

[Second Reprint]
SENATE, No. 873

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended on May 12, 2014 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 5/23/2014)

1 AN ACT concerning adoptees, amending P.L.1977, c.367 and
 2 R.S.26:8-40.1, and supplementing Titles 9 and 26 of the Revised
 3 Statutes.

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

7
 8 1. Section 15 of P.L.1977, c.367 (C.9:3-51) is amended to read
 9 as follows:

10 15. The clerk of the Superior Court, Chancery Division, Family
 11 Part shall promptly file all judgments of adoption and shall maintain
 12 an alphabetical index of all judgments of adoption entered each year
 13 pursuant to P.L.1977, c.367 (C.9:3-37 et seq.), all of which records
 14 shall be sealed and thereafter shall be made accessible only by court
 15 order or as otherwise provided by law.

16 (cf: P.L.1993, c.345, s.14)

17
 18 2. Section 16 of P.L.1977, c.367 (C.9:3-52) is amended to read
 19 as follows:

20 16. a. All court records of proceedings relating to adoption,
 21 including the complaint, judgment, and all petitions, affidavits,
 22 testimony, reports, briefs, orders, and other relevant documents,
 23 shall be filed under seal by the clerk of the court and shall at no
 24 time be open to ²**[public]**² inspection or copying unless the court,
 25 upon good cause shown, shall otherwise order or as otherwise
 26 provided by law. An index to all adoption proceedings shall be
 27 maintained by the clerk of the court, but no index of adoption
 28 proceedings shall be open to inspection or copying or be made
 29 public except upon order of the court.

30 b. Upon entry of a judgment of adoption, the clerk of the court
 31 shall certify to the State Registrar, any successor agency or any
 32 similar agency in the State or country of the child's birth, the date of
 33 entry of the judgment, the names of the adopting parent or parents,
 34 the name of the child, the date and place of birth of the child, and
 35 the new name of the child if changed by the judgment of adoption.

36 (cf: P.L.1993, c.345, s.15)

37
 38 3. R.S.26:8-40.1 is amended to read as follows:

39 26:8-40.1. a. When any person ¹**[born in New Jersey who has**
 40 **been]** is¹ adopted pursuant to provisions of the laws of any state or
 41 country, and ¹**[which]** the¹ adoption has been certified to the State
 42 Registrar as required by **[**paragraph B of section 15 of P.L.1953,

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 January 27, 2014.

²Senate amendments adopted in accordance with Governor's
 recommendations May 12, 2014.

1 c.264 (C.9:3-31)] subsection b. of section 16 of P.L.1977, c.367
2 (C.9:3-52) or there is submitted a certification or a certified copy of
3 the decree or judgment of the court in [such] the adoption
4 proceedings, the State Registrar shall establish, in lieu of the
5 original birth record, a certificate of birth showing [(a)]: (1) the
6 name of the adopted person as changed by the decree of adoption, if
7 changed [, (b)]; (2) the date and place of birth [, (c)]; (3) the
8 names of the adopting parents or parent, including the maiden name
9 of the female adopting parent if [such] that name is given in the
10 certification or certified copy of the decree or judgment of the
11 court[,]; and [(d)] (4) the date of filing. In any instance where the
12 child has been adopted by the spouse of the natural parent, the name
13 of [such] the parent shall also be entered on the new certificate of
14 birth. [Such] The certificate of birth shall be of the same general
15 type as is used in making a birth certificate for a person who has not
16 been adopted. [Upon application by an adopting parent or parents
17 of any person born in the United States and adopted pursuant to the
18 laws of this State, the court before which the adoption proceedings
19 have been conducted, may, for good cause shown, direct and order
20 that the place of birth shall be the residence of the adopting parent
21 or parents at the time of said adoption; provided, however, that the
22 adopting parent or parents were residents of this State at the time of
23 said adoption.]

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

31 b. The State Registrar may file [such a] the new certificate:

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

42 [b.] (2) for any child born in a foreign country who was not a
43 citizen of the United States at the time of the child's birth, whose
44 adopting parent is a resident of this State, and who is adopted: [(1)]
45 (a) through a court of competent jurisdiction in this State; or [(2)]

1 **(b)** under the laws of a jurisdiction or country other than the United
2 States and has been granted an IR-3 immigrant visa, or a successor
3 immigrant visa, by the United States Citizenship and Immigration
4 Services. The new certificate shall be filed upon receipt of: a
5 request for the certificate from the court, the adopting parent, or the
6 adopted person if that person is 18 years of age or older; proof that
7 the adopting parent is a resident of this State; an official copy of the
8 judgment from the jurisdiction or country in which the child was
9 adopted; a certified translation of the foreign adoption; proof of the
10 date and place of the child's birth; and proof of IR-3 immigrant visa
11 status, or a successor immigrant visa status.

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

20 When a new certificate of birth is made, the State Registrar shall
21 notify the local registrar of vital statistics of the place in which the
22 birth occurred, if applicable, who shall enter the new certificate in
23 **[his]** the local registrar's local record and **[place his]** forward the
24 copy of the original record **[under seal]** to the State Registrar for
25 disposition.

26 **c.** The State Registrar shall cause to be placed under seal the
27 original certificate of birth and all papers pertaining to the new
28 certificate of birth. Such seal shall not be broken except **[by]**:

29 **(1)** by order of a court competent jurisdiction; or

30 **(2)** upon a request for an uncertified, long-form copy of the
31 adopted person's original certificate of birth by a person 18 years of
32 age or older who can establish himself as one of the following:

33 **(a)** the adopted person;

34 **(b)** a direct descendant, sibling, or spouse of the adopted person;

35 **(c)** an adoptive parent, legal guardian, or other legal
36 representative of the adopted person; or

37 **(d)** an agency of the State or federal government for official
38 purposes.

39 The State Registrar shall authenticate the identity of the
40 requestor and the requestor's relationship with the subject adopted
41 person.

42 **d.** Thereafter, whenever a certification or certified copy of a
43 certificate of birth of [such] the adopted person is issued, it shall
44 be made from the new certificate of birth except when an order of a
45 court of competent jurisdiction shall require the issuance of [a] an
46 uncertified, long-form copy of the original certificate of birth, or
47 upon a request for an uncertified, long-form copy of the adopted

1 person's original certificate of birth by an authorized requestor, as
2 provided in subsection c. of this section, excluding any statistical
3 data gathered solely for the use of the State.

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

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

18 b. The fee for the uncertified, original long-form certificate of
19 birth preceding an adoption shall be established, by regulation, by
20 the Commissioner of Health.

21
22 5. (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 State Registrar shall require a birth parent who submits
29 a document of contact preference pursuant to this section to
30 simultaneously submit a completed form providing updated family
31 history information, which shall include medical, cultural, and
32 social history information regarding the birth parent.

33 c. The form of the contact preference document and the form
34 of the family history information document shall be established by
35 the State Registrar, who shall provide a copy of each document to a
36 birth parent, upon request. The State Registrar shall also make the
37 documents available for downloading from the Department of
38 Health website.

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

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

46 (2) "I would prefer to be contacted only through an
47 intermediary. I have completed a document of contact preference

1 and an updated family history information document and am
2 submitting them to the State Registrar as set forth in this document.
3 I would like the following named individual to act as an
4 intermediary _____"; or

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

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

15 f. The State Registrar shall maintain a file of documents of
16 contact preference and family history information submitted by
17 birth parents. Upon request for an original certificate of birth
18 pursuant to subsection c. of R.S.26:8-40.1, the State Registrar shall
19 determine whether there is on file a document of contact preference
20 and a family history information document regarding the adopted
21 person, and if those documents exist, shall place and retain them in
22 the adopted person's original certificate of birth file.

23 g. Upon a request for an uncertified, long-form copy of an
24 adopted person's original certificate of birth pursuant to subsection
25 c. of R.S.26:8-40.1, the State Registrar shall also provide the
26 authorized requester with a copy of the birth parent's document of
27 contact preference and the updated family history information
28 document if those documents have been submitted to the State
29 Registrar pursuant to this section.

30 h. The State Registrar shall provide to an authorized requester,
31 upon request, any information subsequently added to an adopted
32 person's certificate of birth file. The State Registrar may establish
33 a system to inform authorized requesters in the event that new
34 information is added to an adopted person's certificate of birth file.

35 ²i. Notwithstanding the provisions of this section, in the case of
36 a person adopted prior to August 1, 2015, a birth parent may submit
37 a request for redaction of name and other identifying information of
38 the birth parent to the State Registrar on or before December 31,
39 2016 that provides that the name and other identifying information
40 of the birth parent shall be redacted in response to a request
41 pursuant to R.S.26:8-40.1, section 4 of P.L. , c. (C.)(pending
42 before the Legislature as this bill), or this section. At any time
43 following the request for redaction, the birth parent may rescind the
44 redaction request and the State Registrar shall provide the
45 identifying information concerning the birth parent. The State
46 Registrar shall retain a copy of the revised request for redaction and

1 share the information based on the revised request for redaction
2 document in accordance with the provisions of this section.²

3
4 ²6.(New section) a. An adopted person 18 years of age or
5 older may request the approved agency or the intermediary that
6 facilitated or placed the child for adoption or conducted an
7 investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48)
8 to provide any available medical or other family history information
9 concerning the adopted person that is contained in that person's
10 adoption file, by submission of a written, notarized request to the
11 agency or intermediary.

12 As used in this section, "medical or other family history
13 information" includes medical, cultural, and social history
14 information provided by the adopted person's birth parent and
15 maintained by an approved agency or intermediary who facilitated
16 an adoption.

17 b. Upon receipt of a request pursuant to subsection a. of this
18 section, the approved agency or intermediary shall provide the
19 adopted person with a detailed summary of any available medical or
20 other family history information concerning the adopted person
21 contained in the person's adoption file, including the names and last
22 known address of both birth parents.

23 c. If an adopted person is unable to obtain information under
24 subsection a. of this section because the agency or intermediary is
25 unknown, the adopted person may petition the court that granted the
26 adoption to consult its file and, if possible, identify the agency or
27 intermediary.

28 d. In the event that the adopted person was under the custody
29 of the Division of Child Protection and Permanency in the
30 Department of Children and Families at the time of the person's
31 adoption, the person may request from the director of the division a
32 statement, based on the division's case file, that summarizes the
33 circumstances under which parental rights for the child were
34 terminated.】²

35
36 ²6. (New section) a. Nothing in this act shall affect regulations
37 adopted by the Department of Children and Families with respect to
38 adoptions facilitated by the Department of Children and Families.

39 b. Nothing in this act shall alter the requirement for an
40 approved adoption agency to provide a prospective parent with non-
41 identifying information relevant to the child's development,
42 including the child's developmental and medical history, and the
43 birth parents' complete medical histories, as provided in section 1 of
44 P.L.1979, c.292 (C.9:3-41.1).²

45
46 ²7. (New section) a. The State Registrar, through the
47 Department of Health, shall prepare information regarding

1 counseling resources and the use of an intermediary for the purpose
2 of enabling an adopted person to make contact with a birth parent.
3 The information shall also include the procedure for contacting the
4 Director of the Division of Child Protection and Permanency as
5 provided in subsection d. of section 6 of P.L. , c. (C.)
6 (pending before the Legislature as this bill).

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

11 c. The State Registrar shall make the information prepared
12 pursuant to subsection a. of this section available on the website of
13 the Department of Health.¹²

14
15 ²7. (New section) In the event that the adopted person was under
16 the care and custody of the Division of Child Protection and
17 Permanency in the Department of Children and Families at the time
18 of the person's adoption, the director of the Division of Child
19 Protection and Permanency shall provide, upon request by an
20 authorized requester, a statement providing summaries of the
21 medical and social characteristics of birth family members, family
22 health histories, the facts and circumstances related to adoptive
23 placement, and summaries of case record material. The director
24 shall not release case records in response to such a request.²

25
26 ²8. (New section) Within two years after the date of enactment
27 of P.L. , c. (C.) (pending before the Legislature as this bill),
28 the Commissioner of Health, in consultation with the Commissioner
29 of Children and Families, shall provide to the Legislature in
30 accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), and
31 make available to the public, a report on the development and
32 administration of the initiatives established pursuant to sections 4
33 through 7 of P.L. , c. (C.) (pending before the Legislature as
34 this bill). The report shall include, but not be limited to, statistical,
35 non-identifying data regarding:

36 a. the number of uncertified, long-form copies of original birth
37 certificates of birth that were provided to adopted persons, direct
38 descendants, siblings, spouses, adoptive parents, legal guardians,
39 and other legal representatives, respectively, of adopted persons;

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

43 c. the number of family history information documents
44 submitted by birth parents.

45 The report shall also make recommendations for any needed
46 changes in the requirements, regulations, or State policy concerning
47 the initiatives established by P.L. , c. (C.).¹²

1 ²8. (New section) a. An authorized requester may request the
2 adoption facilitator that placed the child for adoption or conducted
3 an investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-
4 48) to provide any available non-identifying family medical history
5 information concerning the adopted person contained in that
6 person's confidential case records maintained by the adoption
7 facilitator.

8 b. Upon receipt of a request pursuant to subsection a. of this
9 section, the adoption facilitator shall provide the requester with a
10 detailed summary of any available non-identifying family medical
11 history information concerning the adopted person contained in that
12 person's confidential case records.

13 c. If the requester is unable to obtain any available non-
14 identifying family medical history information pursuant to
15 subsection b. of this section because the adoption facilitator is
16 unknown, in order to accommodate the request, the requester may
17 petition the court that granted the adoption to identify the adoption
18 facilitator, if possible.²

19
20 ²9. (New section) The Department of Health shall contract
21 with media outlets throughout the country to produce and distribute
22 national public service messages to increase public awareness of,
23 and encourage participation in, the initiatives established pursuant
24 to P.L. , c. (C.) (pending before the Legislature as this
25 bill). The public service messages shall inform the public of the
26 procedures for:

27 a. obtaining a long-form copy of an adopted person's certificate
28 of birth;

29 b. submitting a document of contact preference; and

30 c. submitting family history information.

31 The department shall also ensure that this information is
32 available on the department website and the website of the State of
33 New Jersey.】²

34
35 ²9. (New section) a. Notwithstanding the requirements of
36 P.L. , c. (C.)(pending before the Legislature as this bill) to the
37 contrary, in the case of a child who was surrendered pursuant to the
38 "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58
39 (C.30:4C-15.5 et seq.) and upon receipt of notification from the
40 Division of Child Protection and Permanency in the Department of
41 Children and Families in accordance with the provisions of
42 subsection b. of this section, the State Registrar shall not provide
43 any of the birth parent's identifying information recorded on the
44 child's certificate of birth upon receipt of a request from an
45 authorized requester for an uncertified, long-form copy of an
46 adopted person's original certificate of birth in accordance with the
47 provisions of subsection c. of R.S.26:8-40.1 and section 4 of

1 P.L. , c. (C.)(pending before the Legislature as this bill).

2 b. The Division of Child Protection and Permanency in the
3 Department of Children and Families shall notify the State Registrar
4 when a child is surrendered pursuant to P.L.2000, c.58 (C.30:4C-
5 15.5 et seq.) to enable the State Registrar to identify the certificate
6 of birth of the child who was so surrendered and deem that the
7 uncertified, long-form copy of the original certificate of birth shall
8 not be provided to the authorized requester.

9 c. Nothing in this act shall be construed to require the Division
10 of Child Protection and Permanency in the Department of Children
11 and Families to provide any identifying information about the birth
12 parents of a child who was surrendered pursuant to the provisions of
13 P.L.2000, c.58 (C.30:4C-15.5 et seq.).²

14
15 10. (New section) The Commissioner of Health ²【, in
16 consultation with】 and² the Commissioner of Children and
17 Families, ²as appropriate,² shall adopt rules and regulations
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.), ²【which shall:

20 a. establish required information and procedures for the
21 document of contact preference;

22 b. establish required information and procedures for submitting
23 and updating the family history information document; and

24 c. establish a nominal fee for services provided under P.L. ,
25 c. (C.) (pending before the Legislature as this bill), to meet
26 the costs of implementing P.L. , c. (C.)】 to carry out the
27 provisions of this act².
28

29 11. (New section) Notwithstanding any provision of P.L.1968,
30 c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of
31 Health ²【shall】 and the Commissioner of Children and Families
32 may² adopt, immediately upon filing with the Office of
33 Administrative Law, such regulations as the ²【commissioner
34 deems】 commissioners deem² necessary to implement the
35 provisions of P.L. , c. (C.) (pending before the
36 Legislature as this bill), which regulations shall be effective for a
37 period not to exceed 12 months and shall, thereafter, be amended,
38 adopted, or readopted by the ²【commissioner】 commissioners² in
39 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
40 et seq.).
41

42 12. This act shall take effect immediately; except that ²【sections
43 3, 4, and 5 shall take effect on the first day of the seventh month
44 next following the date of enactment.】 section 5 shall take effect on
45 August 1, 2015; and sections 3 and 4 shall take effect on January 1,
46 2017.² The Commissioner of Health may take such administrative

1 action in advance thereof as shall be necessary for the
2 implementation of this act ², including allowing a birth parent to
3 submit a document of contact preference prior to August 1, 2015².