

# ASSEMBLY, No. 4253

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 24, 2013

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Johnson, Amodeo, Assemblywoman Jasey, Assemblymen Ramos, Wolfe, Singleton, Assemblywoman Tucker and Assemblyman McKeon**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/7/2014)**

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 public inspection or copying unless the court, upon  
25 good cause shown, shall otherwise order or as otherwise provided  
26 by law. An index to all adoption proceedings shall be maintained  
27 by the clerk of the court, but no index of adoption proceedings shall  
28 be open to inspection or copying or be made public except upon  
29 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 born in New Jersey who has been  
40 adopted pursuant to provisions of the laws of any state or country,  
41 and which adoption has been certified to the State Registrar as  
42 required by **【paragraph B of section 15 of P.L.1953, c.264 (C.9:3-**  
43 **31)】** subsection b. of section 16 of P.L.1977, c.367 (C.9:3-52) or  
44 there is submitted a certification or a certified copy of the decree or  
45 judgment of the court in **【such】** the adoption proceedings, the State

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

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

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

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

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

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

8 When applicable, the State Registrar may file a new certificate  
9 for any child who is not a citizen of the United States and who is  
10 adopted by a resident of this State, which certificate shall bear the  
11 notation **["by adoption,"]** "certificate of foreign birth," which shall  
12 also be shown upon any copy of the certificate issued; **[such]** the  
13 notation may be removed at any subsequent date upon submission  
14 of acceptable proof that the child has become a citizen of the United  
15 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]** the local registrar's local record and **[place his]** forward the  
20 copy of the original record **[under seal]** to the State Registrar for  
21 disposition.

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

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

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

29 (a) the adopted person;

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

31 (c) an adoptive parent, legal guardian, or other legal  
32 representative of the adopted person; or

33 (d) an agency of the State or federal government for official  
34 purposes.

35 The State Registrar shall authenticate the identity of the  
36 requestor and the requestor's relationship with the subject adopted  
37 person.

38 d. Thereafter, whenever a certification or certified copy of a  
39 certificate of birth of [such] the adopted person is issued, it shall be  
40 made from the new certificate of birth except when an order of a  
41 court of competent jurisdiction shall require the issuance of [a] an  
42 uncertified, long-form copy of the original certificate of birth, or  
43 upon a request for an uncertified, long-form copy of the adopted  
44 person's original certificate of birth by an authorized requestor, as  
45 provided in subsection c. of this section, excluding any statistical  
46 data gathered solely for the use of the State.

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

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

11       b. The fee for the uncertified, original long-form certificate of  
12 birth preceding an adoption shall be established, by regulation, by  
13 the Commissioner of Health.  
14

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

21       b. The State Registrar shall require a birth parent who submits  
22 a document of contact preference pursuant to this section to  
23 simultaneously submit a completed form providing updated family  
24 history information, which shall include medical, cultural, and  
25 social history information regarding the birth parent.

26       c. The form of the contact preference document and the form  
27 of the family history information document shall be established by  
28 the State Registrar, who shall provide a copy of each document to a  
29 birth parent, upon request. The State Registrar shall also make the  
30 documents available for downloading from the Department of  
31 Health website.

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

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

39       (2) "I would prefer to be contacted only through an  
40 intermediary. I have completed a document of contact preference  
41 and an updated family history information document and am  
42 submitting them to the State Registrar as set forth in this document.  
43 I would like the following named individual to act as an  
44 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 information document and am submitting them to the State  
2 Registrar as set 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 maintain a file of documents of  
8 contact preference and family history information submitted by  
9 birth parents. Upon request for an original certificate of birth  
10 pursuant to subsection c. of R.S.26:8-40.1, the State Registrar shall  
11 determine whether there is on file a document of contact preference  
12 and a family history information document regarding the adopted  
13 person, and if those documents exist, shall place and retain them in  
14 the adopted person's original certificate of birth file.

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

22 h. The State Registrar shall provide to an authorized requester,  
23 upon request, any information subsequently added to an adopted  
24 person's certificate of birth file. The State Registrar may establish  
25 a system to inform authorized requesters in the event that new  
26 information is added to an adopted person's certificate of birth file.

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

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

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

47 c. If an adopted person is unable to obtain information under  
48 subsection a. of this section because the agency or intermediary is

1 unknown, the adopted person may petition the court that granted the  
2 adoption to consult its file and, if possible, identify the agency or  
3 intermediary.

4 d. In the event that the adopted person was under the custody  
5 of the Division of Child Protection and Permanency in the  
6 Department of Children and Families at the time of the person's  
7 adoption, the person may request from the director of the division a  
8 statement, based on the division's case file, that summarizes the  
9 circumstances under which parental rights for the child were  
10 terminated.

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12 7. (New section) a. The State Registrar, through the  
13 Department of Health, shall prepare information regarding  
14 counseling resources and the use of an intermediary for the purpose  
15 of enabling an adopted person to make contact with a birth parent.  
16 The information shall also include the procedure for contacting the  
17 Director of the Division of Child Protection and Permanency as  
18 provided in subsection d. of section 6 of P.L. , c. (C. )  
19 (pending before the Legislature as this bill).

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

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

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

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

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

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

1 The report shall also make recommendations for any needed  
2 changes in the requirements, regulations, or State policy concerning  
3 the initiatives established by P.L. , c. (C. ).  
4

5 9. (New section) The Department of Health shall contract with  
6 media outlets throughout the country to produce and distribute  
7 national public service messages to increase public awareness of,  
8 and encourage participation in, the initiatives established pursuant  
9 to P.L. , c. (C. ) (pending before the Legislature as this  
10 bill). The public service messages shall inform the public of the  
11 procedures for:

- 12 a. obtaining a long-form copy of an adopted person's certificate  
13 of birth;
- 14 b. submitting a document of contact preference; and
- 15 c. submitting family history information.

16 The department shall also ensure that this information is  
17 available on the department website and the website of the State of  
18 New Jersey.  
19

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

- 24 a. establish required information and procedures for the  
25 document of contact preference;
- 26 b. establish required information and procedures for submitting  
27 and updating the family history information document; and
- 28 c. establish a nominal fee for services provided under P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill), to meet  
30 the costs of implementing P.L. , c. (C. ).  
31

32 11. (New section) Notwithstanding any provision of P.L.1968,  
33 c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of  
34 Health shall adopt, immediately upon filing with the Office of  
35 Administrative Law, such regulations as the commissioner deems  
36 necessary to implement the provisions of P.L. , c. (C. )  
37 (pending before the Legislature as this bill), which regulations shall  
38 be effective for a period not to exceed 12 months and shall,  
39 thereafter, be amended, adopted, or readopted by the commissioner  
40 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-  
41 1 et seq.).  
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43 12. This act shall take effect immediately; except that sections 3,  
44 4, and 5 shall take effect on the first day of the seventh month next  
45 following the date of enactment. The Commissioner of Health may  
46 take such administrative action in advance thereof as shall be  
47 necessary for the implementation of this act.



STATEMENT

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This bill provides adult adopted persons and certain other individuals with the opportunity to obtain an adopted person's original birth certificate and other related documents, with certain restrictions to protect birth parents' privacy.

Specifically, the bill amends current law to allow the following persons, 18 years of age or older, access to an uncertified, long-form copy of an adopted person's original birth certificate, upon request to the State Registrar: 1) the adopted person; 2) a direct descendant, sibling, or spouse of the adopted person; 3) the adoptive parent, legal guardian, or other legal representative of the adopted person; or 4) a State or federal agency. Under current law, the only way to obtain an adopted person's original birth certificate is by court order.

The bill also amends current law to eliminate language that allows a court to replace the child's place of birth on the birth certificate with that of the adopting parents' residence. In the case of a foundling, the bill requires the court to designate the date and place of birth. In addition, the bill updates references to birth certificates involving foreign adoptions, and directs local registrars of vital statistics to forward the original certificate of birth to the State Registrar when a new one is made.

The bill provides an opportunity for the birth parent of an adopted person to indicate a preference concerning contact with the adopted person, by filing with the State Registrar a document indicating whether the parent prefers direct contact with the adopted person, contact through the use of an intermediary, or no contact. The birth parent may change this preference at any time by submitting a revised document of contact preference to the State Registrar.

Further, the bill provides that when a birth parent submits a document of contact preference to the State Registrar, the birth parent is required to also submit family history information. The birth parent whose preference is no contact will be encouraged to update the family history information every 10 years until the birth parent reaches the age of 40, and every five years thereafter. In order to ensure that an adopted person gains access to this family history information, the State Registrar, upon receiving a request for an uncertified, long-form copy of the original birth certificate, will provide the requester with information regarding the birth parent's preference for contact, as well as any family history information document that has been submitted to the State Registrar by the birth parent, including any updated information submitted; the bill authorizes the State Registrar to establish a system to inform authorized requesters in the event that new information is added to an adopted person's certificate of birth file.

An adopted person 18 years of age or older, upon submission of

1 a written, notarized request to the adoption agency or intermediary  
2 who facilitated the adoption, may obtain any available medical or  
3 family history information concerning the adopted person contained  
4 in that person's adoption file. If the requester is unable to obtain  
5 this information because the agency or intermediary is unknown,  
6 the requester may petition the court that granted the adoption to  
7 identify the agency or intermediary, if possible. The bill also  
8 authorizes an adopted person who was under the custody of the  
9 Division of Child Protection and Permanency (DCPP) at the time of  
10 the person's adoption, to request from the director of DCPP a  
11 statement, based on DCPP's case file, which summarizes the  
12 circumstances under which parental rights for the child were  
13 terminated.

14 The bill directs the State Registrar, through DOH, to prepare  
15 information regarding counseling resources and the use of an  
16 intermediary for the purpose of enabling an adopted person to make  
17 contact with a birth parent as well as make it available on the DOH  
18 website. The registrar is also required to provide this information  
19 to any person requesting the original long-form birth certificate or a  
20 copy of the document of contact preference.

21 The bill requires the Commissioner of Health, in consultation  
22 with the Commissioner of Children and Families, to provide to the  
23 Legislature, and make available to the public, a report on the  
24 development and administration of these initiatives. The report is  
25 to include statistical, nonidentifying data regarding:

26 --the number of uncertified, long-form copies of original birth  
27 certificates provided;

28 --the number of requests submitted by birth parents, through the  
29 document of contact preference, for direct contact, contact by an  
30 intermediary, and no contact; and

31 --the number of family history information documents submitted  
32 by birth parents.

33 The Commissioner of Health, in consultation with the  
34 Commissioner of Children and Families, is authorized to adopt  
35 rules and regulations establishing:

36 --the required information and procedures for the document of  
37 contact preference;

38 --the required information and procedures for submitting and  
39 updating the family history information document; and

40 --a nominal fee for services provided under this bill, to meet the  
41 costs of implementation.

42 To expedite the adoption of regulations, the Commissioner of  
43 Health is authorized to adopt emergency regulations immediately  
44 upon filing the regulations with the Office of Administrative Law.

45 DOH is to contract with media outlets throughout the country to  
46 produce and distribute national public service messages to increase  
47 public awareness of, and encourage participation in, the initiatives  
48 established under this bill and to inform the public of the

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1 procedures for obtaining a long-form copy of an adopted person's  
2 birth certificate, submitting a document of contact preference, and  
3 submitting family history information. In addition, DOH is to  
4 ensure that this information is posted on its website and on the  
5 State's website.