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SB 267
Cynthia Lu
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My name is Cynthia Lu and I am a Chief Deputy Public Defender in the Washoe County Public Defender's office. My office represents mainly parents and sometimes children in abuse/neglect matters. I have worked in this field for over 8 years. We also represent parents in termination of parental rights proceedings, which then leads to adoptions by foster parents or relatives. We represent parents, who choose to relinquish their parental rights rather than proceed to a termination of parental rights trial. In this vein, we discuss adoption proceedings with the birth parents.

It is my understanding that this bill is to allow unfettered access to adoption files by adopted children. We oppose this bill in its current form. This is a difficult issue of balancing the interests of children to information about themselves with the privacy interests of biological parents, who wish to remain anonymous. The U.S. Supreme Court still considers parental rights a fundamental right with privacy interests related to those rights.

NRS 127.140 already allows anyone to petition the court to inspect the adoption records. So adopted children already have the statutory right to petition the court. The concern about even allowing a petition to access the file is that a birth parent, years later, will potentially not have any idea that an adopted child is now petitioning the court to obtain information, which affects the desired anonymity of the birth parent. I agree that there is currently no standard or guidelines for the court in granting the petitions. If requiring a petition is the procedure to be used, the biological parent can maybe be allowed to file an affidavit to allow his/her desire to remain anonymous so that the court

can weigh the position of the biological parent in consideration of the petition to access the records or guidelines can be provided in the statute to the court regarding the type of information to be released.

Proponents of the bill argue that because a petition by anyone in the state can be filed in these matters, the privacy interests of the birth parents are already overridden by statute. However, the fact that these adoption records are sealed to the public and cannot be opened except by court order shows that the privacy rights of the birth parents are still protected. Moreover, the court will not just grant these petitions because they get filed. The court still needs to weigh whether or not to unseal the records and for what purpose. But the bill issue comes down to either the birth parents have full decision-making or the children do about each other's rights. The bill in its current form takes away the privacy rights of the birth parents at the get go, without allowing any avenue for relief by the birth parent. It allows birth parents' lives to potentially be disrupted without any choice. There may be circumstances as to why a birth parent may want to forget a painful situation and move on and this bill would not allow that. If birth parents later decide that they do want the child to find them, the birth parent can easily register their current whereabouts with the State Register or a private reunion company.

Another concern is that this bill may be entirely retroactive since there is no date regarding its effectiveness. Therefore, cases from 15 years ago may be opened and the birth parents will have no idea this is happening. If the main issue is for adopted children to obtain identifying information for passports, etc., there are other ways to address this issue without infringing on birth parents' interests of anonymity.

I am also opposed to eliminating the State Register for Adoptions, which is also included in SB 267.

When parents relinquish their parental rights, one of the forms they fill out is for the State Register for Adoptions. The parents are informed that they can update the State Register for Adoptions on their current whereabouts and are told that their children can access this information at age 18 and be able to locate them. The birth parents are given a copy of this form. Most parents readily fill out this form so that their children can locate them at age 18 if the children so desire. Other parents are too emotional to fill out the form, but take the form with them to fill out and register later. When parental rights are being terminated or relinquished, this is an extremely emotional time in the case. Parents who decide to relinquish are doing this as an act of ultimate love for a child in that they know they are putting their child in a better family situation rather than staying with them.

Further, allowing an adopted child to access the adoption file does not provide the same information as the State Register. The adoption file will maybe only provide the names of the birth parents, if at all, from years ago and does not provide any current locator information. The State Register can provide current locator information.

Although private reunion companies exist and can provide the same service to birth parents and children, there is no guarantee that the private company will stay in business forever. The State Register also allows extended relatives, like grandparents and siblings, to register. The private companies do not. Even if the State Register is currently understaffed or ineffective and already refers individuals to a private reunion company, the better solution would be to fix it and not just get rid of it as it still provides

a necessary service to many citizens of Nevada. It is also permanency in that the state is required to provide this necessary service and there is governmental oversight that this function continues to be performed.

Thank you for your time.