



**Bastard Nation: the Adoptee Rights Organization**  
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Submitted Testimony  
SB2284  
Adoptee Access to Original Birth Certificates  
North Dakota Senate Judiciary Committee  
February 4, 2025  
Marley E. Greiner, Executive Chair

## **DO PASS**

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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) and related documents.

We support passage of SB2284 as written.

### **Current Law v SB2284**

Current North Dakota law severely limits adopted people from obtaining their OBCs and other adoption information. It is, overall, the most difficult law in the country. There is no specific law that provides North Dakota-born adoptees from receiving their OBCs. Court orders pertaining to state and private adoptions are available, but only through a complex, confusing, and exacting procedure involving adoption agencies and birthparents who must give consent for release of identity. A court order can be granted **“only if the petitioner demonstrates that disclosure will not result in any substantial harm to the individual about whom identifying information is sought.”** How that requirement is proven is not explained.

These legal procedures are archaic, humiliating, time-consuming, infantilizing, in the extreme, and rarely successful. They can also be expensive. The current law promotes the pernicious idea that adopted people are dangerous—so dangerous-- that they cannot be trusted with their own birth certificates and personal information about themselves less they harm others. The Not Adopted, of course, are not mandated to withstand bureaucratic scrutiny to receive their birth certificates.

SB2284 does away with this very limited current legal process and the nasty portrait the state paints of its adoptees, and restores the right of all North Dakota-born adopted people to obtain their OBCs upon request at the age of 18 with no restrictions or conditions. The adoptee would simply fill out a form and submit it directly to the appropriate department for a nominal fee.

### **Privacy and The Balance of Rights**

SB2084 is not about search and reunion, though search and reunion can happen. The bill is about civil rights of North Dakotans.

We often hear the term “balance of rights” in the OBC debate. That can be a legitimate debate in cases where an actual conflict of rights among parties exists. In the case of OBC rights, however, the only rights involved are those of thousands of adopted North Dakotans who have been legally banned from obtaining the genuine unaltered record of their birth and other information about themselves.

There is no “balance of rights” here.

Rights and interests are unequal. A few birthparents—and in a broader sense, third parties with no standing, may argue a “right” to birthparent anonymity, but courts have found there is no such right. These parties might have an “interest” (or think they do), but “rights” trump “interests.” The Adopted and the Not Adopted have an absolute right to obtain the official state record of their own birth and no third party—parent or not—has the “right” to bar that access. **Critically, parental rights were voluntarily relinquished years ago or were terminated by a court, so if there was even such a parental “right” it would not exist in the case of adoption.**

### **Adoption Privacy Overview**

“Privacy” “confidentiality,” and “anonymity” are not synonymous either legally or linguistically. Adoption “anonymity” is a myth perpetuated by special interests that for decades have profited off economic distress and society-induced shame and family crisis. In many cases, adoption is a permanent solution to a temporary problem that has not only individual but generational consequences.

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 cover coercive child acquisition practices by adoption agencies, black and gray market baby dealers, exploitative assembly line maternity homes, and other corrupt systems. Numerous historical and legal

researchers and writers have shown that OBCs were never intended to be sealed in perpetuity from individual adoptees as adults. At “best” sealed OBCs were billed as a way to protect the reputations of “bastard children” (not adults) and to protect adoptive families from birthparent and stranger interference.

These documents were first sealed from the public, then the parties to the adoption, and eventually to adopted people themselves—who strangely enough, are not considered “parties to the adoption.” What was once an outlier practice has now been normalized through a mix of myth and “tradition” and treated like “the way it’s always been.”

Courts, however, 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 the over 70 years of the adoptee equality 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. (In some states adoptive parents, at the time of the adoption order, can petition the court to keep the record open.) The names of surrendering parents are published in legal ads. Courts can open “sealed records” for “good cause” without birthparent consent or even knowledge. **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. The OBCs of persons with established relationships with biological parents as in stepparent and foster adoptions are also sealed.**

The American Academy of Adoption and Assisted Reproduction Attorneys agrees with this assessment. In a major about-face, in 2018 it passed a monumental resolution in support of adoptees’ right to full access to our OBCs, court, and agency records.

## **Privacy and Technology**

Today, inexpensive and accessible DNA testing services, and a large network of volunteer “search angels” that locate adoptee government-hidden information, histories, and biological families, have made the traditional “privacy” argument obsolete. The minuscule number of birthparents or professionals who believe that restricted OBC/records access or no access equals adoption anonymity are greatly mistaken. Nearly all successful searches are done without the OBC and other court documents.

## Conclusion

OBC access is not about search and reunion Many adopted people are not interested in pursuing a search. Instead, access is about obtaining our state-generated and held document of our births and related information, something the Not Adopted don't even think about. There are many laws that protect minors that drop off the books one minors reach the age of majority. The state may argue that records are sealed to protect "the best interest of the child" but this bill is about adults who voluntarily seek out their records and documents and don't need or want state interference and protection. There is no state interest therefore in keeping original birth certificates sealed from adult adoptees to whom they pertain. Moreover, the state does not have a right or duty to mediate and oversee the personal relationships of adults. The debate on the release of OBCs to its adopted citizens is small v big government issue. Small government should win this one.

Adopted people in 15 states have unrestricted access to their OBCs including your neighbors South Dakota and Minnesota. Not one single negative report about unsealing has been published. Access has been normalized. Adoptees are treated just like the Not Adopted and like the Not Adopted no one denies that they have a right to those records and information.

Please vote DO PASS on SB2284. It's the right thing to do. Thank you.

*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 adopter'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.*