

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1406

STATE OF NEW JERSEY
214th LEGISLATURE

ADOPTED JUNE 14, 2010

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SYNOPSIS

Permits adoptees and certain others access to adoptee's original birth certificate and other related information.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Human Services Committee.

(Sponsorship Updated As Of: 1/7/2011)

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

3

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

6

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

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

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

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

42 The State Registrar may file such a new certificate:

43 **[a.]** (1) for any foundling, for any child born in any state, and
44 for any child for whom an original birth report cannot be located,

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.

1 who has been adopted in New Jersey; provided that there is attached
2 to the decree or judgment of the court in such adoption proceeding
3 or is submitted to the State Registrar a certified copy of the original
4 birth record or acceptable evidence of birth. In the case of a
5 foundling, the date and place of birth **【may】** shall be decided **【by**
6 the adopting parent or parents if not decided by the court before
7 which the adoption proceedings were conducted**】** by a court of
8 competent jurisdiction; and

9 **【b.】** (2) for any child born in a foreign country who was not a
10 citizen of the United States at the time of the child's birth, whose
11 adopting parent is a resident of this State, and who is adopted: **【(1)】**
12 (a) through a court of competent jurisdiction in this State; or **【(2)】**
13 (b) under the laws of a jurisdiction or country other than the United
14 States and has been granted an IR-3 immigrant visa, or a successor
15 immigrant visa, by the United States Citizenship and Immigration
16 Services. The new certificate shall be filed upon receipt of: a
17 request for the certificate from the court, the adopting parent, or the
18 adopted person if that person is 18 years of age or older; proof that
19 the adopting parent is a resident of this State; an official copy of the
20 judgment from the jurisdiction or country in which the child was
21 adopted; a certified translation of the foreign adoption; proof of the
22 date and place of the child's birth; and proof of IR-3 immigrant visa
23 status, or a successor immigrant visa status.

24 When applicable, the State Registrar may file a new certificate
25 for any child who is not a citizen of the United States and who is
26 adopted by a resident of this State, which certificate shall bear the
27 notation **【"by adoption,"】** "Certificate of Foreign Birth," which
28 shall also be shown upon any copy of the certificate issued; such
29 notation may be removed at any subsequent date upon submission
30 of acceptable proof that the child has become a citizen of the United
31 States.

32 When a new certificate of birth is made, the State Registrar shall
33 notify the local registrar of vital statistics of the place in which the
34 birth occurred, if applicable, who shall enter the new certificate in
35 his local record and **【place】** forward his copy of the original record
36 **【under seal】** to the State Registrar for disposition.

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

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

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

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

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

1 (c) the adoptive parent or guardian of a minor adopted person.
2 c. Thereafter whenever a certification or certified copy of a
3 certificate of birth of such person is issued, it shall be made from
4 the new certificate of birth except when an order of a court of
5 competent jurisdiction shall require the issuance of [a] an
6 uncertified, long-form copy of the original certificate of birth, or
7 upon a written, notarized request for an uncertified, long-form copy
8 of the adopted person's original certificate of birth, as provided in
9 subsection b. of this section, excluding any statistical data gathered
10 solely for the use of the State.

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

12

13 2. (New section) a. During the 12-month period beginning on
14 the date of adoption of regulations by the Department of Health and
15 Senior Services to carry out the purposes of this act, a birth parent
16 of a person adopted prior to the date of enactment of this act may
17 submit to the State Registrar a written, notarized request for
18 nondisclosure or may make such a request to the State Registrar in
19 person. The request for nondisclosure shall prohibit the State
20 Registrar from providing the birth parent's name and home address,
21 as recorded on the adopted person's birth certificate, upon receipt of
22 a written, notarized request for an uncertified, long-form copy of
23 the adopted person's original certificate of birth pursuant to
24 subsection b. of R.S.26:8-40.1 from an adopted person, direct
25 descendant or adoptive parent or guardian authorized by that statute
26 to make such a request.

27 b. The State Registrar shall acknowledge, by mail, or if the
28 request is made in person, at the time the request is made, receipt of
29 the request for nondisclosure and shall enclose with the receipt a
30 family history form requesting medical, cultural, and social history
31 regarding the birth parent, which the State Registrar shall require
32 the birth parent to complete to the best of the parent's knowledge
33 and return to the State Registrar within 60 days. The birth parent
34 may update the family history form, as necessary. Failure of a birth
35 parent to complete the form and return it within 60 days, upon
36 requesting nondisclosure, shall nullify the birth parent's request for
37 nondisclosure.

38 c. At any time following the request for nondisclosure, the
39 birth parent may rescind the request and the State Registrar shall
40 provide the identifying information concerning the birth parent to
41 the adopted person, direct descendant, or adoptive parent or
42 guardian, upon request.

43 d. The State Registrar shall maintain a file of completed
44 requests for nondisclosure and any rescissions thereof, and family
45 history information submitted by birth parents. Upon request for an
46 original certificate of birth pursuant to subsection b. of R.S.26:8-
47 40.1, the State Registrar shall determine whether there is on file a

1 request for nondisclosure or rescission, and any family history
2 information regarding the adopted person, and shall match such
3 documents with the adopted person's original certificate of birth
4 file. If such match exists, the request for nondisclosure or
5 rescission, and any family history information shall be retained in
6 the adopted person's original certificate of birth file.

7 e. Notwithstanding the requirements of this section to the
8 contrary, in the case of a child who was surrendered pursuant to
9 P.L.2000, c.58 (C.30:4C-15.5 et seq.) and upon receipt of
10 notification from the Division of Youth and Family Services in the
11 Department of Children and Families pursuant to subsection f. of
12 this section, the State Registrar shall deem that the birth parent of
13 the child has requested nondisclosure and shall not provide the birth
14 parent's name or home address, if the name or address is recorded
15 on the child's birth certificate, upon receipt of a written, notarized
16 request for an uncertified, long-form copy of the adopted person's
17 original certificate of birth pursuant to R.S.26:8-40.1.

18 f. The Division of Youth and Family Services in the
19 Department of Children and Families shall notify the State Registrar
20 when a child is surrendered pursuant to P.L.2000, c.58 (C.30:4C-
21 15.5 et seq.) to enable the Registrar to identify the certificate of
22 birth of the child who was so surrendered and deem that the birth
23 parent of the child has requested nondisclosure, as provided in
24 subsection e. of this section.

25
26 3. (New section) a. Upon receipt of a written, notarized
27 request pursuant to subsection b. of R.S.26:8-40.1, the State
28 Registrar shall provide the authorized requester with an uncertified,
29 long-form copy of the adopted person's original certificate of birth.
30 The State Registrar shall include with the copy of the certificate of
31 birth a statement recommending that the requester contact the
32 approved agency or intermediary who facilitated the adoption prior
33 to seeking contact with the adopted person's birth parent, and such
34 other information as specified in sections 4 and 6 of this act.

35 b. If the birth parent of the adopted person has submitted a
36 request for nondisclosure pursuant to section 2 of this act, the State
37 Registrar shall delete the identifying information of the birth parent
38 from the uncertified, long form copy of the original certificate of
39 birth and the family history form submitted by the birth parent with
40 the certificate of birth, and thereafter provide both to the requester.

41 c. The fee for the uncertified, original long-form certificate of
42 birth preceding an adoption shall be established by the
43 Commissioner of Health and Senior Services, by regulation.

44
45 4. (New section) a. A birth parent of an adopted person may
46 submit a document of contact preference to the State Registrar
47 indicating the birth parent's preference regarding contact with the
48 adopted person. The birth parent may change his preference at any

1 time by submitting a revised document of contact preference to the
2 State Registrar.

3 b. The document of contact preference shall be established by
4 the State Registrar, who shall provide a copy of the document to a
5 birth parent, upon request. The State Registrar shall also make the
6 document available for downloading from the official website of the
7 Department of Health and Senior Services.

8 c. The State Registrar shall require a birth parent who submits
9 a document of contact preference pursuant to this section to
10 complete a form providing updated family history information,
11 which includes medical, cultural and social history information
12 regarding the birth parent.

13 d. The document of contact preference shall provide the birth
14 parent with the following options from which the parent may select
15 one:

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

20 (2) "I would prefer to be contacted only through an intermediary.
21 I have completed a document of contact preference and an updated
22 family history form and am submitting them to the State Registrar
23 as set forth in this document. I would like the following named
24 individual to act as an intermediary _____"; or

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

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

35 f. The State Registrar shall maintain a file of documents of
36 contact preference and family history information submitted by
37 birth parents. Upon request for an original certificate of birth
38 pursuant to subsection b. of R.S.26:8-40.1, the State Registrar shall
39 determine whether there is on file a document of contact preference
40 and any family history information regarding the adopted person,
41 and if such documents exist, shall retain them in the adopted
42 person's original certificate of birth file.

43 g. Upon written, notarized request for an uncertified long-form
44 copy of an adopted person's original certificate of birth pursuant to
45 subsection b. of R.S.26:8-40.1, the State Registrar shall also provide
46 the authorized requester with a copy of the birth parent's document
47 of contact preference and the updated family history information, if

1 such a document or information has been submitted to the State
2 Registrar pursuant to this section.

3 h. The State Registrar shall provide to an authorized requester,
4 upon request, any information subsequently added to an adopted
5 person's certificate of birth file. The State Registrar may establish
6 a system to inform authorized requesters in the event that new
7 information is added to an adopted person's certificate of birth file.

8
9 5. (New section) a. An adopted person 18 years of age or
10 older, a direct descendant 18 years of age or older of the adopted
11 person if the adopted person is deceased, or the adoptive parent or
12 guardian of a minor adopted person may obtain from an approved
13 agency or the intermediary who facilitated the adoption any family
14 history information concerning the adopted person that is contained
15 in that person's adoption file, upon submission of a written,
16 notarized request to the agency or intermediary.

17 Prior to providing any identifying information about a birth
18 parent or the parent's family, the agency or intermediary, as
19 applicable, shall contact the State Registrar to receive written
20 notification if the birth parent has submitted a request for
21 nondisclosure. If such a request has been submitted, the agency or
22 intermediary shall not disclose any identifying information about
23 the birth parent or the parent's family.

24 As used in this section, "family history information" includes
25 medical, cultural, and social history information provided by the
26 adopted person's birth parent and maintained by an approved
27 agency or intermediary who facilitated an adoption.

28 b. In the event that the adopted person was under the custody
29 of the Division of Youth and Family Services in the Department of
30 Children and Families at the time of the person's adoption, the
31 person may request from the director of the division a statement,
32 based on the division's case file, that summarizes the circumstances
33 under which parental rights for the child were terminated.

34 c. Nothing in this act shall be construed to require the Division
35 of Youth and Family Services in the Department of Children and
36 Families to provide any identifying information about the birth
37 parents of a child who was surrendered pursuant to the provisions of
38 the "New Jersey Safe Haven Protection Act," P.L.2000, c.58
39 (C.30:4C-15.5 et seq.).

40
41 6. (New section) a. The State Registrar, through the
42 Department of Health and Senior Services, shall prepare
43 information regarding counseling resources and the use of an
44 intermediary for the purpose of enabling an adopted person to make
45 contact with a birth parent. The information shall also include the
46 procedure for contacting the Director of the Division of Youth and
47 Family Services as provided in subsection b. of section 5 of this act.

1 b. The State Registrar shall provide the information prepared
2 pursuant to subsection a. of this section to a person who requests an
3 uncertified, long-form copy of a birth certificate pursuant to
4 subsection b. of R.S.26:8-40.1 or the document of contact
5 preference.

6 c. The State Registrar shall make the information prepared
7 pursuant to subsection a. of this section available on the website of
8 the Department of Health and Senior Services.

9
10 7. (New section) a. A person, firm, partnership, corporation,
11 association or agency that has placed a child for adoption shall not
12 be liable in any civil or criminal action for damages resulting from
13 information provided by the State Registrar pursuant to this act.

14 b. An employee, agent or officer of the Department of Health
15 and Senior Services who is authorized by the Commissioner of
16 Health and Senior Services to disclose information relating to the
17 certification of birth pursuant to this act, shall not be liable for:

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

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

23
24 8. (New section) Within two years after the date of enactment
25 of this act, the Commissioner of Health and Senior Services, in
26 consultation with the Commissioner of Children and Families, shall
27 provide to the Legislature in accordance with section 2 of P.L.1991,
28 c.164 (C.52:14-19.1), and make available to the public, a report on
29 the development and administration of the initiatives established
30 pursuant to sections 2 through 6 of this act. The report shall
31 include, but not be limited to, statistical, non-identifying data
32 regarding:

33 a. the number of uncertified, long-form copies of original birth
34 certificates that were provided to adopted persons, the direct
35 descendants of deceased adopted persons, and the adoptive parents
36 or guardians of minor adopted persons;

37 b. the number of requests for nondisclosure submitted by birth
38 parents;

39 c. the number of requests submitted by birth parents, through
40 the document of contact preference, for direct contact, contact by
41 an intermediary, and no contact, respectively; and

42 d. the number of family history forms submitted by birth
43 parents.

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

1 9. (New section) The Department of Health and Senior
2 Services shall contract with media outlets throughout the country to
3 produce and distribute national public service messages to increase
4 public awareness of and encourage participation in the initiatives
5 established pursuant to this act. The public service messages shall
6 inform the public of the procedures for: obtaining a long-form copy
7 of an adopted person's birth certificate; requesting nondisclosure;
8 submitting a document of contact preference; and submitting family
9 history information.

10 The department shall also ensure that this information is
11 available on the department's website and the website of the State
12 of New Jersey.

13

14 10. (New section) a. An adopted person 18 years of age or
15 older, a direct descendant 18 years of age or older of the adopted
16 person if the adopted person is deceased, or the adoptive parent or
17 guardian of a minor adopted person, may request the approved
18 agency or intermediary that placed the child for adoption or
19 conducted an investigation pursuant to section 12 of P.L. 1977,
20 c.367 (C.9:3-48) to provide any available nonidentifying family
21 medical history information concerning the adopted person
22 contained in that person's adoption file.

23 b. Upon receipt of a request pursuant to subsection a. of this
24 section, the approved agency or intermediary shall provide the
25 requester with a detailed summary of any available nonidentifying
26 family medical history information concerning the adopted person
27 contained in the person's adoption file.

28 c. If a person is unable to obtain information under subsection
29 a. of this section because the agency or intermediary is unknown, to
30 accommodate the request for nonidentifying family medical history
31 information concerning the adopted person, the requester may
32 petition the court that granted the adoption to identify the agency or
33 intermediary, if possible.

34

35 11. (New section) The Commissioner of Health and Senior
36 Services, in consultation with the Commissioner of Children and
37 Families, shall adopt rules and regulations pursuant to the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), which shall:

40 a. establish required information and procedures for the request
41 for nondisclosure and the document of contact preference;

42 b. establish required information and procedures for the family
43 history form and the form to update family history information; and

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

46

47 12. (New section) Notwithstanding any provision of P.L.1968,

1 c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of
2 Health and Senior Services shall adopt, immediately upon filing
3 with the Office of Administrative Law, such regulations as the
4 commissioner deems necessary to implement the provisions of this
5 act, which regulations shall be effective for a period not to exceed
6 12 months and shall, thereafter, be amended, adopted, or readopted
7 by the commissioner in accordance with the requirements of
8 P.L.1968, c.410 (C.52:14B-1 et seq.).

9
10 13. This act shall take effect immediately; except that sections 1,
11 3, 4, 5, and 6 shall take effect, and section 10 shall expire,
12 beginning on the 13th month following the date of the adoption of
13 regulations providing for nondisclosures as provided in section 2 of
14 this act. The Commissioner of Health and Senior Services may take
15 such administrative action in advance of the effective date as shall
16 be necessary for the implementation of the act.