

## Adoptees push for access in N.J. to birth records

### Foes say biological mothers' privacy rights should be respected

Published in the Asbury Park Press 05/22/05

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When doctors diagnosed Felicia Massari with leukemia 13 years ago, that wasn't the worst of the news.

What they told the Barnegat resident next was that she might need a bone-marrow transplant and that the best possible matches would be found within her family.

*Round up your relatives,* they said.

Massari calls them "the words that will haunt me forever."

Massari, who was adopted, had no idea who her relatives were.

And she had few ways of finding out.

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Massari's case is perhaps one of the most powerful illustrations of a dilemma that state lawmakers have faced for the past 25 years: Should adoptees born in New Jersey have access to their original birth certificates?

The issue has become more urgent since a bill that would open long-sealed records passed the Senate in December. It is now in an Assembly committee.

It's a passionate debate, both legal and emotional, rooted in the gray area between civil rights and the right to privacy.

Critics maintain that the playing field is not level: The Felicia Massaris of the world get all the publicity, while biological parents who oppose the legislation cannot be heard without giving up the anonymity they are trying so fiercely to guard.

"You're not hearing from the birth mothers that don't want to be found," said Marie Tasy, spokeswoman for New Jersey Right to Life, a Cranford-based organization fighting the bill.

Tasy and other opponents contend that giving adoptees access to these records will lead to invasions of privacy, breaches of confidentiality and cause an increase in abortions.

"The fear is real," Tasy said. "For women for whom privacy is paramount, they will have no choice but to have an abortion."

That couldn't be further from the truth, according to the legislation's supporters.

Abortion and adoption rates have no correlation to open-records laws, they say. And statistics show that most birth parents want to be contacted by the children they gave up.

More importantly, says state Sen. Diane Allen, R-Burlington, adoptees shouldn't be treated as second-class citizens.

"They are the only people who aren't allowed to know who their parents are, who aren't allowed to know things that I take absolutely for granted," said Allen, a primary sponsor of the Senate bill. "It's not fair, it's not right, and it needs to be changed. And I think finally people are realizing it."

The current law closing pre-adoption records in the Garden State was passed in 1940, according to Pam Hasegawa, an adoptee who heads the New Jersey Coalition for Adoption Reform and Education (NJ-CARE) and has been pushing for access for years.

The sealing was not meant to keep adoptees from learning about their roots, she said. Rather, it was to keep regretful birth parents from tracking down their children and harassing the adoptive family, Hasegawa said.

The first legislation that would have opened records for adoptees in New Jersey was introduced in 1980 by then-Assemblyman Albert Burstein. That bill, like many others that came afterward, went nowhere.

Yet the question remains: Who "owns" the information on a birth certificate — the child or the parent?

The law under consideration today would allow adoptees 18 and older to get copies of their original birth certificates; state would withhold the name of any biological parent who requested anonymity.

Opponents contend there is no way to notify every birth parent of the new law, effectively denying them the option of nondisclosure.

Felicia Massari — her married name — has never seen her original birth certificate. She keeps the amended one, which was issued by the state after her adoption was finalized, in a lockbox at home. It only tells part of the story:

*Felicia Mary Caruso, female, New Brunswick, Feb. 28, 1966.*

The name of the mother listed on Massari's certificate — Mary Caruso — is her adoptive mom. Her adoptive dad, Don Joseph Caruso, is listed as the father, although his last name is misspelled "Carsuo."

There is no indication anywhere that the Carusos are not Massari's biological parents.

### **A few states allow access**

The debate in Trenton is familiar to many state legislatures across the country, although only New Hampshire and Alabama have actually passed laws granting adoptees access to their original birth certificates. Kansas and Alaska have allowed such access since 1951 and 1986, respectively.

In Oregon, voters in 1998 approved an open-records law in a statewide referendum. Because of a lengthy court challenge, the law didn't take effect until May 2000.

Like the proposed legislation in New Jersey, Oregon's law allows birth parents to file "contact preference" forms with state to indicate if they would want direct contact with their offspring, contact through an intermediary or no contact at all.

As of May 6, the state has received 503 contact forms, with nearly 78 percent wanting direct contact, according to Catherine Sanders, manager of the certification and amendment unit in Oregon's Department of Human Services. About 16 percent wanted no contact, and 6 percent wanted contact through an intermediary.

Adoptees are notified of their biological parents' contact preferences when they receive their original birth certificates.

Opponents of the proposed New Jersey law fear the contact preference forms will be ignored. Open-records advocates insist that incidents of adoptees imposing themselves on reluctant birth parents are rare.

Felicia Massari, now 39, described being devastated at 18 when she found out her birth mother did not want to meet her. But she accepted her mother's wishes and didn't pursue the matter.

"This woman gave me life. Because of that, I was going to honor her decision," Massari said.

Massari had hired a private investigator to search for her biological mom using scraps of nonidentifying information she had been given by Catholic Charities, the agency that placed her.

Massari's birth mother, though, did not want to be found. She reportedly told the investigator that the man in her life didn't know anything about the baby she had put up for adoption so many years ago — and she intended to keep it that way.

"That was my answer, and that was the end of it," Massari said.

Until eight years later, when she was diagnosed with leukemia.

### **New Jersey's registry**

Critics of access laws say that in a perfect world, each state and the federal government would have a central registry where birth parents and adoptees could find each other or make it known that they don't want to be found.

A mutual-consent registry "protects the dignity of both parties," said Marlene Lao-Collins, associate director for social concerns at the New Jersey Catholic Conference, a Trenton-based group that represents the state's bishops and opposes the open-records legislation.

New Jersey has a registry, but it's only for children adopted through the state Division of Youth and Family Services.

About 7,000 birth family members — parents and siblings — have registered, according to registry coordinator Dolores Helb. That means Helb has permission to release the information if adoptees come looking for their biological relative.

Helb also conducts searches for adoptees whose birth families have not registered. She estimated that 95 percent of birth relatives she locates want contact with the adoptee.

But the state can't help adoptees like Massari, who was placed through a private agency.

And open-records advocates say many registries have abysmal match rates because they are passive, meaning there isn't anyone like Helb actively looking for relatives. Adoptees just have to wait and hope their birth parents register, too.

A study conducted by members of the Washington-based American Adoption Congress — affiliated with NJ-CARE — shows that passive registries in 21 states reunited, on average, less than 5 percent of registrants in 1998.

Lao-Collins argued that perhaps the low match rates indicate that not many birth parents are interested in being found.

The New Jersey Catholic Conference supports a state-run registry that includes information from all private adoption agencies, Lao-Collins said.

Most importantly, the registry would contain family medical histories — much more detailed than those taken decades ago.

"Nonidentifying medical information is crucial," Lao-Collins said. "We support legislation to ensure that that would happen."

But nonidentifying medical information would have been useless for Felicia Massari, who needed names in order to find a bone-marrow match.

Doctors, meanwhile, had asked her to start a round of chemotherapy. Massari didn't think she had the strength to do that as well as look for her birth relatives, so she initially put off the search.

Massari was 26 at the time, married and the mother of a newborn daughter. The way Massari saw it, her life wasn't the only one that hung in the balance.

"There was a point in time where I was willing to let my birth mother have her life," Massari said. "(But) I think somebody's life supersedes a confidentiality promise."

### **Access and abortion?**

So what about pledges of anonymity?

Judy Foster, a 62-year-old birth mother from Randolph in Morris County, noted there is nothing promising her confidentiality in the papers through which she relinquished her daughter to Catholic Charities in 1961.

Yet there doesn't have to be because the confidentiality is promised by state law, said Deborah Jacobs, executive director of the American Civil Liberties Union in New Jersey.

"The law said that their names would be kept confidential," Jacobs said. "To release that information retroactively and jeopardize the privacy of all those women is a violation of due process and privacy."

Foster, also a member of NJ-CARE, countered that the law was meant to protect adoptive families from birth parents, birth parents from their children.

Regardless of its intent, changing the law could lead women to choose abortion, said Lee Allen, spokesman for the Washington-area National Council for Adoption, which opposes unsealing the records.

Allen, who is not related to state Sen. Diane Allen, had no firm statistics because it's "very difficult for us to measure impact on individual decision-making."

Still, he said: "The legislation has the potential to limit a young lady's choices down to one. It's not a stretch to think that would happen."

But statistics from the Alan Guttmacher Institute show that New Jersey — a state with sealed records — had a higher abortion rate in 2000 than Kansas and Alaska — states that give adoptees access to their original birth certificates.

New Jersey's rate was 36.3 abortions per 1,000 women, Alaska's was 11.7, and Kansas' was 21.4, according to the institute, a New York- and Washington-based nonprofit organization focused on sexual and reproductive health research.

Alabama public health records indicate a steady reduction in the number of abortions since 2001, the year after adoptees were granted access to their birth certificates.

Tasy, of New Jersey Right to Life, attributed Alabama's decline to stricter abortion laws. And Alaska and Kansas have open records for so long that it's inappropriate to use them for comparison, she said.

Massari, who opposes abortion, admits to wrestling with the issue. In the end, she concluded that "the possibility of an abortion" does not trump the reality of adoptees not having basic information about themselves.

"(It's) like we have the red label of 'bastard' imprinted on our paperwork and on our forehead," she said. "That's how it feels."

### **Finding her birth parents**

The number of people the proposed legislation would affect is hard to gauge, but it seems clear that older adoptees have the most at stake. Adoptions today are much more open than they were when people such as Hasegawa and Massari were placed with families.

At Adoptions from the Heart, a Pennsylvania-based agency with a branch in Hazlet, all placements are done with the birth parents selecting the adoptive parents.

"I really think that most birth parents do want to know what happened to the child they placed for adoption," said agency founder and executive director Maxine Chalker.

Jared Rolsky, executive director of Golden Cradle Adoption Services in Cherry Hill, Camden County, said many adoptees find their birth parents despite the confidential records.

"Regardless of promises and legislation, people can find each other anyway," Rolsky said. "There's no such thing as absolute secrecy, and they don't have to go through the adoption records, either."

Felicia Massari's story is proof of that.

Massari ended up responding well to the chemotherapy and never needed a bone-marrow transplant. She has been in remission for more than a decade.

The experience, however, spurred her once again to look for her biological parents. Massari ended up meeting her mother and having a warm relationship with her father; both have since died.

She no longer needs the information on her original birth certificate.

But she'd like to have it anyway.

"It's very personal," Massari said. "I'd like to see what my mother put down as my birth name."

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