

[First Reprint]

SENATE, No. 1087

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JANUARY 26, 2006

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

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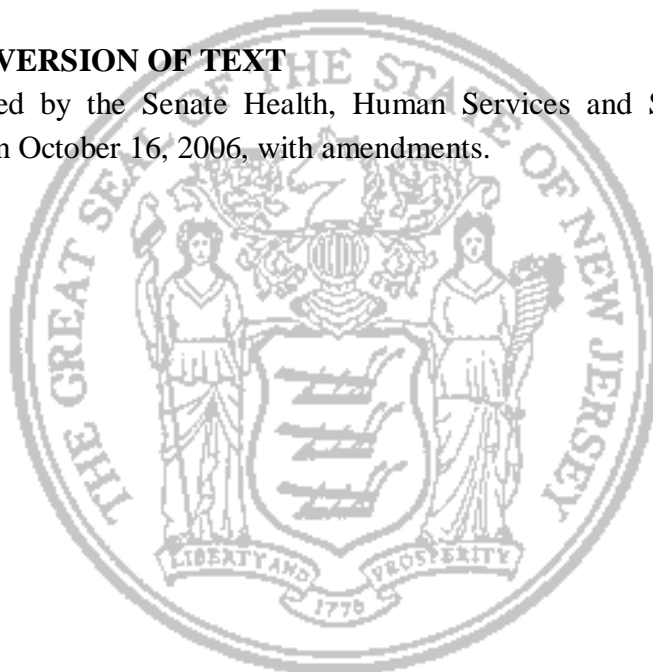
Senators Singer, Buono, Coniglio, Adler, Karcher, Weinberg and Ciesla

SYNOPSIS

Permits adopted person and certain others access to adopted person's original birth certificate and other related information; appropriates \$90,000.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on October 16, 2006, with amendments.



(Sponsorship Updated As Of: 12/5/2006)

1 AN ACT concerning adoptees, amending R.S.26:8-40.1,
2 supplementing Titles 9 and 26 of the Revised Statutes and
3 making an appropriation.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 ¹ [1. R.S.26:8-40.1 is amended to read as follows:

9 26:8-40.1. a. When any person born in New Jersey who has
10 been adopted pursuant to provisions of the laws of any state or
11 country, and which adoption has been certified to the State
12 Registrar as required by [paragraph B of section 15 of P.L.1953,
13 c.264 (C.9:3-31)] subsection b. of section 16 of P.L.1977, c.367
14 (C.9:3-52) or there is submitted a certification or a certified copy of
15 the decree or judgment of the court in such adoption proceedings,
16 the State Registrar shall establish, in lieu of the original birth
17 record, a certificate of birth showing (a) the name of the adopted
18 person as changed by the decree of adoption, if changed, (b) the
19 date and place of birth, (c) the names of the adopting parents or
20 parent including the maiden name of the female adopting parent if
21 such name is given in the certification or certified copy of the
22 decree or judgment of the court, and (d) the date of filing. In any
23 instance where the child has been adopted by the spouse of the
24 natural parent the name of such parent shall also be entered on the
25 new certificate of birth. Such certificate shall be of the same
26 general type as is used in making a birth certificate for a person
27 who has not been adopted.

28 [Upon application by an adopting parent or parents of any
29 person born in the United States and adopted pursuant to the laws of
30 this State, the court before which the adoption proceedings have
31 been conducted, may, for good cause shown, direct and order that
32 the place of birth shall be the residence of the adopting parent or
33 parents at the time of said adoption; provided, however, that the
34 adopting parent or parents were residents of this State at the time of
35 said adoption.]

36 Upon receipt of [such application,] a certification or a certified
37 copy of the decree or judgment of a court in an adoption
38 proceeding, the State Registrar shall make a new certificate of birth
39 containing the information referred to in the preceding paragraph.
40 The fee for such service shall be [\$6.00 which includes the issuance
41 of a certified copy of the new certificate] established by the
42 Commissioner of Health and Senior Services, by regulation.

43 The State Registrar may file such a new certificate for any
44 foundling, for any child born in any state or country, and for any

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted October 16, 2006.

1 child for whom an original birth report cannot be located, who has
2 been adopted in New Jersey; provided that there is attached to the
3 decree or judgment of the court in such adoption proceeding or is
4 submitted to the State Registrar a certified copy of the original birth
5 record or acceptable evidence of birth. In the case of a foundling,
6 the date and place of birth **[may]** shall be decided **[by the adopting**
7 **parent or parents if not decided by the court before which the**
8 **adoption proceedings were conducted]** by a court of competent
9 jurisdiction. Such certificate for any child who is not a citizen of
10 the United States shall bear the notation "by adoption," which shall
11 also be shown upon any copy of the certificate issued; such notation
12 may be removed at any subsequent date upon submission of
13 acceptable proof that the child has become a citizen of the United
14 States.

15 When a new certificate of birth is made the State Registrar shall
16 notify the local registrar of vital statistics of the place in which the
17 birth occurred who shall enter the new certificate in his local record
18 and place his copy of the original record under seal with the State
19 Registrar.

20 b. The State Registrar shall cause to be placed under seal the
21 original certificate of birth and all papers pertaining to the new
22 certificate of birth. Such seal shall not be broken except by:

23 (1) order of a court of competent jurisdiction; or

24 (2) a written, notarized request for an uncertified, long-form
25 copy of the adopted person's original certificate of birth submitted
26 by:

27 (a) the adopted person 18 years of age or older,

28 (b) a direct descendant 18 years of age or older of the adopted
29 person if the adopted person is deceased, or

30 (c) the adoptive parent or guardian of a minor adopted person.

31 c. Thereafter whenever a certification or certified copy of a
32 certificate of birth of such person is issued, it shall be made from
33 the new certificate of birth except when an order of a court of
34 competent jurisdiction shall require the issuance of [a] an
35 uncertified, long-form copy of the original certificate of birth, or
36 upon a written, notarized request for an uncertified, long-form copy
37 of the adopted person's original certificate of birth, as provided in
38 subsection b. of this section, excluding any statistical data gathered
39 solely for the use of the State.

40 (cf: P.L.1983, c.275, s.13)¹

41

42 ¹1. R.S.26:8-40.1 is amended to read as follows:

43 26:8-40.1. a. When any person born in New Jersey who has
44 been adopted pursuant to provisions of the laws of any state or
45 country, and which adoption has been certified to the State
46 Registrar as required by **[paragraph B of section 15 of P.L.1953,**
47 **c.264 (C.9:3-31)]** subsection b. of section 16 of P.L.1977, c.367

1 (C.9:3-52) or there is submitted a certification or a certified copy of
2 the decree or judgment of the court in such adoption proceedings,
3 the State Registrar shall establish, in lieu of the original birth
4 record, a certificate of birth showing (a) the name of the adopted
5 person as changed by the decree of adoption, if changed, (b) the
6 date and place of birth, (c) the names of the adopting parents or
7 parent including the maiden name of the female adopting parent if
8 such name is given in the certification or certified copy of the
9 decree or judgment of the court, and (d) the date of filing. In any
10 instance where the child has been adopted by the spouse of the
11 natural parent the name of such parent shall also be entered on the
12 new certificate of birth. Such certificate shall be of the same
13 general type as is used in making a birth certificate for a person
14 who has not been adopted.

15 **【Upon application by an adopting parent or parents of any**
16 **person born in the United States and adopted pursuant to the laws of**
17 **this State, the court before which the adoption proceedings have**
18 **been conducted, may, for good cause shown, direct and order that**
19 **the place of birth shall be the residence of the adopting parent or**
20 **parents at the time of said adoption; provided, however, that the**
21 **adopting parent or parents were residents of this State at the time of**
22 **said adoption.】**

23 Upon receipt of **【such application,】** a certification or a certified
24 copy of the decree or judgment of a court in an adoption
25 proceeding, the State Registrar shall make a new certificate of birth
26 containing the information referred to in the preceding paragraph.
27 The fee for such service shall be **【\$6.00 which includes the issuance**
28 **of a certified copy of the new certificate】** established by the
29 Commissioner of Health and Senior Services, by regulation.

30 The State Registrar may file such a new certificate:

31 **【a.】** (1) for any foundling, for any child born in any state, and
32 for any child for whom an original birth report cannot be located,
33 who has been adopted in New Jersey; provided that there is attached
34 to the decree or judgment of the court in such adoption proceeding
35 or is submitted to the State Registrar a certified copy of the original
36 birth record or acceptable evidence of birth. In the case of a
37 foundling, the date and place of birth **【may】** shall be decided **【by**
38 **the adopting parent or parents if not decided by the court before**
39 **which the adoption proceedings were conducted】** by a court of
40 competent jurisdiction; and

41 **【b.】** (2) for any child born in a foreign country who was not a
42 citizen of the United States at the time of the child's birth, whose
43 adopting parent is a resident of this State, and who is adopted: **【(1)】**
44 (a) through a court of competent jurisdiction in this State; or **【(2)】**
45 (b) under the laws of a jurisdiction or country other than the United
46 States and has been granted an IR-3 immigrant visa, or a successor
47 immigrant visa, by the United States Citizenship and Immigration

1 Services. The new certificate shall be filed upon receipt of: a
2 request for the certificate from the court, the adopting parent, or the
3 adopted person if that person is 18 years of age or older; proof that
4 the adopting parent is a resident of this State; an official copy of the
5 judgment from the jurisdiction or country in which the child was
6 adopted; a certified translation of the foreign adoption; proof of the
7 date and place of the child's birth; and proof of IR-3 immigrant visa
8 status, or a successor immigrant visa status.

9 When applicable, the State Registrar may file a new certificate
10 for any child who is not a citizen of the United States and who is
11 adopted by a resident of this State, which certificate shall bear the
12 notation "by adoption," which shall also be shown upon any copy of
13 the certificate issued; such notation may be removed at any
14 subsequent date upon submission of acceptable proof that the child
15 has become a citizen of the United States.

16 When a new certificate of birth is made, the State Registrar shall
17 notify the local registrar of vital statistics of the place in which the
18 birth occurred, if applicable, who shall enter the new certificate in
19 his local record and place his copy of the original record under seal
20 with the State Registrar.

21 b. The State Registrar shall cause to be placed under seal the
22 original certificate of birth and all papers pertaining to the new
23 certificate of birth. Such seal shall not be broken except by:

24 (1) order of a court of competent jurisdiction; or

25 (2) a written, notarized request for an uncertified, long-form
26 copy of the adopted person's original certificate of birth, which
27 complies with existing statutory and executive orders to allow the
28 identification of the requested information, submitted by:

29 (a) the adopted person 18 years of age or older,

30 (b) a direct descendant 18 years of age or older of the adopted
31 person if the adopted person is deceased, or

32 (c) the adoptive parent or guardian of a minor adopted person.

33 c. Thereafter whenever a certification or certified copy of a
34 certificate of birth of such person is issued, it shall be made from
35 the new certificate of birth except when an order of a court of
36 competent jurisdiction shall require the issuance of [a] an
37 uncertified, long-form copy of the original certificate of birth, or
38 upon a written, notarized request for an uncertified, long-form copy
39 of the adopted person's original certificate of birth, as provided in
40 subsection b. of this section, excluding any statistical data gathered
41 solely for the use of the State.¹

42 (cf: P.L.2005, c.81, s.3)

43

44 2. (New section) a. During the 12-month period ¹[after]
45 beginning on¹ the date of ¹[enactment] adoption of regulations by
46 the Department of Health and Senior Services to carry out the
47 purposes¹ of this act, a birth parent of a person adopted prior to the
48 date of enactment of this act may submit to the State Registrar a

1 written, notarized request for nondisclosure or may make such a
2 request to the State Registrar in person. The request for
3 nondisclosure shall prohibit the State Registrar from providing the
4 birth parent's name and home address, as recorded on the adopted
5 person's birth certificate, upon receipt of a written, notarized
6 request for an uncertified, long-form copy of the adopted person's
7 original certificate of birth pursuant to subsection b. of R.S.26:8-
8 40.1 from an adopted person, direct descendant or adoptive parent
9 or guardian authorized by that statute to make such a request.

10 b. The State Registrar shall acknowledge, by mail, or if the
11 request is made in person, at the time the request is made, receipt of
12 the request for nondisclosure and shall enclose with the receipt a
13 family history form requesting medical, cultural and social history
14 regarding the birth parent, which the State Registrar shall require
15 the birth parent to complete to the best of the parent's knowledge
16 and return to the State Registrar within 60 days. The birth parent
17 may update the family history form, as necessary. Failure of a birth
18 parent to complete the form and return it within 60 days, upon
19 requesting nondisclosure, shall nullify the birth parent's request for
20 nondisclosure.

21 c. At any time following the request for nondisclosure, the
22 birth parent may rescind the request and the State Registrar shall
23 provide the identifying information concerning the birth parent to
24 the adopted person, direct descendant or adoptive parent or
25 guardian, upon request.

26 d. The State Registrar shall match the request for nondisclosure
27 and family history form with the adopted person's original
28 certificate of birth and retain the documents in the adopted person's
29 original certificate of birth file.

30 e. Notwithstanding the requirements of this section to the
31 contrary, in the case of a child who was surrendered pursuant to
32 P.L.2000, c.58 (C.30:4C-15.5 et seq.) and upon receipt of
33 notification from the Division of Youth and Family Services in the
34 Department of **'[Human Services] Children and Families'** pursuant
35 to **'[section] subsection'** f. of this section, the State Registrar shall
36 deem that the birth parent of the child has requested nondisclosure
37 and shall not provide the birth parent's name or home address, if the
38 name or address is recorded on the child's birth certificate, upon
39 receipt of a written, notarized request for an uncertified, long-form
40 copy of the adopted person's original certificate of birth pursuant to
41 R.S.26:8-40.1.

42 f. The Division of Youth and Family Services in the
43 Department of **'[Human Services] Children and Families'** shall
44 notify the State Registrar when a child is surrendered pursuant to
45 P.L.2000, c.58 (C.30:4C-15.5 et seq.) to enable the Registrar to
46 identify the certificate of birth of the child who was so surrendered
47 and deem that the birth parent of the child has requested
48 nondisclosure, as provided in subsection e. of this section.

1 3. (New section) a. Upon receipt of a written, notarized
2 request pursuant to subsection b. of R.S.26:8-40.1, the State
3 Registrar shall provide the authorized requester with an uncertified,
4 long-form copy of the adopted person's original certificate of birth.
5 The State Registrar shall include with the copy of the certificate of
6 birth a statement recommending that the requester contact the
7 approved agency or attorney who facilitated the adoption prior to
8 seeking contact with the adopted person's birth parent, and such
9 other information as specified in sections 4 and 6 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11 b. If the birth parent of the adopted person has submitted a
12 request for nondisclosure pursuant to section 2 of P.L. ,
13 c. (C.)(pending before the Legislature as this bill), the State
14 Registrar shall delete the name and home address of the birth parent
15 from the uncertified, long form copy of the original certificate of
16 birth, and provide a copy of the family history form submitted by
17 the birth parent with the certificate of birth.

18 c. The fee for the uncertified, 'original' long-form certificate
19 of birth 'preceding an adoption' shall be established by the
20 Commissioner of Health and Senior Services, by regulation.
21

22 4. (New section) a. A birth parent of an adopted person may
23 submit a document of contact preference to the State Registrar
24 indicating the birth parent's preference regarding contact with the
25 adopted person. The birth parent may change his preference at any
26 time by submitting a revised document of contact preference to the
27 State Registrar.

28 b. The document of contact preference shall be established by
29 the State Registrar, who shall provide a copy of the document to a
30 birth parent, upon request. The State Registrar shall also make the
31 document available for downloading from the official website of the
32 Department of Health and Senior Services.

33 c. The State Registrar shall require a birth parent who submits
34 a document of contact preference pursuant to this section to
35 complete a form providing updated family history information,
36 which includes medical, cultural and social history information
37 regarding the birth parent.

38 d. The document of contact preference shall provide the birth
39 parent with the following options from which the parent may select
40 one:

41 (1) "I would like to be contacted directly. I have completed a
42 document of contact preference and an updated family history form
43 and am submitting them to the State Registrar as set forth in this
44 document";

45 (2) "I would prefer to be contacted only through an intermediary.
46 I have completed a document of contact preference and an updated
47 family history form and am submitting them to the State Registrar

1 as set forth in this document. I would like the following named
2 individual to act as an intermediary _____"; or

3 (3) "I would prefer not to be contacted at this time. If I decide
4 later that I would like to be contacted, I will submit a revised
5 document of contact preference to the State Registrar. I have
6 completed a document of contact preference and an updated family
7 history form and am submitting them to the State Registrar as set
8 forth in this document."

9 e. The State Registrar shall request a birth parent who indicates
10 a preference for no contact by the adopted person to update the
11 family history information every 10 years until the birth parent
12 reaches the age of 40, and every five years thereafter.

13 f. The State Registrar shall match the completed document of
14 contact preference and family history form with the adopted
15 person's original certificate of birth and retain the documents in the
16 adopted person's original certificate of birth file.

17 g. Upon written, notarized request for an uncertified long-form
18 copy of an adopted person's original certificate of birth pursuant to
19 subsection b. of R.S.26:8-40.1, the State Registrar shall also provide
20 the authorized requester with a copy of the birth parent's document
21 of contact preference and the updated family history information, if
22 such a document or information has been submitted to the State
23 Registrar pursuant to this section.

24
25 5. (New section) a. An adopted person 18 years of age or
26 older, a direct descendant 18 years of age or older of the adopted
27 person if the adopted person is deceased, or the adoptive parent or
28 guardian of a minor adopted person may obtain from an approved
29 agency or the attorney who facilitated the adoption any family
30 history information concerning the adopted person that is contained
31 in that person's adoption file, upon submission of a written,
32 notarized request to the agency or attorney.

33 Prior to providing any identifying information about a birth
34 parent or the parent's family, the agency or attorney, as applicable,
35 shall contact the State Registrar to receive written notification if the
36 birth parent has submitted a request for nondisclosure. If such a
37 request has been submitted, the agency or attorney shall not
38 disclose any identifying information about the birth parent or the
39 parent's family.

40 As used in this section, "family history information" includes
41 medical, cultural and social history information provided by the
42 adopted person's birth parent and maintained by an approved
43 agency or attorney who facilitated an adoption.

44 b. In the event that the adopted person was under the '[care,]'
45 custody '[or supervision]'¹ of the Division of Youth and Family
46 Services in the Department of '[Human Services] Children and
47 Families¹ at the time of the person's adoption, the person may
48 request from the director of the division a statement, based on the

1 division's case file, that summarizes the circumstances under which
2 parental rights for the child were terminated.

3 c. Nothing in this act shall be construed to require the Division
4 of Youth and Family Services in the Department of ¹[Human
5 Services] Children and Families¹ to provide any identifying
6 information about the birth parents of a child who was surrendered
7 pursuant to the provisions of the "New Jersey Safe Haven
8 Protection Act," P.L. 2000, c.58 (C.30:4C-15.5 et seq.).

9
10 6. (New section) a. The State Registrar, through the
11 Department of Health and Senior Services, shall prepare
12 information regarding counseling resources and the use of an
13 intermediary for the purpose of enabling an adopted person to make
14 contact with a birth parent. The information shall also include the
15 procedure for contacting the Director of the Division of Youth and
16 Family Services as provided in subsection b. of section 5 of P.L. ,
17 c. (C.)(pending before the Legislature as this bill).

18 b. The State Registrar shall provide the information prepared
19 pursuant to subsection a. of this section to a person who requests an
20 uncertified, long-form copy of a birth certificate pursuant to
21 subsection b. of R.S.26:8-40.1 or the document of contact
22 preference.

23 c. The State Registrar shall make the information prepared
24 pursuant to subsection a. of this section available on the official
25 website of the Department of Health and Senior Services.

26
27 7. (New section) ¹a.¹ A person, firm, partnership, corporation,
28 association or agency that has placed a child for adoption shall not
29 be liable in any civil or criminal action for damages resulting from
30 information provided by the State Registrar pursuant to this act.

31 ¹b. An employee, agent or officer of the Department of Health
32 and Senior Services who is authorized by the Commissioner of
33 Health and Senior Services to disclose information relating to the
34 certification of birth pursuant to this act, shall not be liable for:

35 (1) disclosing information based on a written, notarized request
36 submitted in accordance with this act; and

37 (2) any error or inaccuracy in the information that is disclosed
38 after receipt of a written, notarized request submitted in accordance
39 with this act, and any consequence of that error or inaccuracy.¹

40
41 8. (New section) Within two years after the date of enactment
42 of this act, the Commissioner of Health and Senior Services, in
43 consultation with the Commissioner of ¹[Human Services]
44 Children and Families¹, shall provide to the Legislature ¹in
45 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1)¹, and
46 make available to the public, a report on the development and
47 administration of the initiatives established pursuant to sections 2

1 through 6 of this act. The report shall include, but not be limited to,
2 statistical, non-identifying data regarding:

3 a. the number of uncertified, long-form copies of original birth
4 certificates that were provided to adopted persons, the direct
5 descendants of deceased adopted persons and the adoptive parents
6 or guardians of minor adopted persons;

7 b. the number of requests for nondisclosure submitted by birth
8 parents;

9 c. the number of requests submitted by birth parents, through
10 the document of contact preference, for direct contact, contact by
11 an intermediary and no contact, respectively; and

12 d. the number of family history forms submitted by birth
13 parents.

14 The report shall also make recommendations for any needed
15 changes in the requirements, regulations or State policy concerning
16 the initiatives established by this act.

17

18 9. (New section) The Commissioner of Health and Senior
19 Services, in consultation with the Commissioner of '[Human
20 Services] Children and Families', shall adopt rules and regulations
21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
22 (C.52:14B-1 et seq.), which shall:

23 a. establish required information and procedures for 'the'
24 request for nondisclosure and the document of contact preference;

25 b. establish required information and procedures for the family
26 history form and the form to update family history information; and

27 c. establish a nominal fee for services provided under this act,
28 to meet the costs of implementing this act.

29

30 10. (New section) The Department of Health and Senior
31 Services shall contract with media outlets throughout the country to
32 produce and distribute national public service messages to increase
33 public awareness of and encourage participation in the initiatives
34 established pursuant to this act. The public service messages shall
35 inform the public of the procedures for: obtaining a long-form copy
36 of an adopted person's birth certificate; requesting nondisclosure;
37 submitting a document of contact preference; and submitting family
38 history information.

39

40 11. There is appropriated \$90,000 from the General Fund to the
41 Department of Health and Senior Services for the purpose of
42 providing public service messages pursuant to section 10 of this act.

43

44 12. This act shall take effect immediately, except that sections 1,
45 3, 4, 5 and 6 shall take effect one year after the date of enactment,
46 but the Commissioner of Health and Senior Services may take such
47 administrative action in advance of the effective date as shall be
48 necessary for the implementation of the act.