

Court file number:

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL OF ONTARIO)**

BETWEEN:

**INFANT NUMBER 10968, also known as
D. MARIE MARCHAND**

Applicant
(on application for leave)

and

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
CATHOLIC CHILDREN'S AID SOCIETY OF TORONTO**

Respondents
(Respondents)

Application under *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, C.11

**MEMORANDUM OF ARGUMENT OF THE APPLICANT
(Application for Leave to Appeal under s. 40 (1) of the Supreme Court Act)**

PART 1: STATEMENT OF FACTS

A: Overview of the Proposed Appeal

1. The Applicant, D.M., is 52 year old of child of a First Nation's mother and an unknown father. The Applicant is seeking the identity of her birth father and all of the records kept by the Catholic Children's Aid Society about herself and her adoption. The Applicant challenges the disclosure provisions of the *Child and Family Services Act*, R.S.O. 1990, c. C11 (the *CFSA*) and the constitutional validity of the *CFSA*'s adoption regime on 4 grounds. First, the applicant challenges the process whereby her identity and biological roots were erased and replaced with the identity assigned by whoever wrote across her original statement of live birth – (one of the issues in this case is that the non-transparency of the scheme makes it almost impossible to determine how or upon whose request this was done or how the system operates: see Mr. Justice Killean in *Ferguson*, re

the “magic door”). Second, the applicant challenges the non-transparency of the regime itself, whereby the identity change on a statement of birth in combination with adoptive parents’ reluctance to discuss adoption with the child, makes it possible that an adopted person may not “know” they are, in fact, adopted. Third, the Applicant challenges the impugned legislation prohibiting the disclosure of information when the adopted person does know they are adopted. Fourth, and related to the first, the Applicant challenges the impugned legislation that created the Applicant’s short form birth certificate with false information on it stating that the birth of Donna Marie Marchand was registered on October 14, 1955 when, in fact, the person known as Donna Marie Marchand was adopted in March of 1957 and until that time was Nida Marie Fortune.

Ferguson v. Director of Child Welfare (1983), (40).R. (2d) 294 (Co. Ct.), at p. 5, aff’d. (1984), 44 O.R. (2d) (C.A.)

2. The Applicant also challenges the constitutionality of section 28 of the *Vital Statistics Act (VSA)*, which allows for an adopted person’s original statement of live birth to be sealed and replaced with a reregistration of live birth containing false information.

3. The Applicant submits that all of these challenged provisions thwart her right to know who she is and where she comes from and violate s.7 and s. 15 of the *Charter* and should be of no force and effect.

B: Overview of the History and Purpose of Legislated Adoption

4. The original adoption legislation in England which Ontario imported in total was passed out of concern with baby farming – the unregulated trade in people. The debate was between the adoption industry which needed infants and those concerned with the well-being of single moms and their babies – a vulnerable group. Two committees were set up to deal with creating adoption legislation - the Tomlin and Hopkinson Committees. The Hopkinson Committee recommended “a form of adoption where the details of the adopting parents would be known to the birth parents who could apply for access to their child”. The Tomlin Committee reported:

Apart from the question of whether it is desirable or even admissible to deliberately eliminate or obscure the traces of a child’s origins so that it shall be difficult or impossible thereafter for such origins to be ascertained, we think the system of secrecy would be wholly unnecessary and objectionable in connection

with a legalized system of adoption, and we should deprecate any attempt to introduce it.

Keating, states that “[in the end] the adoption societies obtained their wishes concerning secrecy because they felt so strongly about the issue and because there was no equivalent campaign for a more open policy”. The Applicant submits that the industry didn’t win a legal debate: they won an interpretative debate that went on below the radar concerning the meaning of the word "confidential". People with vested interests not necessarily having anything to do with the best interests of adopted people were making assertions about the interpretation of the word “confidentiality” to serve their own interests

Jenny Keating, “Struggle for Identity: Issues Underlying the Enactment of the 1926 Adoption of Children Act” (2001) Tab 25, at p. 1, para. 1; p. 5, para. 4; p.7; para. 4, p.7; Elizabeth J. Samuels, “The Idea of Adoption: an Inquiry into the History of Adult Adoptee Access to Birth Records” (2001) at Tab 26, p. 3. E. Wayne Carp, Tab 23, pp. transcript pp. 66:19-67:5; 86:9-16; Dr. Smith’s, *You’re Are Child Now*, Vol. II, Tab 22A, pp. 294- 295.

5. From 1921 until 1978, when adopted people in England began demanding their records, there is literally a vacuum in Hansard about the best interests of the child in adoption. Since 1978, the stated purpose for “confidentiality” has shifted from the recommendation of the Tomlin Report that the hearing be held in chambers because of the “shame” created and inculcated regarding illegitimacy, infertility and single motherhood. In 1952, the decade when the Applicant was born and then adopted, the Courts did recognize the vulnerability of single mothers who were abandoned by the fathers of their babies and the emotional costs of the separation.

***Re: K.*, [1952] All E.R. 877, tab 27, at pp. 882 and 885**

B: The History of the Applicant’s Case

6. The Applicant began seeking her biological identity in 1984 through a request for non-identifying information from the Adoption Disclosure Registry (hereinafter the ADR). In 1987 the Applicant received a letter from the ADR informing her of a change in the law. The Applicant did not receive any attached documents but sent a hand-written letter requesting information from the ADR. In 1988 the Applicant’s psychiatrist, Dr. Schmidt, filed a Health, Safety and Welfare request on behalf of the Applicant who was suffering severe stress and depression caused by her adoptive mother’s refusal to discuss the details of her adoption with her. The Applicant received non-identifying information

about her birth mother in 1989. The Applicant continued to suffer depression and anxiety attacks. The Applicant never felt good about herself and put a lot of pressure on herself in school seeking approval. The Applicant was called to the Bar in 1996 but has not practiced law since suffering severe anxiety and depression and seeking help from many doctors. The Applicant, suffering severe “panic” and “rage attacks began seeing Dr. Kuch in 1997. With Dr. Kuch’s assistance the Applicant again applied to the ADR for her information. The Applicant contacted the Ontario Ombudsman on July 16, 1998 and learned her request had been with the ADR for some time. The Applicant was called by the ADR on April 14, 1999 and was informed by telephone her mother’s name was Alice and she had been dead since 1973. The Applicant, called Michele Landsberg of the *Toronto Star* in June 1999 who wrote two articles attacking the province for failing to provide people with their basic fundamental human rights, and breaching its own commitment to the *International Convention on the Rights of the Child*, describing the Applicant as a survivor of the genocide against First Nations’ people and a constitutional lawyer who was going to challenge the entire regime. The Applicant was referred to Native Child and Services by Sue Cameron of the ADR for help in June 1999, whereupon she was referred further to two specialists in adoption trauma and dissociative disorder. The Applicant continued to be denied information about her father. In total, the Applicant’s doctors contacted the ADR in 1988, 1998, 2002, 2003, and 2005 under the Health, Safety and Welfare guidelines for information to ease the Applicant’s suffering.

Tab 18C, Vol. I, p.176; tab 18D, Vol. II, p. 177; tab 18E, Vol. I. p. 179; Dr. Schmitt request, tab 18F, Vol. I.; tab 18G, p. 189; Applicant’s Affidavit, Tab 18, pp. 156 - 174, paras. 22 – 24, 31, 50, 51; tab 18R, Vol. II, p. 206; tabs 18H, Vol. I, p. 189; tab 18I, Vol. I p. 191; Dr. Hirsz request, tab 18K, Vol. I, p. 191; tab 18J, Vol. I, p. 192; tab 18G, Vol. I, p. 182; tab 18K, Vol. I, p. 194; Dr. Hirsz and Murray requests, tabs 18P & Q, Vol. II, pp. 202-3; Dr. Conroy request, tab 18R, Vol. II, p. 206; Dr. Westerhoff M.D. request, tab 18X, Vol. II, p. 226; *Donna Marchand v. The Minister of Social Development Canada (SDC), formerly Human Resources Development Canada, July 12, 2006, Appeal # 86796, Vol. II, tab 30*

7. The ADR continued to refuse to release the information to the Applicant under the Health, Safety and Welfare provisions of the act, despite her physicians’ concerns.

Seymour letter, Tab 18N, Vol. I, p. 197; Burnett letter, tab 18S, Vol. II, p. 208; MacInnes letter, tab 18Y, Vol. II, p. 227.

8. The Applicant informed the government that she was bringing a Constitutional challenge and filed a Notice of Constitutional Question on August 18, 2004. The respondent and Applicant's counsel agreed on a time line. The respondent agreed to reply to the NCQ on May 31, 2005. The Applicant received her unsealed original statement of live birth on May 31, 2005. On January 31, 2006, at 5:15 p.m. the Applicant received over 300 pages of redacted files from the respondent including a declaration of paternity.

Bryan Affidavit, tab 24, Vol. II, paras. 12 at p. 309; S.Z. Green letter (Counsel for the A.G.), attached as exhibit to Marchand supplementary affidavit tab 20A, Vol. II, at pp. 231-232.

C: Decisions of the Courts Below

Superior Court of Justice

9. The Application was heard before Madame Justice Frank on February 1 & 2, 2006. The application was dismissed. In the Superior Court the application judge analyzed the Applicant's interaction with the Adoption Disclosure Registry from the time the Applicant was told her mother was dead and concluded, after curtailing rebuttal from the Applicant's counsel, that the Applicant was not a person of reasonable sensibilities, concluding there was no discrimination and that a reasonable adopted person would be merely curious. The application judge did not proceed to a section 1 analysis.

Bryant Affidavit, tab 24, Vol. II, para. 17 at p. 309

Ontario Court of Appeal

10. The Applicant represented herself on appeal. The appeal was heard before the Ontario Court of Appeal November 13 & 14, 2007. The Ontario Court of Appeal, dismissed the appeal finding the application judge's analysis "is a fair analysis of the leading equality cases, especially *Law v. Canada (Minister of Employment and Immigration)* 1 S.C.R. 497, whose framework she faithfully followed" (appeal decision para. 10).

Decision, Ontario Court of Appeal, at para. 10

PART II: QUESTIONS IN LAW

11. The effect of the decisions of the Courts below is that the following questions, critical to the s. 15(1) equality clause of the *Charter of Rights and Freedoms*, have been wrongly answered:

1) Was the decision of the Ontario Court of Appeal in finding that the application judge's "legal analysis is a fair application of the leading equality cases especially *Law*, [*supra*] whose framework she faithfully followed" when the standard of review for errors of law is "correctness", wrong in law?

***Housen v. Nikolaisen*, [2002] 2 S.C.R. 235**

2) Did the Ontario Court of Appeal err in law in failing to find the application judge erred in law in failing to find that "finding no discrimination" is distinguishable from "finding there is discrimination that is justifiable in law" when failing to properly consider the first and second test in *Law, supra*, and thereafter failing to properly apply the section 1 analysis, where, as a matter of fact and law "there are measures clearly superior to the measures currently in use" in , *inter alia*, British Columbia, England, Scotland, Tennessee, New Zealand, Australia, Alabama, Oregon, New Hampshire, whereby the impugned legislation fails the minimal component of the section 1 test, wrong in law?

***Libman v. Quebec (Attorney General)*, [1997] 3 S.C.R. 569 at para. 62.**

3) Was the decision of the Ontario Court of Appeal, in allowing the application judge to misapply the law regarding weight and reliability of the applicant's doctors' by failing to follow the case law in *Levesque et al v. Comeau et al.* (1971), 16 D.L.R. (3d) 425 at 432 S.C.C., in drawing an adverse inference because they not in affidavit form, wrong in law?; second, was the decision of the Ontario Court of Appeal, in finding the application judge failed to find that the doctors' reports did address the issues the Applicant raised, wrong in law?

4) Was the decision of the Ontario Court of Appeal, in failing to find the application judge erred in law by failing to find that life, liberty and the security of the person do not apply to adopted people and that the deprivation of identity through a name change not governed by any statutory regime is a breach of due process, not prescribed by law, and, not within the principles of fundamental justice, wrong in law?

5) Was the decision of the Ontario Court of Appeal, in failing to find the application judge erred in finding the Applicant had no standing to challenge section 28 of the VSA, wrong in law?

The applicant submits that each of these questions raises issues of national importance.

12. Permitting the decision of the Ontario Court of Appeal to stand and upholding the incorrect approach to the section 15 analysis of the application judge will have serious and deleterious effect on all *Charter* equality rights seekers as it sets a precedent allowing for the improper analysis of s. 15(1) and defeats the purposeful approach necessary to enhance the meaning of the *Charter*.

PART III: STATEMENT OF ARGUMENT

A. The Proposed Appeal Raises Issues of National Importance

13. For the following reasons, the Applicant submits that this case raises issues of national importance and is therefore an appropriate case in which to grant leave to appeal.

14. The appeal raises questions of law never before addressed by the Supreme Court of Canada: namely:

- i) the question of the right of all human beings, including adopted people, to true and accurate records of their births as recorded at their time of birth and not to thereafter be deprived of information fundamental to all human beings' sense of self and personal identity irrespective of the province of birth or adoption;
- ii) whether the creation by statute of a group who but for statute would not exist and are thereafter discriminated against by the very statute that created them is unconstitutional in that it fails to recognize the worth and dignity of each every human being irrespective of how or why they came into the world;
- iii) as to the importance of This Honourable Court to send a message to women who conceived out of wedlock or rape in a time when there was no birth control, sex education or access to legal and safe abortion, that it was not their fault and they should not have to bear society's shame any longer;
- iv) as to importance of sections 377 & 378 of the *Federal Criminal Code's* application to all infant human beings in Canada in protecting them from the erasure and theft of their identities;
- v) as to the importance of sections 377 & 378 of the *Federal Criminal Code's* application to all infant human beings in prohibiting the unregulated trade in human infants, provincially, inter-provincially, and internationally;

vi) as to the wrongful “shifting purposes” that have been attributed to the meaning of “confidentiality” in a legislative scheme that was initiated in 1921 to prohibit the unregulated traffic in human infants;

vii) as to whether child welfare law regulating adoption and which has as its objective the best interest of the child, can rightfully be interpreted to create rights of procreative anonymity and exclusive entitlement rights to a human being upon adoption;

viii) as to the proper standard of review regarding the proper framework for the analysis of the case law on discrimination under section 15 of the *Charter* affecting all Constitutional equality rights seekers;

viii) as to the indignity an adopted person in Ontario feels compared to an adopted person in British Columbia where the records are released except where a birth parent or adoptee by their own initiative requests they not be contacted and where the Court in P.E.I. in 1986 released information to an adopted person without reference to any rights but that of the adopted person’s and without the use of s. 15(1) of the *Charter*.

Ross v. Prince Edward Island (Supreme Court, Family Division, Registrar), [1986] P.E.I.J. No. 23 (S.C.), tab 31, Vol. II.

ix) as to the proper interpretation of law as to the question of whether the principles enunciated in *Taylor v. Canada*, at para.222, whereby a child is a “disabled person” under statute and cannot voluntarily consent to having their identity changed outside the legal *Change of Name* regime, is a breach of due process and a deprivation of true and accurate records of birth and is a breach of the section 7 rights of child to life, liberty and security of the person.

Taylor v. Canada (Minister of Citizenship and Immigration), [2006] F.C.J.No.1328, 2006 at para. 222.

B: LEGAL ANALYSIS

QUESTIONS 1 & 2:

15. The Applicant submits that the application judge’s reasoning is circular; that the circularity begins with the failure of the application judge to locate the experience of the Applicant within the analogous grounds framework for the test for discrimination in focusing the major body of her analysis on a window of time following the Applicant’s news that her mother was dead and while she was in severe shock; that the application judge made the character of the Applicant the nexus of the decision and not the impugned

legislation; that the application judge bootstrapped her section 15 analysis with patently unreasonable findings of fact and law absent the analogous grounds test thereafter failing to consider the effect of the impugned legislation across a wide spectrum of adopted people's experience and irrespective of s. 15(1) of the constitutional equality rights question. In *Law, supra*, at para. 88 the Court set out the three inquiries that must be done in determining an equality rights claim under s.15 (1) of the *Charter* for discrimination.

Law, supra. at para.88

The application judge's approach to the first test for discrimination

Is there a formal distinction in law between adopted and non-adopted people?

16. At para.138 the decision the application judge states:

(138) The Attorney General does not dispute that the *CFSA* draws a formal distinction between the applicant and others based on a personal characteristic.

The application judge does not state the formal distinction. Adopted people are in a unique situation - but for the statute that discriminates against them they would not exist as a distinct group.

The application judge's approach to the second test for discrimination

17. Is the claimant subject to differential treatment based on one or more enumerated or analogous grounds?

At para. 139 of the application judge's decision she finds:

(139) The Attorney General takes no position as to whether adoption is an analogous ground. For the purposes of this application, I accept that it is an analogous ground, but make no finding. [emphasis added]

In *Law, supra*, at para.29 the Mr. Justice Iacobucci is very clear that:

... a ground may qualify as analogous to those listed in s. 15(1) if persons characterized by the trait in question are, among other things, “lacking in political power”, “vulnerable to having their interests overlooked and their rights to equal concern and respect violated”, and “vulnerable to becoming a disadvantaged group” on the basis of the trait. ... (emphasis in original).

. . . While legislatures must inevitably draw distinctions among the governed, such distinctions should not bring about or reinforce the disadvantage of certain groups and individuals by denying them the rights freely accorded to others. (Emphasis added.)

The Applicant submits that a purposive approach to *Charter* analysis indicates that the differential treatment of adopted people was born from the social, political, and legal context of a time when single mothers and their bastards were felt to need protection by

the very system that created the discrimination against them in the first place in which the economic affects of this stigma has been recognized by the Court as still existing.

Falkiner v. Ontario (Minister of Community and Social Services) (1996) 59 O.R. (3d) 481

18. The importance of the second test is reiterated in *Lavoie v. Canada*, in which the Court states:

The point of the analogous ground, according to *Law* and subsequent case, is that they are “suspect markers” of discrimination: the groups occupying them are vulnerable to having their interests overlooked no matter what the legislative context. Further, the third inquiry in *Law* functions to constrain s.15(1) claims to cases of genuine discrimination, such an analysis should not be pre-empted at the second stage. (emphasis added)

Lavoie v. Canada, [2002] 1.S.C.R. 769 at para. 41

Additionally, in *Law, supra*, at para. 93, Iacobucci J. states:

“If the court determines that recognition of a ground or confluence of grounds as analogous would serve to advance the fundamental purpose of s.15(1), the ground will then be so recognized”.

In *Wynberg v. Ontario*, the Ontario Court of Appeal citing the Supreme Court of Canada states:

Binnie J. also makes clear that the claimant makes the initial choice of the person or group to whom he or she wishes to be compared. The correctness of the choice, however, is a question for the court to determine.

The Applicant submits that the absence of the second test in *Law* curtails a correct analysis in the third test of *Law*, skewing the fact finding process thereafter, resulting in incorrect findings in fact and incorrect findings in law as to whether the impugned legislation breaches the s. 15(1) equality rights of adopted people.

Wynberg v. Ontario, (2006), 269 D.L.R. (4th) 435 (Ont. C.A.), para. 19;

The application judge’s approach to the third test for discrimination

19. Beginning at para. 140 of the application judge’s decision states:

It is the third of the enquiries that is at issue in this application. In my opinion, for the following reasons, the applicant has failed to satisfy this third component of the discrimination analysis.

(iii) does the law have a purpose or effect that is discriminatory within the meaning of the equality guarantee?

(141) The necessary analysis requires the identification of differential treatment in comparison to one or more other persons or groups. The applicant has selected non-adopted persons as the comparator group to be used for the court’s enquiry.

In light of the Attorney General not taking issue with this comparator, I accept it for the purposes of this application. It is left for another day to consider whether that comparator is, in fact, a proper one. (emphasis added)

20. The appellant submits that the application judge in para. 141 is stating the inquiry necessary for the second test for discrimination in *Law*, by doing so: applies the case law incorrectly; ignores the benefit that all but adopted people have in knowing their true origins; and, negates adopted people's value as members of society worthy of respect and dignity irrespective of how or why they came into the world.

21. The application judge proceeds to discuss the relevant contextual factors for the third enquiry set out in *Law, supra*, at para. 88:

- (a) pre-existing disadvantage, stereotyping, prejudice or vulnerability experience [sic] by the claimant or the claimant's group;
- (b) the relationship between the ground on which the claim is based and the actual needs, capacity or circumstances of the claimant;
- (c) the ameliorative purpose or effects of the impugned law; and,
- (d) the nature and scope of the interest affected by the impugned law.

A. The application judge's finding on the first contextual factor

21. At para. 144 of the decision the application judge concludes:

The Attorney General does not dispute that the first contextual factor is present. The application judge does not address the historical vulnerability of single mothers and children anywhere in her decision.

B. The application judge's findings on the second contextual factor

22. At para. 145 the application judge finds:

The denial of the information that is the basis of the applicant's challenge is not the denial of a benefit conferred by law nor is it the imposition of a burden the law does not impose on others. The information the applicant seeks is available to non-adopted persons, not as a result of legislation, but through their personal circumstances. The applicant has not referred the court to any law to support her position to the contrary.

The applicant submits that this is wrong in fact and law. Sections 162 – 165 of the *CFSA*, creates a reverse onus on adopted people to justify access to their true origins but for an individualized court order. Section 153 of the *CFSA* and previous related provisions allows for the erasure of adopted people's identities outside the statutorily legal *Change of Name Act*.

Change of Name Act, R.S.O. 1990, c. C.7, sections 1 and 5

23. From paras. 145 – 148 inclusive, Frank J. concludes there is no discrimination

because the legislation and the actual needs, capacity, or circumstances of the claimant are met as the legislation is an attempt to balance those needs against competing interests. This is the section 1 test of only the “opening up” part of the legislation and does not address the denial of the information *a priori*, requiring adopted people to justify their existence and denying them answers to the oldest questions asked by philosophers concerning humanity - “Who am I? “Where do I come from?”.

24. The application judge found the claimant not to be a person of reasonable sensibilities at para. 122. The Applicant submits there is no “legal animal” in s.15 of *Charter* analysis. In *Law, supra*, at para.59 Iacobucci J. states citing L’Heureux-Dubé J. in *Egan*, at para. 56:

The focus of the discrimination inquiry is both subjective and objective: subjective in so far as the right to equal treatment is an individual right, asserted by a specific claimant with particular traits and circumstances; ... The objective component means that it is not sufficient, in order to ground a section 15(1) claim, for a complaint to simply assert without more, that his or her dignity has been adversely affected by the law.

25. At para. 151 the application judge states “Her subjective perspective is not the one to be applied in assessing discrimination under the Charter” (emphasis added). The Applicant submits this is wrong.

Dignity concerns the manner in which a person legitimately feels when confronted with a particular law.

***Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203 at para. 59**

26. The Applicant submits that the application judge has confused the findings regarding emotional harm in *Blencoe v. B.C. (Human Rights Commission)*, [2002] 2 S.C.R. 307 at para. 90, which she cites at para.118 in her section 7 “security of the person” analysis in terms of the objective standard regarding psychological stress in the context of the criminal justice system, with the subjective component of section 15 in *Law, supra*. The Court in *Blencoe, supra*, found:

...I do not believe that actual impairment need be proven by the accused to render the section inoperative. An objective standard is the only realistic means through which the security interest of the accused may be protected... . Otherwise, each individual accused would have the burden of demonstrating that he or she has subjectively suffered a form of anxiety, stress or stigmatization as a result of a criminal charge... We are dealing largely with the impairment of mental well-

being, a matter which can only be established with considerable difficulty at considerable cost.

***Blencoe, supra.*, at para. 90**

The Applicant submits that the impugned legislation is a structural mechanism where, in lieu of adopted persons total vulnerability and lack of information, can produce a panoply of socio-psychic responses making evasive the determination of who is a reasonable adopted person in any claimant's position. The Applicant submits that the determination of the effects of adoption on this legislatively differentiated group is only possible if This Honourable Court orders the records open as a matter of legal responsibility to Canadian society. The Applicant submits that This Honourable Court can take judicial notice of the *1983 Royal Commission on Aboriginal Peoples*, regarding the harm to First Nations children who were "adopted out" is analogous to any human being whose experience of loss is invalidated and who is denied a healthy grieving process.

27. The Applicant submits that under the principals enunciated in *Blencoe, supra*, if an Applicant is of more particular sensibilities, that that Applicant would be more vulnerable to stress, anxiety and stigmatization in a civil suit but should not be denied constitutional rights by the nature of the effect on the particular claimant. Moreover, the Applicant submits the application judge, at the beginning of para. 76, has transformed the "objective standard" re emotional harm in *Blencoe, ibid*, into a subjective standard by creating two kinds of human beings with two kinds of emotional needs. The Applicant submits that "the emotional needs of adopted people" are the same as the emotional needs of non-adopted people – but are just not met. To do so, *inter alia*, the application judge makes a capricious finding of fact regarding Dr. Smith's testimony at para. 87, and selectively edits and misrepresents Hoopes at para. 89.

Kirschner affidavit, tab 20, Vol. II, pp. 233 - 238, paras. 1, 10, 17, 18 ; Kirschner exhibits, Vol. II: *The Primal Wound*, tab 21A, p. 279, pp. 6-12; *Journey of the Adopted Self*, tab 20B, p. 245, pp. 21 -27; "Adoption Psychopathology and the Adopted Child Syndrome", Vol. II, tab 20C, pp. 251- 276; "Issues of Psychoanalytic Technique with Adoptees - Revisited", tab 20D, p. 276, pp.7 -9; Supplementary affidavit Robinson Vol. II, tab 21, pp. 279 -284, paras. 2, 4, 5, 7, 8, 10, 11, 15, 16; exhibit: "Some thoughts on pregnancy and rape", tab 21A, p. 285 & 286; Smith transcript, Vol. II, tab 22, pp. 287 -291, trans. pp., 11:2 -12:10, 23:20 – 24:9; Smith Exhibit, Janet L. Hoopes, "Adoption and Identity Formation", p.148, at Tab 22B, at p. 298 - 300.

28. The Applicant submits that a Court should:

... in no way endorse or contemplate an application of the [“reasonable person” standard] which would have the effect of subverting the purpose of s.15 (1)...[nor ignore] the controversy that exists regarding the biases implicit in some applications of the “reasonable person” standard. It is essential to stress that the appropriate perspective is not solely that of a “Reasonable person”- a vehicle which could, through misapplication, serve as a vehicle for the imposition of community prejudices.

Law, supra, at para. 61

28. The Applicant submits that adopted people are in a similar position as women in the early part of the 20th century:

The education of woman was greatly retarded on the basis that wider knowledge would only make them dissatisfied with their role in society.

Irwin Toy Ltd. v. Quebec (Attorney General), [1989] 1S.C.R.927 at 1008.

The applicant submits that passion and reason are not mutually exclusive and that adopted people, like women who named their inequality and unjust treatment, are passionate by virtue of their need for the truth of their ancestry denied to them and no others.

29. The Applicant submits irrespective of her sensibilities that there is a difference between raised by kin and clan and being adopted. The Applicant is supported in her submission by the Federal Court of Canada’s decision in *Tomasson v. Canada*, at para. 56, where the Federal Court finds that Ms.Tomasson ‘is not a reasonable adoptive mother for failing to recognise that biological parenthood and the legal construction of parenthood through adoption are not the same’. The Applicant submits that the assertion that they are the same invalidates the legitimate feelings of those who have experienced adoption at a critical and conscious level – the “reasonable person, fully apprised of the circumstances, possessed of similar attributes to, and under similar circumstances as the claimant”. The Applicant submits there is unlikely anyone in the Applicant’s position. In *Law, supra*, at para. 66, Iacobucci J. states:

Nonetheless, an infringement of s. 15(1) may be established by other means, and may exist even if there is no one similar to the claimant who is experiencing the same unfair treatment. (emphasis added)

Tomasson v. Canada (Attorney General), 2007 FAC 265 at para. 56; Law, supra, at para. 66.

C. The application judge’s findings on the third contextual factor

30. In para. 160 of the decision, the application judge concludes that:

The impugned legislation was aimed at facilitating adopted persons' access to information about their birth families, and assisting them to locate and make contact with birth relatives (subject to their consent) while also encouraging adoption by protecting privacy.

The Applicant submits that the constitutional challenge is to the “sealing” of the records in the first place. Second, “underinclusive ameliorative legislation that excludes from its scope the members of an historically disadvantaged groups will rarely escape the charge of discrimination”. Third, in *the Matter of Rogers*, at page.5, which reasons are mirrored in *Doe v. Sunquist*, Rizzi J. states the following:

The legitimate interest which the State has in adoptions is the welfare of the child. The state cannot claim a legitimate interest in encouraging women to give up their children for adoption. I think a state would be on perilous ground if it actively encouraged women, for whatever reason, to divest themselves of their children so that the children could be adopted.

***Falkiner, supra*, at 102; *In the Matter of Rogers B*, 407 N.E. 2d 884 (1980) (App. Ct. Ill.) at 887 (full cite at Vol. II, tab 28); *Doe v. Sunquist*, 2 S.W. 3d 919 (Supreme Court of Tennessee), Vol. II, tab 29**

31. The Applicant submits that the Tennessee Supreme Court correctly addresses the purpose of the legislation governing adoption:

The right of adoption is statutory. It was created to protect the interests of children whose parents were unable or unwilling to provide for their care, *Young v. Smith*, 191 Tenn. 25 (1950), and not to advance a procreational right to privacy of the biological parent (emphasis added).

The Applicant submits that the only purpose of the *CFSA* adoption legislation is the best interest of the child, including the “health, safety and personal integrity of the child”, and that even if there are parental rights under section 7 or section 2(a) of the *Charter*, the child’s life and security of the person interests are paramount.

“Few state actions can have a more profound effect on the lives of both parent and child”... “Not only is the parent’s right to security of the person at stake, the child’s is as well. Since the best interests of the child are presumed to lie with the parent, the child’s psychological integrity and well-being may be seriously affected by the interference with the parent-child relationship”(emphasis added).

***CFSA, R.S.O. 1990, c. C-11, section 1 and ss. 136(2) & (3), Vol. I, tab 12; B. (R.) v. Children’s Aid Society of Metropolitan Toronto*, [1995] 1 S.C.R. 315 at para. 211; *J. (G.) v. Minister of Health and Community Services*, [1999], 3 S.C.R. 46 at para.76; *Law, supra*, p. 539; *Falkiner, supra*, para. 102**

32. The applicant submits that the “sealing” of the records was never meant to be the denial of a person’s right to know where they came. The Applicant is supported by E.

Wayne Carp, one of the respondent’s expert witnesses. Carp states at cross:

But the whole process of having a sealed record has to do with the process—with the process of adoption and with the best interests of the child. It’s – what it has degenerated to is this “me” generation of adults and the needs of adults. The best interests of the child has been totally forgotten. ...the first time the records were sealed was not to stop...any of the triad from getting their records. It was... to stop the public crooks from walking into the courtrooms because the records were open, finding out who adopted, and then blackmailing the families.

Carp transcript, Vol. II, tab 23, pp. 301 -307, trans. pp. 82:17- 83:2; 84:24 – 85:14.

Carp then goes on to discuss the myths arising during the baby-boom, including that birth mothers would want their children back even though there was no proof of this and that – “it was all imagination”. Both Carp and Smith are frank about adoption “secrecy” being driven by the adoption industry and the need for infants.

... the adoption agencies wanted to drum up business. ...They wanted the business of families, the adoptive parents, and they offered this security. They said to adoptive parents, I’ll guarantee you that these... birth parents won’t bother you. They couldn’t of course, enforce that, but this is what they said.

Carp, *supra*, Vol. II, tab 23, pp. trans. pp. 85:24 – 86:8; 86:9 – 16; Smith exhibit, *Your Our Child*, Vol. II, tab 22A, pp. 292 -295, at p. 3.

33. The Applicant submits that the word “confidentiality” has shifted from protecting members of the triad, especially the child, from public scrutiny to a purpose other than the *CFSA*’s purpose of the best interests of the child. The Applicant submits that “where there are two competing views of the act [in this case as to the meaning of the word “confidential”], one which embodies the *Charter* and one which does not the one that does should be adopted”. The Applicant submits that neither procreative anonymity nor the entitlement rights of adoptive parents are the purpose of the *CFSA*.

***R. v. Nova Scotia Pharmaceutical Society*, [1992], 2 S.C.R. 606, at p. 660**

D. The application judge’s analysis of the fourth contextual factor – the nature and scope of the interest affected

The application judge relies on *Lovelace v. Ontario*, [2002] 1 S.C.R., 950 at para. 88.

The Applicant submits that *Lovelace, supra*, is distinguishable from this case where the issue was the distribution of gambling profits in a s.15 (2) like program providing

benefits to one disadvantaged group vis-à-vis another who have suffered similar historical disadvantages. Adopted people are not requesting a benefit that non-adopted people including birth parents and adoptive parents do not have, but the right that all but non-adoptees have – a right to protection from identity theft. Further, non-reserve “Indians” were recognized as an analogous group for purposes of future *Charter* s. 15(1) claims as should all adopted people, irrespective of a lack of homogeneity in the affects of the legislation.

Lovelace, supra., at para. 88; Falkiner, supra, at para. 93

34. The Supreme Court of Canada has found in *Corbiere, supra*, in relation to the s.15 (1) analysis of human dignity and one’s choice of residence that, “where one lives is “important to identity and personhood”; in *Ward*, at tab 15, that “one’s past is an immutable part of the person”; and, in *Lavoie*, that the “more severe and localized the effect on a group the more likely it breaches s.15”. The Applicant submits that there is nothing more personal and integral to personal identity than personal identity; nothing more immutable about one’s past than one’s past; and, nothing more severe or localized than the erasure of one’s personal identity and past.

Corbiere, supra, at para. 62; Canada (Attorney General) v. Ward, [1993] 2 S.C.R. 689 at p.739; Lavoie v. Canada, [2002] 1 S.C.R. 769, 2002 SCC 23 at para. 116

36. It is submitted that the decision of the Ontario Court of Appeal erred in law in finding the application judge faithfully followed the framework for the leading equality cases and further, erred in law, in failing to find the application judge erred in law in failing to do the minimal impairment test of section 1 whereby the impugned legislation is unconstitutional and not justifiable in a free and democratic society.

R. v. Oakes, [1986] 1 S.C.R. 103, 135, 138 - 139

QUESTION 3:

37. The Applicant submits that *L évesque et al v. Comeau et al.* (1971), 16 D.L.R. (3d) 425, is distinguishable from this case. First, the adverse inference that was drawn in *L évesque, supra*, was based on the fact that the two specialists from Montreal did not make any reports while four of the Applicant’s doctors and two of the Applicant’s therapists provided uncontradicted reports. The Applicant submits the adverse influence drawn by the application judge is wrong in law. The Applicant submits the application

judge erred in fact in failing to find all of the Applicant's doctors and both therapists attribute her suffering to the ongoing denial of her fundamental human right to biographical truth beyond a preponderance of probability.

The settled rule is that causality does not have to be established with absolute certainty, but only by a preponderance of probabilities. In my opinion, this preponderance is unfortunately not to be found in the record (at 432.)

***Levesque, supra*, at 432 S.C.C; Please see cites at para. 5 of Memorandum; Dr. Kuch Report, Vol. II, tab 18T, pp. 210 - 213; Stott Report, Vol. II, tab 18U, pp. 213 -217; Mathes Report, Vol. II, tab 18V, pp. 218 -221.**

QUESTION 4:

38. In lieu of the upholding by the Supreme Court of Canada of the B.C. Court of Appeal's decision in *R. v. W. (D.D.)*, cited in *Cheskes v. Ontario*, at para. 120:

In fact, there could be any higher right than that enjoyed by the adopted child at least until such time as she, having attained the age of majority, might decide to seek out her natural parents or one of them.

the Applicant submits that the records belong to the adopted person. The Applicant is supported by *McInerney v. MacDonald*, [1992] 2 S.C.R. 138 whereby the Supreme Court found that the relationship between doctor and patient is analogous to that of a Crown and Ward, "a fiduciary or trust relationship" whereby the information is held in a fashion "somewhat akin to a trust", where the Crown is the owner of the actual record [the paper and ink], but the information belongs to and is used by the Crown for the benefit of the Ward.

R. v. W.(D.D.) (1997), 114 C.C.C.(3d) 506 (B.C.C.A.) at para. 43, cited in Cheskes et al. v. Ontario (Attorney General), Superior Court of Justice, Court file No. 06-CV-319936PD2 at para. 120; McInerney, supra, at pp. 6 & 7.

39. The Applicant submits adoptees, as minor children are considered "disabled persons" under statute and as such did not voluntarily: make any choices concerning their adoption; waive their rights to true biographical information by the falsification of their birth records; nor, waive their rights to a legal change of name via the *Change of Name Act, supra*. The Applicant submits that the deprivation experienced by adopted people is not only contrary to the due process rights ensconced in s.7 of the *Charter* but [are] "contrary to due process and infringe paragraphs 1(a) and 1(e) of the *Canadian Bill of Rights*" as cited in *Taylor v. Canada (Minister of Citizenship and Immigration)*, [2006] F.C.J. No. 1328, 2006.

***Taylor, supra.*, at para. 222.**

40. The Applicant further submits that adopted people are deprived of their rights to due process by being deprived of the right to exercise their rights under s. 35 of the Constitution [Rights of the Aboriginal People of Canada] and their rights as Canadian citizens”

... an adopted child will inherit Canadian citizenship only if at time of his birth one of his biological parents is a citizen (see paragraph 3(1)(b) of the current Citizenship Act).

***Charter, supra*, section 35; *Taylor, supra*, at 260.**

41. Under the principals in *Malmo-Levine*, at para.113, three things are required for something to be a principal of fundamental justice.

First, they must be legal principle; second, they must not be policy decision but have social consensus and; three, they must be able to be identified with precision.

***R. v. Malmo-Levine*, [2003] 3 S.C.R. 571**

42. The Applicant submits that the Supreme Court’s finding in *Trociuk*, at para. 33 whereby “the accurate and prompt recording of births is a pressing and substantial legislative objective”, is supported by the *Federal Criminal Code*’s prohibition against falsifying birth records, satisfies all 3 criteria. The Applicant is further supported by the Ontario Court of Appeal’s decision in *A.A.*, whereby it exercised its *parens patriae* jurisdiction finding it contrary to the applicant’s best interests to be deprived of the legal recognition of the parentage of one their mothers. The Court found at paras. 37 & 38:

Moreover, a finding that the legislative gap is deliberate requires assigning to the legislature a discriminatory intent in a statute designed to treat all children equally finding that adoption would not be an alternative - it would deprive the applicant of their male parentage.

***Trociuk v. British Columbia Attorney General*, [2003] 1.S.C.R. 835; *Martin’s Criminal Code*, 2006, tab 13, Vol. I, Can. Law Books; *A.A. v. B.B.*, [2007] O.J. No.2 (C.A.)**

43. The Applicant submits that in *A.A.*, *supra*, the Court collaterally addressed the discrimination caused by adoption: in exchange for the recognition of adoptive parents’ legal declarative parental responsibilities, adopted people are deprived of both biological lineages. Moreover, the government’s defense of “sealed” records is admittedly deliberate and that the deprivation of one’s true parental lineage is a breach of the

adopted person's security of the person and s.15 (1) equality rights that cannot be justified in a free and democratic society.

QUESTION 5:

44. The Applicant submits that the Ontario Court of Appeal erred in law in failing to find the application judge erred in law in finding the Applicant had no standing to challenge subsections 28(2)(3)(4)&(5) of the *Vital Statistics Act*. The Applicant submits that s.44(1) of the VSA whereby the Registrar General "may" release records "if the reasons satisfy the Registrar", ignores the Applicant's submission that adopted people are in the unique position of proving a negative wherein the government is in complete control of the information determining the standing issue, and further, that s. 44(1) is "an unintelligible provision [giving] insufficient guidance for legal debate [and thus] it is unconstitutionally vague" (*Nova Scotia*, *supra*, at 638), allowing the Registrar a discretion to exercise its discretion to evade the standing issue and is therefore a formalistic black-letter approach undermining the "purposive" interpretation of *Charter* rights found in *Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295, and is wrong in law.

VSA, Vol. I, tab 14, ss. 28(2) – (5); *Big M Drug Mart Ltd.*, *supra*, at p.344

45. For the foregoing reasons, the Applicant submits that this is an appropriate case in which to grant leave to This Honourable Court.

PART IV – SUBMISSIONS FOR COSTS

46. The Applicant submits that this is test case representing the interests of over 500,000 people and that the Applicant should receive the costs of her disbursements throughout and in advance for this leave application in the interests of access to Justice.

PART V – ORDER SOUGHT

47. The Applicant respectfully requests leave to appeal to This Honourable Court.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED at Toronto, this 26th day of January, 2008

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PART VI: TABLE OF AUTHORITIES

**CASELAW AND AUTHORITIES REFERRED TO ON APPLICATION FOR
LEAVE TO APPEAL**

1. Jenny Keating, “Struggle for Identity: Issues Underlying the Enactment of the 1926 Adoption of Children Act” (2001)
2. Elizabeth J. Samuels, “The Idea of Adoption: an Inquiry into the History of Adult Adoptee Access to Birth Records” (2001)
3. *Housen v. Nikolaisen*, [2002] 2 S.C.R 235
4. *Ferguson v. Director of Child Welfare* (1983), (40).R. (2d) 294 (Co. Ct.), aff’d. (1984), 44 O.R. (2d)(C.A.)
5. *Law v. Canada (Minister of Employment and Immigration)*, [1991] 1 S.C.R.497
6. *Donna Marchand v. The Minister of Social Development Canada (SDC), formerly Human Resources Development Canada*, July 12, 2006, Appeal # 86796
7. *R. v. W.(D.D.)* (1997), 114 C.C.C.(3d) 506 (B.C.C.A.)
8. *Cheskes et al. v. Ontario (Attorney General)*, Superior Court of Justice, Court file No. 06-CV-319936PD2
9. *McInerney v. MacDonald*, [1992] 2 S.C.R. 138
10. *Libman v. Quebec (Attorney General)*, [1997] 3 S.C.R. 569
11. *Levesque et al v. Comeau et al.* (1971), 16 D.L.R. (3d) 425 at 432 S.C.C.
12. *Taylor v. Canada (Minister of Citizenship and Immigration)*, [2006] F.C.J.No.1328, 2006
13. *Lavoie v. Canada*, [2002] 1.S.C.R. 769
14. *Wynberg v. Ontario*, (2006), 269 D.L.R. (4th) 435 (Ont. C.A.)
15. *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203
16. *Blencoe v. B.C. (Human Rights Commission)*, [2002] 2 S.C.R. 307
17. *Irwin ToyLtd. v. Quebes (Attorney General)*, [1989] 1S.C.R.927
18. *Egan v.Canada*, [1995] 2 S.C.R. 513, [1995] S.C.J. No. 43
19. *Tomasson, v. Canada (Attorney General)*, 2007 FAC 265
20. *In the Matter of Rogers B*, 407 N.E2d 884 (1980) (App. Ct. Ill.) at 887, aff’ d 418 N.E.2d 751 (1981) (Supr. Ct. Ill.), cert. dismissed sub. nom. *Barth v. Findlay*, 454 U.S. 806, 102 S.Ct.80 (1981)
21. *Doe v. Sunquist*, 2 S.W. 3d 919(Supreme Court of Tennessee)

22. *B.(R.) v. Children’s Aid Society of Metropolitan Toronto*, [1995] 1 S.C.R. 315
23. *R. v. Oakes*, [1986] 1 S.C.R. 103
24. *J.(G.) v. Minister of Health and Community Services*, [1999], 3 S.C.R.46
25. *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689
26. *R. v. Marmo-Levine*, [2003] 3 S.C.R. 571
27. *Trociuk v. British Columbia Attorney General*, [2003] 1.S.C.R. 835
28. *A.A. v. B.B.*, [2007] O.J. No.2 (C.A.)
29. *Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295
30. *Ross v. Prince Edward Island* (Supreme Court, Family Division, Registrar), [1986] P.E.I.J. No. 23 (S.C.)
31. *Re: K.*, [1952] All E.R.877
32. *R. v. Nova Scotia Pharmaceutical Society*, [1992], 2 S.C.R. 606
33. *Falkiner v. Ontario (Minister of Community and Social Services)*, (2002) 59 O.R. (3d) 481

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34. Katrysha Bracco, “Patriarchy and the Law of Adoption: Beneath the Best Interests of the Child” (1997) 35 Alta. L. Rev. 1035
35. Shirley K. Senoff, “Open Adoptions in Ontario and the Need for Legislative Reform” (1998) 15 Can. J. Fam. L. 183-214
36. *Eldridge v. British Columbia*, [1997] 3 S.C.R. 624
37. *R. v. Morgentaler*, [1988] 1 S.C.R. 30
38. *Godbout v. Longueuil (City)*, [1997] 3 S.C.R. 844
39. *Winnipeg Child and Family Services v. K.L.W.*, [2000] 2 S.C.R. 519
40. Donalee Moulton, “UN raps Canada’s knuckles over adoption” *The Lawyers Weekly*, Vol. 23, No. 41 (March 5, 2004)
41. *Young v. Young*, [1993] 4 S.C.R. 3
42. Jeffrey Wilson and Mary Tomlinson, *Wilson: Children and the Law, Second Edition* (Butterworths: Toronto, 1986) and the current loose-leaf version (Butterworths: Toronto, 1994), updated to December 2003
43. *Osborne v. Canada (Treasury Board)*, [1991] 2 S.C.R. 69
44. *Ontario Film and Video Appreciation Society v. Ontario Board of Censors* (1983), 147 D.L.R. (3d) 58 (Ont. Div. Ct.); affirmed (1984), 5 D.L.R. (4th) 766 (Ont. C.A.)
45. *Committee for the Commonwealth of Canada v. Canada*, [1991] 1 S.C.R. 139

46. *Thomson Newspapers v. Canada (Attorney General)*, [1998] 1 S.C.R. 877
47. *Quebec (Attorney General) v. Laroche*, [2002] 3 S.C.R. 708
48. *Schachter v. Canada*, [1992] 2 S.C.R. 679
49. *R. v. Guignard*, [2002] 1 S.C.R. 472
50. *Canada (Minister of Justice) v. Borowski*, [1981] 2 S.C.R. 575
51. *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199
52. *R. v. Brown* [1993] 2 S.C.R. 918
53. *Wewaykum Indian Band v. Canada*, [2003] 2 S.C.R. 259
54. *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342
55. *Little Sisters Book & Art Emporium v. Canada* [2000] S.C.R. 1120
56. *Rutherford et. al. v. Deputy Registrar General for the Province of Ontario*, 81 O.R. (3d) 81
57. *Benner v. Canada (Secretary of State)*, [1997], 1 S.C.R. 358
58. *Baxter et al. v. The Attorney General of Canada*, 83 O.R. (3d) 481
59. *Palmer v. The Queen*, [1908] 1 S.C.R. 759
60. *Odhavji Estate v. Woodhouse*, [2003] 3 S.C.R. 263
61. *R. v. O'Connor*, [1995] 4 S.C.R. 411

PART VII – STATUTORY PROVISIONS ON LEAVE TO APPEAL

1. *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, C.11
2. *Change of Name Act*, R.S.O. 1990, c. C.7
3. *Child and Family Services Act*, R.S.O. 1990, c. C11 (the *CFSA*)
4. *Martins' Criminal Code*, 2006, Canada Law Books
5. *Vital Statistics Act*, R.S.O. 1990
6. *Adoption (Scotland) Act 1978*
7. *Convention on the Rights of the Child*, General Assembly resolution 44/25 of 20 November 1989
8. *Implementation Handbook for the CRC*, by Rachel Hodgkin and Peter Newell (UNICEF: New York, 2002)

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9. *Adoption Act*, S.O. 1921, c. 55
10. *Adoption Act*, R.S.O. 1927, c. 53
11. *Vital Statistics Act*, R.S.O. 1927, c. 78
12. *Vital Statistics Act*, S.O. 1948, c. 97
13. *Child Welfare Act*, S.O. 1954, c. 8, Part IV
14. *Vital Statistics Act*, R.S.O. 1950, c. 412, as amended by S.O. 1954, c. 101
15. *An Act to Amend the Child Welfare Act*, S.O. 1958, c. 11
16. *An Act to Amend the Vital Statistics Act*, S.O. 1958, c. 122
17. *Vital Statistics Act*, R.S.O. 1960, c. 419
18. *An Act to revise the Child Welfare Act*, S.O. 1978, c. 85
19. *Adoption Information Disclosure Act*, 2005, S. O. 1990, c. 25
20. *Child and Family Services Act Statute Law Amendment Act*, 2006. S.O. 2006, c.5 – Bill210