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Councilmember Tommy Wells

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Councilmember Phil Mendelson

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Councilmember Michael Brown

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Councilmember Wells introduced the following bill, which was referred to the Committee on

\_\_\_\_\_  
To provide for an post adoption contact agreement between an adoptive parent and the birth parent; to amend An act to regulate the placing of children in family homes, and for other purposes to clarify the definition of a child placement agency, to replace the obsolete reference to the Department of Human Services and replace it with the Department of Health, and to establish a sliding fee scale for adoptions; to amend the Prevention of Child Abuse and Neglect Act of 1977 to establish the Volunteer Adoption Registry; to establish the Voluntary Adoption Registry fund; to amend Chapter 3 of Title 16 of the District of Columbia Official Code to clarify the recognition of the foreign adoption process; to amend An Act To provide for the Care of Dependent Children in the District of Columbia and to Create a Board of Children’s Guardians and Chapter 23 of Title 16 of the District of Columbia Code to extend subsidies for a child from 18 years of age to 21 years of age beginning in fiscal year 2010; and to amend the Vital Records Act of 1981 to clarify the procedure for issuing a new certificate of birth for an adoptee born outside of the United States.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Adoption Reform Amendment Act of 2009".

TITLE I. POST ADOPTION CONTACT AGREEMENT.

Sec. 101.(a) A prospective adoptive parent or an adoptive parent and the birth parent of a prospective adoptee may enter into a written agreement to allow contact, after the adoption, between the birth parent or other birth relative of the adoptee and the adoptee and adoptive parent while the adoptee is a minor. To enter into such an agreement shall be at the sole discretion of the prospective adoptive parent or adoptive parent. Failure to comply with a condition of the agreement shall not be grounds for revoking consent to, or setting aside an order for, adoption.

(b)(1) If a dispute arises between the parties, the parties may make every effort to resolve the dispute through mediation prior to seeking judicial resolution. The mediator shall be selected by the adoptive parent and may be:

- (A) The child placement agency;
- (B) Private adoption agency; or
- (C) Other professional mediator.

(2) In any judicial resolution of a dispute, the District Family Court shall enforce an agreement made in accordance with this title, based on the best interests of the adoptee.

(3) If a party moves to modify an agreement and satisfies the court that the modification is justified, the court shall order that the agreement be modified accordingly. The court may, *sua sponte*, order a different modification of the agreement, including the rescission thereof, if it finds that its modification, or rescission, of the agreement is in the best interests of the adoptee.

## TITLE II. ADOPTION FEE CAP.

Sec. 201. An act to regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1401 *et. seq.*), is amended as follows:

(a) Subsection 2 (D.C. Official Code § 4-1402) is amended to read as follows:

“§ 4-1402. Definitions:

“For the purposes of this act, the term “Child placement agency” means a private or public entity that is licensed by the District of Columbia, through the Department of Health as a Child Health and Welfare endorsement to a basic business license, as set forth in Subchapter I-A of Chapter 28 of Title 47, to accept a child under 16 years of age for temporary or permanent placement in a family home other than that of a relative within the third degree.”.

(b) Section 4 (D.C. Official Code § 4-1404) is amended as follows:

(1) Strike the phrase “Department of Human Services” both times it appears and insert the phrase “Department of Health” in its place.

(2) Strike the phrase “the Department” and insert the phrase “the Department of Health” in its place.

(3) Strike the phrase “said Department” and insert the phrase “the Department of Health” in its place.

(c) Section 9 (D.C. Official Code § 4-1409) is amended by striking the phrase “Department of Human Services” and inserting the phrase “Department of Health” in its place.

(d) Section 12 (D.C. Official Code § 4-1410) is amended to read as follows:

“Sec. 12.(a) Neither the Mayor nor a child placement agency authorized to perform services in connection with placement of a child in a family home for adoption may make or receive any charge or compensation for these services; except, that a child placement agency that

is operating in the District of Columbia exclusively for religious purposes or as a nonprofit organization, pursuant to 501(c) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)), and no part of its net earnings inure to the benefit of any private shareholder or individual may charge an adoptive parent a reasonable fee.

“(b)(1) A child placement agency providing domestic or international adoption services that is authorized to charge a fee pursuant to subsection (a) of this section shall develop a sliding fee scale based on the per capita family income size of the applicant and provide each applicant with:

“(A) Its fee and refund policy;

“(B) An estimate of the agency’s maximum fee for specific services;

“(C) Information regarding available public and private subsidies;

“(D) Its sliding income fee scale; and

“(D) A complete list of the services that it will provide at each stage of the adoption process.

“(2) The failure of a child placement agency that charges a fee to implement and to maintain a sliding fee scale as required by this act, and rules issued pursuant to this act, shall be grounds for suspension or revocation of its license.

“(c) Except for a reasonable nonrefundable administrative fee, a child placement agency shall not retain the fee paid by an adoptive parent unless the child placement agency has provided the service.”.

Sec. 202. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall

issue rules to implement this title, including the process for suspension and revocation of the license required to maintain a child placement agency, as defined in section 2 of An act to regulate the placing of children in family homes, and for other purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1402).

TITLE III. VOLUNTEER ADOPTION REGISTRY.

Sec. 301. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.02 *et seq.*), is amended as follows:

(a) Section 303(a) (D.C. Official Code § 4-1303.03(a)) is amended as follows:

(1) Paragraph (14) is amended by striking the word “and” at the end.

(2) Paragraph (15) is amended by striking the phrase “applies.” and inserting the phrase “applies; and” in its place.

(3) A new paragraph (16) to read as follows:

“(16) To establish and maintain the Volunteer Adoption Registry, established pursuant to section 308 as a post-care service, for an individuals 18 years or older, who were, or currently are, under the jurisdiction of the Agency and their immediate birth family members, as defined in section 308(g).

(b) New sections 308 and 309 (to be codified at D.C. Official Code §§ 4-1303.08 and 4-1303.09) are added to read as follows:

“Sec. 308. Volunteer Adoption Registry.

“(a) Within 180 days of the effective date of the Adoption Reform Amendment Act of 2009, as introduced on December 1, 2009 (D.C. Bill 18-\_\_\_), the Agency shall establish the Volunteer Adoption Registry (“Registry”) for an registrant who seeks to reconnect with his or her birth family member to place otherwise personal confidential information in the Registry to

aid in that endeavor. 1

“(b) To use the Registry, an applicant shall : 2

    “(1) Complete a registration form, which shall include: 3

        “(A) Proof that the applicant qualifies as a registrant, as defined in 4  
subsection (g) of this section, including the following information, to the extent known, 5  
pertaining to both the applicant and the individual being sought: 6

            “(i) Name; 7

            “(ii) Previous name; 8

            “(iii) Address; 9

            “(iv) Telephone number; 10

            “(v) Name of adoptive parents; and 11

            “(vi) Name of birth mother and father; 12

        “(B) The name and address of the child placement agency that placed the 13  
child for adoption; and 14

        “(C) A statement of consent to be identified to other registrants who are 15  
matched as birth family members; and 16

    “(2) Pay a one-time fee, to be established by rule, which may be waived or 17  
reduced for individuals with verified income at or below the national poverty level. 18

“(c) A registrant may provide changes in the information in the Registry occurring after 19  
registration to the Agency. The Agency shall timely input the updated information in the 20  
Registry. 21

“(d) A registrant may withdraw from the Registry at any time by submitting a notarized affidavit to the Agency that contains the registrant’s name and a request to be removed from the Registry.

“(e)(1) Upon receipt of a completed registration and the applicable fee, the Agency, or its designee, shall search the Registry for potential matching family members.

“(2) In addition to the Registry search, the Agency may inquire into the records of:

“(A) Child placement agencies;

“(B) Local departments of social services; and

“(C) The court, which shall grant the Agency access to the court record upon receipt of a petition from the Agency that provides proof of consent of the parties to disclosure of the information, as evidenced in the registration forms, and states that review of the record is needed to make a match or to provide matching information.

“(3) Prior to releasing any identifying information to a registrant, the Agency shall obtain substantiation of a familial relationship from a reliable, independent third-party source, as established by rule, that the Agency did not rely upon for its own search, which may include:

“(A) The child placement agency that placed the child for adoption;

“(B) The Vital Records Division of the Department of Health; or

“(C) The District Family Court.

“(4) A match shall be ascertained between an adoptee and an immediate family member if:

“(A) The adoptee and the adoptee's birth mother and birth father are

registrants; 1

“(B) The adoptee and one or more birth siblings are registrants; or 2

“(C) The adoptee and only one birth parent are registrants, if: 3

    “(i) The adoptee and the birth mother are registrants and there is no 4  
known birth father; 5

    “(ii) The Agency has been notified or received information 6  
that the nonregistering birth parent is deceased; 7

    “(iii) The birth mother declares that the identity of the birth father 8  
is unknown; 9

    “(iv) The agency placing the child has submitted a copy of 10  
a declaratory judgment from the District Family Court or, if the adoptee was born outside of the 11  
District, from a court of competent jurisdiction in the state of the adoptee’s birth that the identity 12  
of the birth father is unknown; 13

    “(v) The person named as the father in a birth or adoption record 14  
has declared the parent-child relationship does not exist; 15

    “(vi) At the time of the adoption, notice of the filing of the petition 16  
for adoption was not given to the nonregistering birth parent and that parent did not participate in 17  
the judicial proceedings that terminated the parent-child relationship; 18

    “(vii) Notice of the filing of the petition for adoption was not given 19  
to the nonregistering birth parent; or 20

    “(viii) Twelve or more months have elapsed since a birth 21  
parent became a registrant and the nonregistering birth parent has not filed a notarized affidavit 22

objecting to the release any identifying information. 1

“(f)(1) The Registry shall retain information and documents collected until the date 2  
specified by the registrant or for 50 years, whichever occurs first. 3

“(2) Registry documents and information shall be destroyed in accordance with 4  
the District procedure for disposal of confidential information. Information in the Registry may 5  
not be disclosed except as provided by this act, regulations issued pursuant to this act, or 6  
pursuant to a court order. 7

“(g) For the purposes of this section, the term: 8

“(1) “Immediate birth family member” means a person 18 years of age or older 9  
who in relation to an individual described in paragraph (2) of this subsection, is the birth: 10

“(A) Mother; 11

“(B) Father; or 12

“(C) Sibling. 13

“(2) “Registrant” means an individual, 18 years of age or older, who was, or 14  
currently is, under the jurisdiction of the Agency, or his or her immediate birth family member. 15

“Sec. 309. Voluntary Adoption Registry Fund; establishment. 16

“(a) There is established as a nonlapsing fund the Voluntary Adoption Registry Fund 17  
 (“VAR Fund”), into which shall be deposited all fees collected pursuant to section 308(b)(2) and 18  
any gift or appropriation intended to assist in the funding of the Voluntary Adoption Registry, 19  
which shall be solely used to cover the costs of administering the Voluntary Adoption Registry. 20

“(b) All funds deposited into the VAR Fund, and any interest earned on those funds, shall 21  
not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the 22  
end of a fiscal year, or at any other time, but shall be continually available for the purpose set 23

forth in subsection (a) of this section without regard to fiscal year limitation, subject to  
authorization by Congress.”.

Sec. 302. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure  
Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall  
issue rules to implement this title.

TITLE IV. FOREIGN ADOPTION.

Sec. 401. Chapter 3 of Title 16 of the District of Columbia Official Code is amended as  
follows:

(a) The table of contents is amended by adding at the end the phrase “16-317.  
Recognition of foreign adoptions and elective petitions for District adoption.”.

(b) A new section 16-317 is added to read as follows:

“§ 16-317. Recognition of foreign adoptions and elective petitions for District  
adoption.

“(a) (1) A final judgment of adoption granted by a judicial, administrative, or  
executive body of a jurisdiction or country other than the United States shall have the same force  
and effect in the District as that given to a judgment of adoption entered by the Superior Court of  
the District of Columbia, without additional proceedings or documentation if the:

“(A) Adopting parent is a resident of the District of Columbia; and

“(B) Validity of the foreign adoption has been verified by the  
granting of an IR-3 immigrant visa, or a successor immigrant visa, for the child by the United  
States Citizenship and Immigration Services.

“(2) The foreign adoption that meets the requirement of paragraph (1) of

this subsection shall be considered final under the laws of the District of Columbia and,  
notwithstanding any other provision of law to the contrary, no further petition for an adoption  
decree shall be required in the Superior Court of the District of Columbia.

“(3) The Department of Health shall issue a birth certificate for the child  
upon:

“(A) Request by the adoptive parent;

“(B) Presentation of evidence that the adoptive parent is a resident  
of the District of Columbia; and

“(C) Presentation of evidence that the child was granted an IR-3  
immigrant visa, or a successor immigrant visa, by the United States Citizenship and Immigration  
Services.

“(b)(1) Notwithstanding subsection (a) of this section, an adoptive parent  
may elect to file a petition for a District adoption decree with the Superior Court of the District  
of Columbia.

“(2) If the foreign adoption meets the requirements of subsection (a) of  
this section, notwithstanding any other provision of law to the contrary, the court shall issue:

“(A) A finding of fact on the foreign adoption, including the:

“(i) Name of the adoptive parent;

“(ii) Name or names of the child;

“(iii) Reported birth date of the child;

“(iv) Country of the child's birth;

“(v) Country and the date of the foreign adoption; and

“(vi) Date and issuance of an IR-3 immigrant visa;

and

“(B) An adoption decree to the petitioner.

“(3) A petition for a District adoption decree pursuant to this subsection may be combined with a petition for a name change.

“(4) A petition for an adoption decree issued pursuant to this subsection shall be placed on an expedited calendar to ensure minimal expense of time and money to the petitioning parties in attaining a adoption decree.”.

#### TITLE V. ADOPTION AND GUARDIAN SUBSIDY EXTENSION

Sec. 501. Section 3(e) of An Act To provide for the Care of Dependent Children in the District of Columbia and to Create a Board of Children’s Guardians, approved July 26, 1892 (27 Stat. 269; D.C. Official Code § 4-301(e)), is amended by adding a new sentence at the end to read as follows:

“Beginning on October 1, 2010, eligibility for payments shall continue until the child reaches 21 years of age.”.

Sec. 502. Chapter 23 of Title 16 of the District of Columbia Code is amended as follows:

(a) Section 16-2390 is amended to read as follows:

“§ 16-2390. Jurisdiction.

“The court shall have jurisdiction to enter a guardianship order and shall retain jurisdiction to enforce, modify, or terminate a guardianship order until the child reaches 21 years of age; provided, that when the child reaches 18 years of age, the child consents to continued jurisdiction and the court finds that it is in the best interests of the child.”.

(b) Section 16-2399 is amended as follows: 1

(1) Subsection (b)(3) is repealed. 2

(2) Subsection (d) is amended by adding a new sentence at the end to read as 3  
follows: 4

“Beginning on October 1, 2010, eligibility for subsidy payments under this section shall 5  
continue until the child reaches 21 years of age.”. 6

TITLE VI. CONFORMING AMENDMENTS. 7

Sec. 601. An act to regulate the placement of children in family homes, and for other 8  
purposes, approved April 22, 1944 (58 Stat. 193; D.C. Official Code § 4-1401 *et seq.*), is 9  
amended as follows: 10

(a) Section 3 (D.C. Official Code § 4-1403) is repealed. 11

(b) Section 6 (D.C. Official Code § 4-1406) is amended as follows: 12

(1) Subsection (b) is repealed. 13

(2) Subsection (c) is amended as follows: 14

(A) Strike the number “10” both times it appears and insert the number 15  
“14” in its place. 16

(B) Strike the phrase “10<sup>th</sup> day” and insert the phrase “14<sup>th</sup> day” in its 17  
place. 18

Sec. 602. Section 11(a-1) of the Vital Records Act of 1981, effective May 21, 1992 19  
(D.C. Law 9-101; D.C. Code § 7-210(a-1)), is amended to read as follows: 20

“(a-1)(1) The Registrar shall establish a new certificate of birth for an adoptee born 21  
outside of the United States upon receipt of a request of the adoptive parent, or the adoptee if 18 22  
years of age or older, and receipt of either: 23

“(A) An adoption form prepared according to § 7-209; or 1

“(B)(i) A copy of the foreign adoption decree; 2

“(ii) A certified translation of the foreign adoption decree; or if 3  
birth information is not already included in the foreign adoption decree, evidence as to the child's 4  
birth date and birthplace, which may be evidenced by: 5

“(I) An original birth certificate; 6

“(II) A post-adoption birth certificate issued by the foreign 7  
jurisdiction, including a certified copy, extract, or translation thereof; or 8

“(III) Other equivalent document, such as a record of the 9  
U.S. Citizenship and Immigration Services or the U.S. Department of State; and 10

“(iii) Evidence of IR-3 immigrant visa status or successor 11  
immigrant visa status. 12

“(2) Following review by the Registrar, all adoption documents issued by the 13  
foreign jurisdiction shall be returned to the adoptive parent or adoptee, whichever is applicable. 14

“(3) Subsections (f) and (g) of this section shall not apply to this subsection.”. 15

Sec. 603. Section 16-309(c) of the District of Columbia Official Code is amended to 16  
read as follows: 17

“(c)(1) Except as provided in paragraph (2) of this subsection, a final decree of adoption 18  
may not be entered unless the prospective adoptee has been living with the petitioner for at least 19  
6 months (“6-month requirement”). 20

“(2) A prospective adoptee shall be exempt from the 6-month requirement if he or 21  
she is: 22

“(A) Eighteen years of age or older; 23

“(B) Participating in the Child and Family Service Agency’s independent living program; and

“(C) Living independently.”.

TITLE VII. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE.

Sec. 701. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 702. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.