.

I was born in NY, which has somewhat 'closed' adoption laws like Hawai'i. I definitely have a right to my medical information and birth ethnicity. No one should be able to sign away my birthrights. My birthparents are no more important than I and our relationship possibility should not be taken away.

Mahalo mai for having the patience to read and consider my testimony.

Sincerely,
Linda Wong

LATE

Date: 2-22-16 for House Judiciary Committee Hearing 2-23-16

Re : HB 2082 HD1 Relating to Adoption Records

Aloha Chair Rhoads, Vice Chair San Buenaventura and Judiciary Committee Members:

I fully support HB 2082 HD1.

I have both personal and professional knowledge about adoption. I am an adoptee who also has a PhD in social welfare from University of Hawai'i and has studied child welfare issues, especially adoption and foster care.

There are numerous reasons to support modernizing the adoption law. . . reasons such as

- early historical intent of adoption laws,
- different societal norms and more open adoption practice than when these laws were passed
- the current position of credible organizations who support access to birth information for adult adoptees,
- our local Hawaiian cultural roots of 'ohana and hānai,
- Hawai'i law treats similarly-situated adopted adults differently
- adopted children grow into autonomous adults who no longer need special protection by the state
- court rulings in other states have supported laws providing adult adoptees access to their records.

In the mid-20th century, saving children from “unsavory” beginnings of “illegitimacy” was to create a new family by adoption and to legally wipe out their origins to spare them from a birth certificate marked ILLEGITIMATE. But today our society no longer stigmatizes children born to unmarried mothers. These births are quite common – nationally in 2013, 40.6% of births to women 15 – 44 were to unmarried women.¹ All involved in the adoption were supposed to not look back. However, adoption has a lifelong impact; it's not a single event. Genes, thoughts of genealogy and birth family connections can remain.

Hawaiian cultural traditions of 'ohana, and hānai feature openness and inclusion. For my dissertation, I interviewed adult Hawaiians about their experience of being hānai. They all knew their birth mothers and had contact with their siblings. The persons raised hānai remained connected to their family and their genealogy and did not have issues about identity. In contrast, adoptees in closed adoptions can be impacted by identity issues that can affect their well-being, and they often spend time and resources trying to find out basic information about themselves. Hawaiians and other traditional communities have known all along what modern open adoption practice knows today. While children may be raised and well-cared for in one family, they can still remain connected to their other family. Hawai'i's adoption law was influenced by mainland law at the time and not a reflection of local Hawaiian culture.

The intent of the original legislation in the U.S. to seal adoption records and the writings of the leading child welfare organization at the time -- the U.S. Government's Children's Bureau, clearly show that the records were preserved so adult adopted persons could retrieve the information when

they were adults.² Today, this same organization, the federal government's Children's Bureau has a guide to searching for birth relatives.³

Current Hawai'i law treats similarly-situated people (adult adoptees) with two different sets of procedures based on their year of adoption. Those who were adopted before 1991 often have to use a court-appointed searcher in order to get their records, which is a more costly and unsettling process, that those adopted post-1990 do not have to endure. A request for records that involves the intermediary procedure takes longer for both Family Court staff and for the applicant. **HB 2082 HD1 rectifies this problem of unequal treatment of adoptees under the law and streamlines the process.**

Court rulings in Tennessee and Oregon following the passage of similar laws granting adult adoptee access to their birth information confirmed that birth parents do not have a constitutional right to privacy in the adoption context, nor did they impair any contractual rights of birth parents. Birth parents did not have a guarantee of anonymity from their own children.^{2, 8, 9, 10} Moreover, in an examination of surrender documents signed by birth mothers, legal scholar Elizabeth Samuels found no promises of confidentiality to birth mothers in them.¹⁰ When adoption records around the United States were closed to inspection by the parties to the adoption as well as the public, they were closed to protect adoptive families from possible interference by birth parents, not to protect birth parents' privacy.² No legal challenges have come up in other states that have increased access of information to adoptees since the Tennessee and Oregon rulings over 15 years ago.

A vast gap exists between fears expressed of what would happen by granting adoptees access to their records and the actual reality of no negative outcomes when records have been made available in other states and countries.⁸ Kansas and Alaska never sealed birth certificates from adult adoptees. England's records have been open to adults since 1976, New Zealand since 1985, and Oregon since 2000. We also have not heard of any problems after adults in Hawai'i got their records post-1990.

Many mainstream organizations endorse access to records for adult adoptees, such as the Child Welfare League of America,⁴ the American Academy of Pediatrics,⁵ and North American Council on Adoptable Children.⁶ People affected by these laws – adopted persons, birth parents, and adoptive parents, as well as social workers who helped create adoptions have written and spoken extensively on the need to reform adoption law and end the secrecy.^{7, 8} Much evidence exists to support adults access to their records.^{8, 9}

Once adoptees are adults, with legal standing, and no children are involved that need protection, what is the state's role in sheltering birth parents and blocking adoptees and birth parents from the joy and healing that could possibly result from having this information? Unfortunately, the current Hawai'i law treats adult adopted persons as perpetual children who can view their records only if their birth parents do not deny them access to this information, even though their legal parental rights were terminated. The birth parent's wishes supersede the adopted adult's need for the information. Most birth parents do not want to keep this information from their own children.^{8, 9, 10} Relinquishing a child is unlikely to be a happy memory, especially in an unsupportive, judgmental societal environment of shame, guilt, and secrecy. However, many have found some healing and support from the openness of sharing and contact that has not led to terrible consequences that some feared. When my birth father eventually told his wife about me, I

heard that she responded with, “Gee, why didn’t you tell me before?” There were no explosions. Our fears can be much greater than the reality. Birth parents and adoptees are now adults and if they are alive and find each other, they can negotiate whether to or how they wish to associate, like all other adults in their relationships. The state was rightly involved to protect children during an adoption. However, when children grow up, what is the reason for the State to block this information from autonomous adults? All other adults can freely access their birth information. This bill reforms the process to **create equal treatment of adult adopted persons so they can access their birth information just like every other citizen.**

Times have changed. Birth outside marriage is not uncommon. A lot has happened since the law was last reformed in 1990. Various forms of open adoption and kinship care are more common practice. Most people now have access to email communications, the internet, and even DNA testing. It’s time to modernize the law. The state should not play a role in keeping family secrets between adults.

I have also attached an image from a recent news story of an 82-year-old adoptee who after a 50 year search, found her 96-year-old birth mother.¹¹ Allow adult adoptees to gain the information that is necessary for their health and well-being, self-knowledge and their connections to family and ancestors. Adult adoptees should receive equal treatment under the law to access their own birth information.

These are a few of the reasons I support HB 2082 HD1. I thank you for the opportunity to testify.

Respectfully,

Kat McGlone, PhD



References related to HB 2082

- ¹ CDC National Center for Health Statistics. Downloaded 2-11-16 from <http://www.cdc.gov/nchs/fastats/unmarried-childbearing.htm>
- ² Samuels, Elizabeth. (2001). The idea of adoption: An inquiry into the history of adult adoptee access to birth records. *Rutgers Law Review* 53, 367-437. Downloaded 2-27-11 from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=275730
- ³ Child Welfare Information Gateway, U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2011). *Searching for Birth Relatives. Factsheet for Families*. Downloaded 1-31-2016 https://www.childwelfare.gov/pubPDFs/f_search.pdf Washington DC: Author.
- ⁴ Child Welfare League of America (2000). *Standards of Excellence for Adoption Services*. Washington, DC: Author.
- ⁵ American Academy of Pediatrics. (2014). National Adoption Center: Open Records. (Endorsement.) *Pediatrics* 133, 6. adopt.org/our-policies#Open and www.pediatrics.org/cgi/doi/10.1542/peds.2014-0901 Downloaded 2-1-16
- ⁶ North American Council on Adoptable Children. (2005). *Access to Records* position statement. Downloaded 2-21-11 from <http://www.nacac.org/policy/positions.html#Records>
- ⁷ Sorosky, Arthur, Baran, Annette, & Pannor, Reuben. (1989, 1978). *The Adoption Triangle: Sealed or opened records: How they affect adoptees, birth parents, and adoptive parents*. San Antonio, TX: Corona.
- ⁸ Evan B. Donaldson Adoption Institute (2010). *For the records II: An examination of the history and impact of adult adoptee access to original birth certificates*. Policy & Practice Perspective. New York: Author. http://adoptioninstitute.org/old/publications/7_14_2010_ForTheRecordsII.pdf Downloaded 2-1-16.
- ⁹ Evan B. Donaldson Adoption Institute (2007). *For the records: Restoring a legal right for adult adoptees*. New York: Author. Downloaded 2-1-16 from http://adoptioninstitute.org/old/publications/2007_11_For_Records.pdf
- ¹⁰ Samuels, Elizabeth J. (2013). Surrender and Subordination: Birth Mothers and Adoption Law Reform. *20 Michigan Journal of Gender and Law* 33. Downloaded 2-1-16 from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2233400
- ¹¹ Florida woman, 82, tracks down and meets 96-year-old birth mother. (2016, Feb.5). *Portland Press Herald* Downloaded on 2-11-16 from <http://www.pressherald.com/2016/02/05/woman-82-tracks-down-and-meets-96-year-old-birth-mother/>

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2016 8:54 AM
To: JUDtestimony
Cc: scheuerj001@hawaii.rr.com
Subject: Submitted testimony for HB2082 on Feb 23, 2016 14:00PM

HB2082

Submitted on: 2/23/2016

Testimony for JUD on Feb 23, 2016 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jonathan Likeke Scheuer	Individual	Support	No

Comments: Chair Rhoads, Vice Chair San Buenaventura, and members of the committee, This testimony is in support of HB2082, HD1. I became aware of this measure from the Adoption Circle of Hawai`i, I am not a member or associated with the group, but am a parent in an adoptive family. As an adoptive parent, at first when I reviewed the latest draft of the measure, I felt that it went perhaps too far in not protecting the desire of privacy by whom the law calls "natural" parents. (As an aside, I guess that makes me an "unnatural" parent). However, after reviewing a number of scholarly articles and analyses, I have become convinced that the language in the HD1 is appropriate. In particular, without this language, adopted children are not afforded the equal protection of the law guaranteed by the United States Constitution's Fourteenth Amendment. Any non-adopted person has clear access to her or his birth records, and there is no compelling reason for this discrimination to continue against adopted children who have attained the age of majority. In terms of any lingering concerns that one may have that this somehow violates any privacy rights of "natural" parents, I found the analysis done by the Oregon Supreme Court on a challenge to a similar law quite convincing. In short, while there may be clearly a desire for privacy among some "natural" parents, there is not a Constitutional right to privacy in this regard. That decision can be read at the following website, and I commend it for your review: <http://www.publications.ojd.state.or.us/docs/A107235.htm> Thank you for your consideration of my testimony. Dr. Jonathan Likeke Scheuer Honolulu

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

DATE: February 23, 2016, 2:00, Rm 325

TO : Representative Karl Rhoads, Chair,
Representative Joy San Buenaventura, Vice Chair
House Judiciary Committee

FR : Jeff Tomori

RE : H.B. 2082 HD1
Relating to Adoption Records

I am in full support for this bill. As one who was recently contacted by my half-brother last year, shock and disbelief were my initial feelings as I grappled with the idea that I wasn't an 'only-child'. However, those feelings quickly gave way to sympathy for my long lost sibling as well as a tremendous feeling of gratitude that he reached out to me. Our families plan to meet this June and I'm filled with nervous anticipation.

The State of Hawaii really should not hinder adult adoptees from contacting and forming relationships with their birth families.

Thank you very much for allowing me to voice my opinion.

Aloha,

