

Testimony of Robin Elizabeth Pope, Attorney - May 14, 2013

Senate Bill 623

Chair Barker and members of the House Judiciary Committee: My name is Robin Pope. I am an attorney in private practice; my practice is limited to adoption and related matters. Over the past 25+ years I have represented birth parents, adoptive parents, adoption agencies, birth grandparents, and putative fathers. I am currently a member of the Oregon Law Commission Adoption Records Work Group and am here to testify in support of SB 623.

My background includes: Membership since 1997 in the American Academy of Adoption Attorneys, a national association of attorneys who practice, or have otherwise distinguished themselves, in the field of adoption law; longtime membership in the Oregon State Bar Family Law Section Standing Committee on Adoption and several years as chair of that committee; many years of pro bono service to Oregon citizens as a Pro Tem Judge in Clackamas County Circuit Court (family law matters) and Washington County Circuit Court (small claims court); service on two prior Oregon Law Commission Work Groups; and service on Oregon DHS Work Groups to review and revise Oregon Administrative Rules regarding adoptions and adoption agencies.

I appreciate having the chance to appear in front of you to testify regarding my support for SB 623 and request that this statement be submitted for the record.

SB623 has two main foci: Law improvement, contained in Sections 1-5 and 8-15; and access to sealed adoption records, set out in Sections 6-7. Let's first address the access to sealed adoption records.

Our OLC Adoption Records Work Group, after much discussion and consideration of multiple stakeholder perspectives, current law, and the history of Oregon adoption records law, reached consensus that adult adoptees should have as wide access as possible to the information contained in the Court's adoption file. To quote one of the adult adoptee members of our Work Group: "That Court file is an historical legal artifact of the adult adoptee's adoption. Adult adoptees should have access to as much of the court file as possible without impediment."

There are many reasons why I encourage you to support SB 623. From the philosophical and historical perspectives, SB623 represents the logical progression of Oregon law and public opinion regarding the treatment of adoption records and information provided to adoptees and birth parents. Consider this historical time line:

1941 to 1957: Oregon adoptees had the right to access their original birth certificates.

1957 to 1998: Adoption Records, including original birth certificates, are sealed. As to everyone.

1983: The Oregon Voluntary Adoption Registry is established to help adoptees, birth parents, biological siblings and other eligible persons in learning more about an adoption that was finalized in Oregon.

1993: The Oregon Legislature passes a bill allowing for continuing contact/open adoption agreements. Birth parents and adoptive parents are now able to enter into written agreements allowing for on-going contact between them and the child. Birth relatives were later added to this statute.

1998: Ballot Measure 58 is passed and ultimately upheld by the Oregon Appellate Courts. Adult adoptees who were born in Oregon have regained their right to access their pre-adoption birth certificate.

The vast majority of adoptions in Oregon are now open. Continuing contact agreements are the norm, not the exception they were 25 years ago. Most consenting birth parents meet the adoptive parents.

In Oregon, adoption is no longer seen as something to be kept secret. As a state, we have embraced the reality that families are formed in different ways, that family ties, all of them, are important, and that our family history should be available to each and every one of us.

I respectfully ask that you also consider the pragmatic reasons for supporting this bill. Our current law seals the records **as to everyone**. This includes the Judge, court staff, the attorney for the Petitioners, the Petitioners (adoptive parents), the birth parents, the child, DHS, the adoption agency that was involved, and anyone else. SB 623, on the other hand, identifies those stakeholders in an adoption who should have access to the sealed adoption records, specifies which information is available to whom and when, and provides the court with a simpler process for allowing access to that information.

As the attorney for the Petitioners, I create most of the documents in the court's file. My clients paid for the creation of those documents. If a home study is filed with the court, their life story is in that court file. Yet no one can even look at the file, much less get copies, absent filing a motion with the Court and appearing in Court to get an Order signed by a Judge. This requires judicial and staff time, resulting in a cost to the Court, plus attorney time and cost to the requesting persons.

Consider a birth mother who entered into a continuing contact agreement with the adoptive parents of her baby. Several years go by. She's lost her copy and can't remember the names of the attorneys who were involved. She has no right or ability to go down to the courthouse and get a copy of that agreement, even though she signed it and is legally bound by it.

Think about my son's 3rd grade teacher, who had been diagnosed with an aggressive form of breast cancer. Her doctor wanted her to try and find birth relatives for family medical history. She had been adopted in Oregon in 1954 (records were open). Her records were sealed several years after her adoption was final. It took much effort and time to gain access to her adoption records several years ago.

Under our current law, even the Judge (who may have signed the Judgment of Adoption) and court staff must file a motion and get an order signed allowing them to unseal the records and access the Court's own file. As the attorney of record, I cannot access a sealed adoption file without first filing that motion and getting an Order signed.

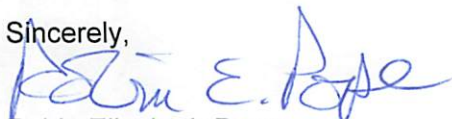
The current system is outdated and at odds with how our views of adoption have evolved. It costs the state money. It lacks clarity and fails to provide guidance to Judges. It deprives adult adoptees access to their history and promotes secrecy. It is unwieldy and paternalistic.

Now I ask you to consider the law improvement focus of SB 623. Our Work Group clarified which information is filed with the Petition for Adoption and developed a process for protecting more sensitive information, such as the home study. Sections 1-5 of SB 623 will improve the practice of adoption law in Oregon. It will be easier for Judges and court staff, DHS and attorneys to review an adoption file for compliance with the requirements of Oregon law. The bill provides a mechanism for segregating and protecting sensitive information in adoption records.

In conclusion, I ask for your support of SB 623. Its passage will provide needed law improvement in adoptions. It will provide clarity and guidance to our Judges. And significantly, your support will allow identified stakeholders in adoptions access to the sealed adoption records.

Thank you for taking the time to consider my input on this important matter.

Sincerely,



Robin Elizabeth Pope

Helping Build Families Through Adoption