

# ASSEMBLY, No. 1406

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

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**District 32 (Bergen and Hudson)**

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**District 38 (Bergen)**

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**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**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/21/2010)**

A1406 PRIETO, VOSS

2

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. 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.**

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)

41

42 2. (New section) a. During the 12-month period after the date  
43 of enactment of this act, a birth parent of a person adopted prior to  
44 the date of enactment of this act may submit to the State Registrar a  
45 written, notarized request for nondisclosure or may make such a  
46 request to the State Registrar in person. The request for  
47 nondisclosure shall prohibit the State Registrar from providing the

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

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

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

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

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

37 f. The Division of Youth and Family Services in the Department of  
38 Human Services shall notify the State Registrar when a child is  
39 surrendered pursuant to P.L.2000, c.58 (C.30:4C-15.5 et seq.) to  
40 enable the Registrar to identify the certificate of birth of the child who  
41 was so surrendered and deem that the birth parent of the child has  
42 requested nondisclosure, as provided in subsection e. of this section.

43  
44 3. (New section) a. Upon receipt of a written, notarized  
45 request pursuant to subsection b. of R.S.26:8-40.1, the State  
46 Registrar shall provide the authorized requester with an uncertified,  
47 long-form copy of the adopted person's original certificate of birth.  
48 The State Registrar shall include with the copy of the certificate of

1 birth a statement recommending that the requester contact the  
2 approved agency or attorney who facilitated the adoption prior to  
3 seeking contact with the adopted person's birth parent, and such  
4 other information as specified in sections 4 and 6 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

13 c. The fee for the uncertified, long-form certificate of birth shall  
14 be established by the Commissioner of Health and Senior Services,  
15 by regulation.

16

17 4. (New section) a. A birth parent of an adopted person may  
18 submit a document of contact preference to the State Registrar  
19 indicating the birth parent's preference regarding contact with the  
20 adopted person. The birth parent may change his preference at any  
21 time by submitting a revised document of contact preference to the  
22 State Registrar.

23 b. The document of contact preference shall be established by  
24 the State Registrar, who shall provide a copy of the document to a  
25 birth parent, upon request. The State Registrar shall also make the  
26 document available for downloading from the official website of the  
27 Department of Health and Senior Services.

28 c. The State Registrar shall require a birth parent who submits a  
29 document of contact preference pursuant to this section to complete  
30 a form providing updated family history information, which  
31 includes medical, cultural and social history information regarding  
32 the birth parent.

33 d. The document of contact preference shall provide the birth  
34 parent with the following options from which the parent may select  
35 one:

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

40 (2) "I would prefer to be contacted only through an intermediary.  
41 I have completed a document of contact preference and an updated  
42 family history form and am submitting them to the State Registrar  
43 as set forth in this document. I would like the following named  
44 individual to act as an intermediary \_\_\_\_\_"; or

45 (3) "I would prefer not to be contacted at this time. If I decide  
46 later that I would like to be contacted, I will submit a revised  
47 document of contact preference to the State Registrar. I have  
48 completed a document of contact preference and an updated family

1 history form and am submitting them to the State Registrar as set  
2 forth in this document."

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

7 f. The State Registrar shall match the completed document of  
8 contact preference and family history form with the adopted  
9 person's original certificate of birth and retain the documents in the  
10 adopted person's original certificate of birth file.

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

18

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

27 Prior to providing any identifying information about a birth  
28 parent or the parent's family, the agency or attorney, as applicable,  
29 shall contact the State Registrar to receive written notification if the  
30 birth parent has submitted a request for nondisclosure. If such a  
31 request has been submitted, the agency or attorney shall not  
32 disclose any identifying information about the birth parent or the  
33 parent's family.

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

38 b. In the event that the adopted person was under the care,  
39 custody or supervision of the Division of Youth and Family  
40 Services in the Department of Human Services at the time of the  
41 person's adoption, the person may request from the director of the  
42 division a statement, based on the division's case file, that  
43 summarizes the circumstances under which parental rights for the  
44 child were terminated.

45 c. Nothing in this act shall be construed to require the Division  
46 of Youth and Family Services in the Department of Human Services  
47 to provide any identifying information about the birth parents of a  
48 child who was surrendered pursuant to the provisions of the "New

1 Jersey Safe Haven Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et  
2 seq.).

3

4 6. (New section) a. The State Registrar, through the  
5 Department of Health and Senior Services, shall prepare  
6 information regarding counseling resources and the use of an  
7 intermediary for the purpose of enabling an adopted person to make  
8 contact with a birth parent. The information shall also include the  
9 procedure for contacting the Director of the Division of Youth and  
10 Family Services as provided in subsection b. of section 5 of P.L. ,

11 c. (C. ) (pending before the Legislature as this bill).

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

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

20

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

25

26 8. (New section) Within two years after the date of enactment  
27 of this act, the Commissioner of Health and Senior Services, in  
28 consultation with the Commissioner of Human Services, shall  
29 provide to the Legislature, and make available to the public, a  
30 report on the development and administration of the initiatives  
31 established pursuant to sections 2 through 6 of this act. The report  
32 shall include, but not be limited to, statistical, non-identifying data  
33 regarding:

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

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

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

43 d. the number of family history forms submitted by birth  
44 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 this act.

1 9. (New section) The Commissioner of Health and Senior  
2 Services, in consultation with the Commissioner of Human  
3 Services, shall adopt rules and regulations pursuant to the  
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
5 seq.), which shall:

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

8 b. establish required information and procedures for the family  
9 history form and the form to update family history information; and

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

12

13 10. (New section) The Department of Health and Senior  
14 Services shall contract with media outlets throughout the country to  
15 produce and distribute national public service messages to increase  
16 public awareness of and encourage participation in the initiatives  
17 established pursuant to this act. The public service messages shall  
18 inform the public of the procedures for: obtaining a long-form copy  
19 of an adopted person's birth certificate; requesting nondisclosure;  
20 submitting a document of contact preference; and submitting family  
21 history information.

22

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

26

27 12. This act shall take effect immediately, except that sections 1,  
28 3, 4, 5 and 6 shall take effect one year after the date of enactment,  
29 but the Commissioner of Health and Senior Services may take such  
30 administrative action in advance of the effective date as shall be  
31 necessary for the implementation of the act.

32

33

34

#### STATEMENT

35

36 This bill provides adult adopted persons and their adult  
37 descendants and adoptive parents and guardians of minors access to  
38 an adopted person's original birth certificate and other related  
39 documents.

40 The bill amends N.J.S.A.26:8-40.1 to permit an adopted person  
41 18 years of age or older, a direct descendant 18 years of age or  
42 older of a deceased adopted person, or the adoptive parent or  
43 guardian of a minor adopted person to obtain an uncertified, long-  
44 form copy of the adopted person's original birth certificate, upon  
45 submission of a written, notarized request to the State Registrar.  
46 Under current law, the State Registrar is required to place the  
47 adopted person's original birth certificate and all papers pertaining  
48 to the new certificate of birth under seal.

1 The bill also amends N.J.S.A.26:8-40.1 to eliminate language  
2 that allows the court, before which an adoption proceeding has  
3 taken place, to order that the residence of the adopting parents  
4 replace the place of birth on the birth certificate of an adopted child.  
5 In the case of a foundling, the bill requires a court of competent  
6 jurisdiction to designate the date and place of birth recorded on the  
7 original birth certificate.

8 Access to the original, long-form copy of an adopted person's  
9 birth certificate will begin one year after the date of enactment of  
10 the bill. The delayed effective date will provide birth parents of  
11 persons adopted prior to the date of enactment with a one-time, 12-  
12 month period during which they may submit to the State Registrar a  
13 written, notarized request for nondisclosure or make such a request  
14 to the State Registrar in person. The request for nondisclosure  
15 would prohibit the State Registrar from providing the birth parent's  
16 name and home address, as recorded on the birth certificate, to the  
17 adult adopted person or other persons authorized to request the birth  
18 certificate. The State Registrar shall acknowledge receipt of the  
19 request for nondisclosure and shall enclose with the receipt a family  
20 history form requesting medical, cultural and social history  
21 regarding the birth parent. The State Registrar shall require the  
22 birth parent to complete the form to the best of the parent's  
23 knowledge and return it to the State Registrar within 60 days. The  
24 birth parent may update the family history form as necessary. (The  
25 family history information will be provided to the adopted person  
26 when the person requests a copy of his birth certificate.) Failure of a  
27 birth parent to complete the form and return it within 60 days, upon  
28 requesting nondisclosure, shall nullify the birth parent's request for  
29 nondisclosure.

30 At any time following the request for nondisclosure, the birth  
31 parent may rescind the request and the State Registrar shall provide  
32 the identifying information concerning the birth parent to the  
33 adopted person or other authorized person, upon request.

34 The bill provides, however, that in the case of a child who was  
35 surrendered pursuant to the "New Jersey Safe Haven Infant  
36 Protection Act," the State Registrar shall deem that the birth parent of  
37 the child has requested nondisclosure and shall not provide the birth  
38 parent's name or home address, if the name or address is recorded on  
39 the child's birth certificate, upon receipt of a written, notarized request  
40 for an uncertified, long-form copy of the adopted person's original  
41 certificate of birth. The Division of Youth and Family Services in the  
42 Department of Human Services is directed to notify the State Registrar  
43 when a child is surrendered pursuant to that law to enable the Registrar  
44 to identify the certificate of birth of the child who was so surrendered  
45 and deem that the birth parent of the child has requested nondisclosure.

46 In the case of birth parents who do not request nondisclosure or  
47 whose child was adopted after the bill's enactment, the bill provides  
48 an opportunity for these birth parents to indicate their preference

1 concerning contact with the adopted person, by filing a document  
2 with the State Registrar that states whether the parent would prefer  
3 direct contact with the adopted person, contact through the use of an  
4 intermediary, or no contact. The birth parent may change his  
5 preference at any time by submitting a revised document of contact  
6 preference to the State Registrar.

7 Further, the bill provides that when a birth parent submits a  
8 document of contact preference to the State Registrar, the birth  
9 parent shall be requested to also submit family history information.  
10 The birth parent whose preference is no contact will be encouraged  
11 to update the family history information every 10 years until the  
12 birth parent reaches the age of 40, and every five years thereafter.  
13 In order to ensure that an adopted person gains access to this family  
14 history information, the State Registrar, upon receiving a request  
15 for an original long-form birth certificate, would provide the  
16 requester with information regarding the birth parent's preference  
17 for contact, as well as any family history information that has been  
18 submitted to the State Registrar by the birth parent.

19 The bill recognizes that family history information, which  
20 includes medical, cultural and social history information about an  
21 adopted person's birth parent, is important for an adopted person's  
22 medical concerns and emotional health. Therefore, the bill also  
23 provides that an adult adopted person or other authorized requester,  
24 upon submission of a written request to the adoption agency or  
25 attorney who facilitated the adoption, may obtain any existing  
26 family history information concerning the adopted person.  
27 However, prior to providing any identifying information about a  
28 birth parent or the parent's family, the agency or attorney, as  
29 applicable, shall contact the State Registrar to receive written  
30 notification if the birth parent has submitted a request for  
31 nondisclosure. If such a request has been submitted, the agency or  
32 attorney shall not disclose any identifying information about the  
33 birth parent or the parent's family. The bill also authorizes an  
34 adopted person who was under the care, custody or supervision of  
35 the Division of Youth and Family Services at the time of the  
36 person's adoption, to request from the director of the division a  
37 statement, based on the division's case file, that summarizes the  
38 circumstances under which parental rights for the child were  
39 terminated.

40 The bill directs the State Registrar, through the Department of  
41 Health and Senior Services, to prepare information regarding  
42 counseling resources and the use of an intermediary for the purpose  
43 of enabling an adopted person to make contact with a birth parent,  
44 and to provide this information to any person requesting the original  
45 long-form birth certificate or a copy of the document of contact  
46 preference, as well as make it available on the department's official  
47 website.

48 Under the provisions of the bill, a person, firm, partnership,

1 corporation, association or agency that placed a child for adoption  
2 shall not be liable in any civil or criminal action for damages  
3 resulting from information provided by the State Registrar pursuant  
4 to this bill.

5 The bill requires the Commissioner of Health and Senior  
6 Services, in consultation with the Commissioner of Human  
7 Services, to provide to the Legislature, and make available to the  
8 public, a report on the development and administration of the  
9 adoption-related initiatives established pursuant to the bill. The  
10 report shall include statistical, nonidentifying data regarding:

11 -- the number of uncertified, long-form copies of original birth  
12 certificates that were provided to adopted persons, the direct  
13 descendants of adopted persons and the parents or guardians of  
14 minor adopted persons;

15 -- the number of requests for nondisclosure submitted by birth  
16 parents;

17 -- the number of requests submitted by birth parents, through the  
18 document of contact preference, for direct contact, contact by an  
19 intermediary and no contact; and

20 -- the number of family history forms submitted by birth  
21 parents.

22 The bill authorizes the Commissioner of Health and Senior  
23 Services, in consultation with the Commissioner of Human  
24 Services, to adopt rules and regulations which shall:

25 -- establish required information and procedures for the request  
26 for nondisclosure and the document of contact preference;

27 -- establish required information and procedures for the family  
28 history form and the form to update family history information; and

29 -- establish a nominal fee for services provided under this bill, to  
30 meet the costs of implementation.

31 Finally, the bill appropriates \$90,000 to the Department of  
32 Health and Senior Services to contract with media outlets  
33 throughout the country to produce and distribute national public  
34 service messages to increase public awareness of and encourage  
35 participation in the initiatives established in the bill.

36 The bill takes effect immediately; however, the provisions  
37 concerning birth certificate access, document of contact preference  
38 and access to family history information from adoption agencies  
39 and attorneys take effect one year after the enactment date in order  
40 to provide certain birth parents with the opportunity to request  
41 nondisclosure.