



# STATE OF MINNESOTA

Office of Governor Tim Pawlenty

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

May 16, 2008

The Honorable James Metzen  
President of the Senate  
75 Rev. Dr. Martin Luther King, Jr. Blvd.  
322 State Capitol Building  
St. Paul, Minnesota 555155-1606

Dear President Metzen:

I have vetoed and am returning Chapter 330, Senate File 3193. Provisions in this bill are similar to the provisions in Chapter 323, which I previously vetoed. I repeat my concerns that this bill would remove the right to confidentiality that was previously promised to birth parents who placed a child for adoption.

I am concerned about this bill's changes to current laws that afford privacy to birth parents who placed a child for adoption before 1977. Under current law, birth parents are notified that birth records eventually become accessible to the adopted child unless a birth parent files an affidavit opposing release of his or her personally identifying information. However, before 1977, adoption records and the original birth record were sealed. Birth parents that placed a child for adoption were promised that their information would be sealed and kept confidential.

Because of this promise of confidentiality, existing law has always treated pre-adoption birth records from before 1977 with a presumption of confidentiality. For example, when the Legislature established a procedure for an adopted person to request disclosure of the person's pre-adoption birth record from the State Registrar, the procedure required notice of the request to the birth parents and an opportunity for either parent to consent or object to the release of his or her personally identifying information. If the birth parents could not be located, or objected to release, a court review process was required for the disclosure of information.

This bill would erase the long-standing presumption of confidentiality for adoptions occurring before 1977 and make those records accessible in the same manner as more

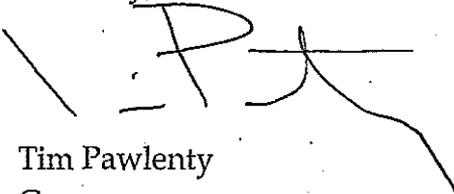
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recent adoptions. Pre-adoption birth records and personally identifying information would be accessible to the adopted child at age 19 unless the birth parent has affirmatively filed an affidavit opposing release. This bill does not require notice to the pre-1977 birth parents, only posted notices on adoption websites. Accordingly, pre-1977 birth parents are unlikely to receive any actual or meaningful notice of the potential release of personally identifying information.

Although many birth parents may not object to the release of the pre-adoption birth certificate, a significant number choose to preserve confidentiality. Statistics available from Lutheran Social Services indicate that, on average, 23 percent of the birth mothers contacted declined to release identifying information. Releasing this information without their knowledge or consent has the potential to undermine the law and promises that existed for pre-1977 birth parents.

Before 1977, the law supported a birth parent's expectation their identity and birth records would be forever sealed and confidential. Breaching the promise of confidentiality previously given to these birth parents is not appropriate. Any change to their legitimate expectation of confidentiality must include meaningful notice of the change to the law and an opportunity to protect confidentiality.

Sincerely,



Tim Pawlenty  
Governor

Cc: Senator Lawrence J. Pogemiller, Majority Leader  
Senator David Senjem, Minority Leader  
Senator Ann Rest  
Representative Margaret Anderson Kelliher, Speaker of the House  
Representative Marty Seifert, Minority Leader  
Representative Kathy Tinglestad  
Mr. Patrick E. Flahaven, Secretary of the Senate  
Mr. Al Mathiowetz, Chief Clerk of the House of Representatives  
Mr. Mark Ritchie, Secretary of State