

CHAPTER 9

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

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

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

C.9:3-51 Judgments of adoption; records.

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

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

C.9:3-52 Court records of proceedings.

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

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

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

Adopted children, birth certificates; procedure.

26:8-40.1. a. When any person is adopted pursuant to provisions of the laws of any state or country, and the adoption has been certified to the State Registrar as required by subsection b. of section 16 of P.L.1977, c.367 (C.9:3-52) or there is submitted a certification or a certified copy of the decree or judgment of the court in the adoption proceedings, the State Registrar shall establish, in lieu of the original birth record, a certificate of birth showing: (1) the name of the adopted person as changed by the decree of adoption, if changed; (2) the date and place of birth ; (3) the names of the adopting parents or parent, including the maiden name of the female adopting parent if that name is given in the certification or certified copy of the decree or judgment of the court; and (4) the date of filing. In any instance where the child has been adopted by the spouse of the natural parent, the name of the parent shall also be entered on the new certificate of birth. The certificate of birth shall be of the same general type as is used in making a birth certificate for a person who has not been adopted.

Upon receipt of a certification or certified copy of the decree or judgment of a court in an adoption proceeding, the State Registrar shall make a new certificate of birth containing the

information referred to in the preceding paragraph. The fee for this service shall be established by the Commissioner of Health, by regulation.

b. The State Registrar may file the new certificate:

(1) for any foundling, for any child born in any state, and for any child for whom an original birth report cannot be located, who has been adopted in New Jersey; provided that there is attached to the decree or judgment of the court in such adoption proceeding or is submitted to the State Registrar a certified copy of the original birth record or acceptable evidence of birth. In the case of a foundling, the date and place of birth shall be decided by a court of competent jurisdiction; and

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

When applicable, the State Registrar may file a new certificate for any child who is not a citizen of the United States and who is adopted by a resident of this State, which certificate shall bear the notation "certificate of foreign birth," which shall also be shown upon any copy of the certificate issued; the notation may be removed at any subsequent date upon submission of acceptable proof that the child has become a citizen of the United States.

When a new certificate of birth is made, the State Registrar shall notify the local registrar of vital statistics of the place in which the birth occurred, if applicable, who shall enter the new certificate in the local registrar's local record and forward the copy of the original record to the State Registrar for disposition.

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

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

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

(a) the adopted person;

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

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

or

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

The State Registrar shall authenticate the identity of the requester and the requester's relationship with the subject adopted person.

d. Thereafter, whenever a certification or certified copy of a certificate of birth of the adopted person is issued, it shall be made from the new certificate of birth except when an order of a court of competent jurisdiction shall require the issuance of an uncertified, long-form copy of the original certificate of birth, or upon a request for an uncertified, long-form copy of the adopted person's original certificate of birth by an authorized requester, as provided in subsection c. of this section, excluding any statistical data gathered solely for the

use of the State.

C.26:8-40.33 Provision of uncertified long-form copy of adopted person's original certificate of birth.

4. a. Upon receipt of a request pursuant to subsection c. of R.S.26:8-40.1, the State Registrar shall provide the authorized requester with an uncertified, long-form copy of the adopted person's original certificate of birth in accordance with the provisions of P.L.2014, c.9 (C.26:8-40.33 et al.).

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

C.26:8-40.34 Submission of document of contact preference by birth parent.

5. a. A birth parent of an adopted person may submit a document of contact preference to the State Registrar indicating the birth parent's preference regarding contact with the adopted person. The birth parent may change his preference at any time by submitting a revised document of contact preference to the State Registrar.

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

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

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

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

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

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

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

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

g. Upon a request for an uncertified, long-form copy of an adopted person's original certificate of birth pursuant to subsection c. of R.S.26:8-40.1, the State Registrar shall also

provide the authorized requester with a copy of the birth parent's document of contact preference and the updated family history information document if those documents have been submitted to the State Registrar pursuant to this section.

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

i. Notwithstanding the provisions of this section, in the case of a person adopted prior to August 1, 2015, a birth parent may submit a request for redaction of name and other identifying information of the birth parent to the State Registrar on or before December 31, 2016 that provides that the name and other identifying information of the birth parent shall be redacted in response to a request pursuant to R.S.26:8-40.1, section 4 of P.L.2014, c.9 (C.26:8-40.33), or this section. At any time following the request for redaction, the birth parent may rescind the redaction request and the State Registrar shall provide the identifying information concerning the birth parent. The State Registrar shall retain a copy of the revised request for redaction and share the information based on the revised request for redaction document in accordance with the provisions of this section.

C.9:3-40.11 Regulations unaffected.

6. a. Nothing in this act shall affect regulations adopted by the Department of Children and Families with respect to adoptions facilitated by the Department of Children and Families.

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

C.9:3-39.2 Provision of certain information.

7. In the event that the adopted person was under the care and custody of the Division of Child Protection and Permanency in the Department of Children and Families at the time of the person's adoption, the director of the Division of Child Protection and Permanency shall provide, upon request by an authorized requester, a statement providing summaries of the medical and social characteristics of birth family members, family health histories, the facts and circumstances related to adoptive placement, and summaries of case record material. The director shall not release case records in response to such a request.

C.9:3-39.3 Request for certain information.

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

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

c. If the requester is unable to obtain any available non-identifying family medical history information pursuant to subsection b. of this section because the adoption facilitator

is unknown, in order to accommodate the request, the requester may petition the court that granted the adoption to identify the adoption facilitator, if possible.

C.26:8-40.35 Certain cases exempt.

9. a. Notwithstanding the requirements of P.L.2014, c.9 (C.26:8-40.33 et al.) to the contrary, in the case of a child who was surrendered pursuant to the "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et seq.) and upon receipt of notification from the Division of Child Protection and Permanency in the Department of Children and Families in accordance with the provisions of subsection b. of this section, the State Registrar shall not provide any of the birth parent's identifying information recorded on the child's certificate of birth upon receipt of a request from an authorized requester for an uncertified, long-form copy of an adopted person's original certificate of birth in accordance with the provisions of subsection c. of R.S.26:8-40.1 and section 4 of P.L.2014, c.9 (C.26:8-40.33).

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

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

C.26:8-40.36 Rules, regulations.

10. The Commissioner of Health and the Commissioner of Children and Families, as appropriate, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this act.

C.26:8-40.37 Additional regulations.

11. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Health and the Commissioner of Children and Families may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioners deem necessary to implement the provisions of P.L.2014, c.9 (C.26:8-40.33 et al.), which regulations shall be effective for a period not to exceed 12 months and shall, thereafter, be amended, adopted, or readopted by the commissioners in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

12. This act shall take effect immediately; except that section 5 shall take effect on August 1, 2015; and sections 3 and 4 shall take effect on January 1, 2017. The Commissioner of Health may take such administrative action in advance thereof as shall be necessary for the implementation of this act, including allowing a birth parent to submit a document of contact preference prior to August 1, 2015.

Approved May 27, 2014.