

**SENATE, No. 2814**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED MAY 30, 2013

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator DIANE B. ALLEN**

**District 7 (Burlington)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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  
40 been adopted pursuant to provisions of the laws of any state or  
41 country, and which adoption has been certified to the State  
42 Registrar as required by **[paragraph B of section 15 of P.L.1953,**  
43 **c.264 (C.9:3-31)]** subsection b. of section 16 of P.L.1977, c.367  
44 (C.9:3-52) or there is submitted a certification or a certified copy of

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

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

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

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

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

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

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

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

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

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

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

30 (a) the adopted person;

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

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

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

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

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

1 data gathered solely for the use of the State.

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

3

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

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

17

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

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

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

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

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

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

48 (3) "I would prefer not to be contacted at this time. If I decide

1 later that I would like to be contacted, I will submit a revised  
2 document of contact preference to the State Registrar. I have  
3 completed a document of contact preference and an updated family  
4 history information document and am submitting them to the State  
5 Registrar as set forth in this document."

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

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

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

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

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

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

44 b. Upon receipt of a request pursuant to subsection a. of this  
45 section, the approved agency or intermediary shall provide the  
46 adopted person with a detailed summary of any available medical or  
47 other family history information concerning the adopted person

1 contained in the person's adoption file, including the names and last  
2 known address of both birth parents.

3 c. If an adopted person is unable to obtain information under  
4 subsection a. of this section because the agency or intermediary is  
5 unknown, the adopted person may petition the court that granted the  
6 adoption to consult its file and, if possible, identify the agency or  
7 intermediary.

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

15

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

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

28 c. The State Registrar shall make the information prepared  
29 pursuant to subsection a. of this section available on the website of  
30 the Department of Health.

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

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

45 b. the number of requests submitted by birth parents through  
46 the document of contact preference, for direct contact, contact by  
47 an intermediary, and no contact, respectively; and

1 c. the number of family history information documents  
2 submitted by birth parents.

3 The report shall also make recommendations for any needed  
4 changes in the requirements, regulations, or State policy concerning  
5 the initiatives established by P.L. , c. (C. ).  
6

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

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

16 b. submitting a document of contact preference; and

17 c. submitting family history information.

18 The department shall also ensure that this information is  
19 available on the department website and the website of the State of  
20 New Jersey.  
21

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

26 a. establish required information and procedures for the  
27 document of contact preference;

28 b. establish required information and procedures for submitting  
29 and updating the family history information document; and

30 c. establish a nominal fee for services provided under P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill), to meet  
32 the costs of implementing P.L. , c. (C. ).  
33

34 11. (New section) Notwithstanding any provision of P.L.1968,  
35 c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of  
36 Health shall adopt, immediately upon filing with the Office of  
37 Administrative Law, such regulations as the commissioner deems  
38 necessary to implement the provisions of P.L. , c. (C. )  
39 (pending before the Legislature as this bill), which regulations shall  
40 be effective for a period not to exceed 12 months and shall,  
41 thereafter, be amended, adopted, or readopted by the commissioner  
42 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-  
43 1 et seq.).  
44

45 12. This act shall take effect immediately; except that sections 3,  
46 4, and 5 shall take effect on the first day of the seventh month next  
47 following the date of enactment. The Commissioner of Health may



1 take such administrative action in advance thereof as shall be  
2 necessary for the implementation of this act.

3

4

5

STATEMENT

6

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

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

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

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

36 Further, the bill provides that when a birth parent submits a  
37 document of contact preference to the State Registrar, the birth  
38 parent is required to also submit family history information. The  
39 birth parent whose preference is no contact will be encouraged to  
40 update the family history information every 10 years until the birth  
41 parent reaches the age of 40, and every five years thereafter. In  
42 order to ensure that an adopted person gains access to this family  
43 history information, the State Registrar, upon receiving a request  
44 for an uncertified, long-form copy of the original birth certificate,  
45 will provide the requester with information regarding the birth  
46 parent's preference for contact, as well as any family history  
47 information document that has been submitted to the State  
48 Registrar by the birth parent, including any updated information

1 submitted; the bill authorizes the State Registrar to establish a  
2 system to inform authorized requesters in the event that new  
3 information is added to an adopted person's certificate of birth file.

4 An adopted person 18 years of age or older, upon submission of  
5 a written, notarized request to the adoption agency or intermediary  
6 who facilitated the adoption, may obtain any available medical or  
7 family history information concerning the adopted person contained  
8 in that person's adoption file. If the requester is unable to obtain  
9 this information because the agency or intermediary is unknown,  
10 the requester may petition the court that granted the adoption to  
11 identify the agency or intermediary, if possible. The bill also  
12 authorizes an adopted person who was under the custody of the  
13 Division of Child Protection and Permanency (DCPP) at the time of  
14 the person's adoption, to request from the director of DCPP a  
15 statement, based on DCPP's case file, which summarizes the  
16 circumstances under which parental rights for the child were  
17 terminated.

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

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

30 -- the number of uncertified, long-form copies of original birth  
31 certificates provided;

32 -- the number of requests submitted by birth parents, through the  
33 document of contact preference, for direct contact, contact by an  
34 intermediary, and no contact; and

35 -- the number of family history information documents submitted  
36 by birth parents.

37 The Commissioner of Health, in consultation with the  
38 Commissioner of Children and Families, is authorized to adopt  
39 rules and regulations establishing:

40 -- the required information and procedures for the document of  
41 contact preference;

42 -- the required information and procedures for submitting and  
43 updating the family history information document; and

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

46 To expedite the adoption of regulations, the Commissioner of  
47 Health is authorized to adopt emergency regulations immediately  
48 upon filing the regulations with the Office of Administrative Law.

**S2814 VITALE, ALLEN**

11

1 DOH is to contract with media outlets throughout the country to  
2 produce and distribute national public service messages to increase  
3 public awareness of, and encourage participation in, the initiatives  
4 established under this bill and to inform the public of the  
5 procedures for obtaining a long-form copy of an adopted person's  
6 birth certificate, submitting a document of contact preference, and  
7 submitting family history information. In addition, DOH is to  
8 ensure that this information is posted on its website and on the  
9 State's website.