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ceeding for adoption may file a petition to intervene as a defendant in the proceeding. MD. R. P. D76(a).

The intervention process consists of four steps. First, the intervenor files a petition separately from the adoption proceedings. Next, the original petitioner to the adoption proceedings is served with a copy of the petition to intervene and has the opportunity to file an answer. Then, the court will decide in a hearing whether to grant the petition to intervene. Finally, the court will make a decision whether to grant or deny the motion to intervene. If granted, the intervenor can inspect all papers filed in the proceeding. MD. R. P. D76(d). Otherwise, the records are sealed to preserve the confidentiality of the proceedings. MD. R. P. D81(c).

HEARING AND DECREE

If justice requires, a private hearing should be conducted to protect the petitioner's due process rights and to allow him an opportunity to satisfy his burden of establishing the facts justifying the adoption. *White v. Seward,* 187 Md. 43, 48 A.2d 335 (1946).

After the hearing, the court may issue an interlocutory or a final decree of adoption. If an interlocutory decree is issued, the grant of custody cannot exceed one year. During the year, the court can revoke or amend the interlocutory decree, if good cause has been shown, and all interested parties are given notice and a hearing. MD. R. P. 79(b). Also, the court can require a supplemental written report from the investigating officer or agency before a final decree is issued. However, if there is no valid or timely objection, the court will issue a final decree within one year after the interlocutory decree.

The final decree of adoption is generally regarded as having the force and effect of a judgment, and the rule of *res adjudicata* is applicable. *Spencer v. Franks,* 173 Md. 73, 195 A. 306 (1937). However, jurisdictional and procedural defects may be contested, if objection is raised within one year following the final decree of adoption. MD. ANN. CODE art. 16 § 79.

There are two possible legal results depending on which decree is issued. If an interlocutory decree is entered, the child's ties with the natural parents are severed and he becomes the petitioner's child. If a final decree is entered, the legal effects of the interlocutory become permanent, and the final decrees of adoption in other states will be recognized.

Consequently, the final decree is kept in a separate docket with the other pleadings, and it is not open for public inspection, unless there is a court order. MD. R. P. D81. Thus, the adoption process is complete, and "the child is the child of the petitioner or petitioners, and unless or until such order of adoption is revoked, such person shall be entitled to all the rights and privileges of a child born in lawful wedlock to the petitioner or petitioners." MD. ANN. CODE art. 16 § 78.

The Adopted Person's "Right to Know"

by Brad Sures

One of today's most controversial issues in the field of adoption is the adopted person's "right to know" the identity of his/her natural parents. Until recently, the adopted person who searched for a door to his or her past found that door shut and locked, exactly as the records relating to the adoption are closed and sealed. The adoptee has three potential sources from which to secure adoption information: the record of the adoption proceedings, the adoption decree, and the adoptee's original birth certificate. In only two states, Idaho and Louisiana, however, does the adoptee have an absolute right to information concerning his/her adoption.[1] Five other states, Alabama, Kansas, Rhode Island, South Dakota, and Tennessee require that the adoptee reach the age of majority before obtaining an absolute right to adoption information.[2]

Maryland law deprives the adoptee of knowledge concerning biological heritage since all records with regard to

[1] IDAHO CODE §16-1511 (Supp. 1977) (right to see files and records of adoption proceedings); LA. REV. STAT. ANN. §40:81(A) (West 1977) (right to see original birth certificate and adoption decree).

[2] Ala. Code tit. 26, §10-5(a) (1975). KAN. STAT. §59-2279 (1977), and S.D. COMPILED LAWS ANN. §25-6-15 (1976) give the adoptee a right to see the files and records of the adoption proceedings after he reaches the age of majority. ALA. CODE tit. 26, §10-4 (1975), KAN. STAT. §65-2423 (1977), and TENN. CODE ANN. §53-427 (1977) require adoptee to have attained the age of majority before conferring on him an absolute right to see his original birth certificate and adoption decree. R.I. GEN. LAWS §23-3-23(d) (1979) allows a person, if over 18, access to his birth certificate.

adoption are "not open to inspection by any person, including the parties, except upon an order of the court." MD. R. P. D81.

In March 1978, a bill which would have allowed adoptees upon reaching 21 to learn the identities of their natural parents, was killed by the Maryland State Senate Judiciary Committee. This bill would have allowed an adult adoptee access to the original birth certificate, the original adoption decree, and information in the records of any Maryland adoption agency which could aid in locating the natural parents. In a medical emergency, the bill would have allowed any adoptee, regardless of age, or a person acting on behalf of the adoptee, to apply to the court for an order opening any relevant records and for assistance in locating any natural relative.

There are numerous organizations devoted to making adoption records available in full to adoptees over the age of eighteen. A national organization known as Adoptees Liberty Movement Association (ALMA) has as its slogan "the truth of his origin is the birthright of every man." The founder and president of ALMA is Florence Fischer, author of *In Search for Anna Fischer,* a book documenting the twenty year search for her birth parents. In Maryland, there is a private organization known as Adoptees In Search, Inc. The organization states as its purpose:

To issue publications in the field of adoption;

To provide education for those interested in adoption procedures;

To provide assistance to members who have been adopted and are trying to locate their blood relatives or are trying to obtain information about their antecedents;[3]

To study and advocate the "Right to Know" position to the legislature.

Indicative of the changing public concern, it is now the policy of Baltimore's Department of Social Services to inform natural mothers relinquishing their children of the possibility of later search.

Opposition to the opening of the sealed records is based primarily on three grounds. The first objection is based on the legal reality that at the time the adoption contract is drawn between the biological parent, the adoption agency, and adoptive parents, a commitment is made to maintain secrecy. The adoptees contend that their consent to the commitment to secrecy—a commitment which affects mainly their interests—was never procured.

The second source of opposition comes from the adoptive parents who see their roles undermined by their child's search. Many adoptees insist, however, that they are not looking for a new set of parents, but for a biological heritage, and most adoptees experience a deeper sense of love and appreciation for their adoptive parents as a result of the establishment of a relationship with their genealogical forebears.[4] There are studies showing that adopted persons are vulnerable to identity conflicts in late adolescence and young adulthood as an outgrowth of any of the following developmental difficulties:

1) disturbance in early object relations;
2) complications in the resolution of Oedipal conflict;
3) prolongation of the "family romance" fantasy; and
4) "genealogical bewilderment".

Many adoptees feel that a liberalization of the statutes concerning the sealing of their records would result, at the very least, in a lessening, and perhaps an abolition of, the last two problems.

The third reason for opposition to the opening of the sealed records is the effect it may have on the natural parents. Although they are largely silent and unorganized, those who choose to speak maintain that allowing a breaking of the seal could bring unwanted intrusion into their lives. Studies of reunions between adopted children and their natural parents however, reveal that in only ten percent of the cases did the birth parents react adversely to such reunions.[5]

In the courts, adoptees have approached the "right to know" issue as a constitutional challenge to sealed record statutes. The results of these challenges have been less than encouraging for those seeking to find their genealogical identity. Constitutional challenges such as the first amendment right to receive information,[6] the right to privacy,[7] and equal protection,[8] have all been rebuffed by the courts.[9]

Lacking relief from the courts, it appears adoptees will only achieve a feasible solution to their problem through the legislature. On February 8, 1980, legislation was introduced before the Maryland House of Delegates that would permit certain adopted persons access to information concerning their adoption and birthparents. House

[3] Wherein adoptees under eighteen years of age are concerned, the organization will only assist those who have obtained their adoptive parents' written permission.

[4] Sorosky, Baran & Pannor, *The Effects of the Sealed Record in Adoption,* 133 Am. J. of Psych. 900 (1976).

[5] Sorosky, Baran & Panor, *Identity Conflicts in Adoptees,* 45 Am. J. of Orthopsychiatry 18-27 (1975).

[6] The first amendment has been held to protect the right to receive information. *See, e.g., Red Lion Broadcasting Co. v. FCC,* 395 U.S. 367, 390 (1969).

[7] The right to privacy challenge is predicated on the theory that sealed record statutes deprive the adoptee of information that would help in facilitating identity formation and that one's identity plays a role in fundamental decision-making. Fundamental decision-making is protected from governmental intrusion by the constitutional right to privacy. *See, e.g., Roe v. Wade,* 410 U.S. 113, 155 (1973).

[8] The crux of the equal protection argument is that adoptees constitute a group of persons who are denied access to information about their birth solely because of their status as adoptees.

[9] *See Yesterday's Children v. Kennedy,* 569 F.2d 431 (7th Cir. 1977); *ALMA Society, Inc. v. Mellon,* 459 F.2d 912 (S.D.N.Y. 1978); *Application of Maples,* 563 S.W.2d 760 (Mo. 1978).

Bill No. 1915, if enacted, would, in the case of an adoption decree issued before January 1, 1981, allow an adoptee 21 years old or older to petition the court for the release of information which may lead to the identification of the adoptee's birthparents. In such an action, an administrative body, such as an adoption agency, would notify the birthparent of the adoptee's request for information. If the birthparent objects to the release of the information, the court would grant the birthparent an ex parte hearing. The petition to release the information would be granted, unless at the hearing the court determined by clear and convincing evidence that irreparable harm to the birthparent would result. If no objection was filed, or if the birthparent could not be located after reasonable efforts were made to do so, the court would grant the petition to release the information.

In the case of an adoption in which the final decree was issued on or after January 1, 1981, an adoptee, 21 years old or older, upon request, would be provided any information that would assist the adoptee in locating his/her birth-parents from the adoption agency, the social services administration, and/or the court. Only material which, if disclosed, would violate the privacy of another person, could be deleted.

The bill was introduced on the basis of recommendations of the Governor's Commission to Study the Adoption Laws. The Commission noted that beginning in 1947, adoption records in Maryland were sealed. Since then, there have been changes in public attitudes as well as in social work theory and practice in response to an increasing number of adoptees who need or want to know more about their biological backgrounds.

Should the Maryland General Assembly enact the bill, it would do much to facilitate the access of adoptees to information about their heritage. At the same time, for any adoption prior to January 1, 1981, the birthparent is protected from disclosure of information if it can be shown that irreparable harm to the birthparent would result. What is unclear, however, is how the birthparent will be protected from disclosure if the adoption takes place on or after January 1, 1981. Only the adoption agency, social services administration, or court may delete material that would violate the privacy of another person. There is no requirement to contact the birthparent, much less receive the birthparent's consent to the disclosure. Further, even if the court decided the material would violate the privacy of another, and thus refused to disclose the material, the adoptee still has access to the same material from the adoption agency, which is not required to inform the court prior to its release of the information. Moreover, judicial review is only afforded to the adoptee in cases where there are deletions to or denial of any information requested. The birthparents have no right to judicial review should either the adoption agency, the Social Services Administration, or the court fully comply with the adoptee's request.

There are many compelling reasons why adoptees should have the right to know who their natural parents are. In the same regard, however, the natural parents must be allowed the right not to have such information divulged if irreparable harm can be shown. Only when all parties' interests are recognized and considered should the adoptee have the "right to know."