

SENATE, No. 1093

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 23, 2004

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

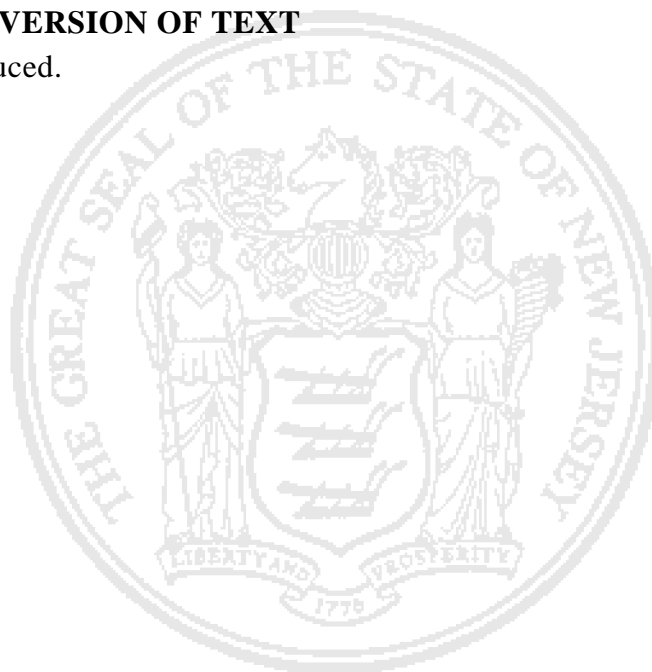
Senator Karcher

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

As introduced.



(Sponsorship Updated As Of: 5/7/2004)

S1093 VITALE, BUONO

2

1 ANACT concerning adoptees, amending R.S.26:8-40.1, supplementing
2 Titles 9 and 26 of the Revised Statutes and making an
3 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 been
10 adopted pursuant to provisions of the laws of any state or country, and
11 which adoption has been certified to the State Registrar as required by
12 **[paragraph B of section 15 of P.L.1953, c.264 (C.9:3-31)]** subsection
13 b. of section 16 of P.L.1977, c.367 (C.9:3-52) or there is submitted a
14 certification or a certified copy of the decree or judgment of the court
15 in such adoption proceedings, the State Registrar shall establish, in lieu
16 of the original birth record, a certificate of birth showing (a) the name
17 of the adopted person as changed by the decree of adoption, if
18 changed, (b) the date and place of birth, (c) the names of the adopting
19 parents or parent including the maiden name of the female adopting
20 parent if such name is given in the certification or certified copy of the
21 decree or judgment of the court, and (d) the date of filing. In any
22 instance where the child has been adopted by the spouse of the natural
23 parent the name of such parent shall also be entered on the new
24 certificate of birth. Such certificate shall be of the same general type
25 as is used in making a birth certificate for a person who has not been
26 adopted.

27 **[Upon application by an adopting parent or parents of any person**
28 **born in the United States and adopted pursuant to the laws of this**
29 **State, the court before which the adoption proceedings have been**
30 **conducted, may, for good cause shown, direct and order that the place**
31 **of birth shall be the residence of the adopting parent or parents at the**
32 **time of said adoption; provided, however, that the adopting parent or**
33 **parents were residents of this State at the time of said adoption.]**

34 Upon receipt of **[such application,]** a certification or a certified
35 copy of the decree or judgment of a court in an adoption proceeding,
36 the State Registrar shall make a new certificate of birth containing the
37 information referred to in the preceding paragraph. The fee for such
38 service shall be **[\$6.00]** \$6 which includes the issuance of a certified
39 copy of the new certificate.

40 The State Registrar may file such a new certificate for any
41 foundling, for any child born in any state or country, and for any child
42 for whom an original birth report cannot be located, who has been

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 adopted in New Jersey; provided that there is attached to the decree
2 or judgment of the court in such adoption proceeding or is submitted
3 to the State Registrar a certified copy of the original birth record or
4 acceptable evidence of birth. In the case of a foundling, the date and
5 place of birth [may] shall be decided [by the adopting parent or
6 parents if not decided by the court before which the adoption
7 proceedings were conducted] by a court of competent jurisdiction.
8 Such certificate for any child who is not a citizen of the United States
9 shall bear the notation "by adoption," which shall also be shown upon
10 any copy of the certificate issued; such notation may be removed at
11 any subsequent date upon submission of acceptable proof that the child
12 has become a citizen of the United States.

13 When a new certificate of birth is made the State Registrar shall
14 notify the local registrar of vital statistics of the place in which the
15 birth occurred who shall enter the new certificate in his local record
16 and place his copy of the original record under seal.

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

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

21 (2) beginning nine months after the date of enactment of P.L. , c.
22 (pending before the Legislature as this bill), a written request for an
23 uncertified, long-form copy of the adopted person's original certificate
24 of birth submitted by:

25 (a) the adopted person 18 years of age or older,

26 (b) a direct descendant 18 years of age or older of the adopted
27 person if the adopted person is deceased, or

28 (c) the adoptive parent or guardian of a minor adopted person.

29 c. Thereafter whenever a certificate of birth of such person is
30 issued, it shall be made from the new certificate of birth except when
31 an order of a court of competent jurisdiction shall require the issuance
32 of a copy of the original certificate of birth, or upon a written request
33 for an uncertified, long-form copy of the adopted person's original
34 certificate of birth, as provided in subsection b. of this section,
35 excluding any statistical data gathered solely for the use of the State.

36 (cf: P.L.1983, c.275, s.13)

37

38 2. (New section) Beginning nine months after the date of
39 enactment of this act, upon receipt of a written request pursuant to
40 R.S.26:8-40.1, the State Registrar shall provide the adopted person 18
41 years of age or older, direct descendant 18 years of age or older of the
42 deceased adopted person, or adoptive parent or guardian of a minor
43 adopted person, as applicable, with an uncertified, long-form copy of
44 the adopted person's original certificate of birth.

1 3. (New section) a. Beginning 90 days after the date of enactment
2 of this act, a birth parent of an adopted person may submit a document
3 of contact preference to the State Registrar indicating the birth
4 parent's preference regarding contact with the adopted person. The
5 birth parent may change his preference at any time by submitting a
6 revised document of contact preference to the State Registrar.

7 b. The document of contact preference shall be established by the
8 State Registrar, who shall provide a copy of the document, upon
9 request, to a birth parent. The State Registrar shall also make an
10 electronic copy of the document available on the official website of the
11 Department of Health and Senior Services.

12 c. The State Registrar shall request a birth parent who submits a
13 document of contact preference pursuant to subsection a. of this
14 section to complete a form providing updated family history
15 information, which includes medical, cultural and social history
16 information regarding the birth parent.

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

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

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

29 (3) "I would prefer not to be contacted at this time. I have
30 completed a document of contact preference and an updated family
31 history form and am submitting them to the State Registrar as set forth
32 in this document."

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

37 f. The State Registrar shall match the completed document of
38 contact preference and family history form with the adopted person's
39 original birth certificate and retain the documents in the adopted
40 person's original certificate of birth file.

41 g. Beginning nine months after the date of enactment of this act,
42 upon written request for an uncertified long-form copy of an adopted
43 person's original certificate of birth pursuant to R.S.26:8-40.1, the
44 State Registrar shall also provide the adopted person 18 years of age
45 or older, the direct descendant 18 years of age or older of the adopted
46 person if the adopted person is deceased, or the adoptive parent or

1 guardian of a minor adopted person, as applicable, with a copy of the
2 birth parent's document of contact preference and the updated family
3 history information, if such a document or updated information has
4 been submitted to the State Registrar pursuant to this section.

5

6 4. (New section) An adopted person 18 years of age or older, a
7 direct descendant 18 years of age or older of the adopted person if the
8 adopted person is deceased, or the adoptive parent or guardian of a
9 minor adopted person may obtain from an approved agency or the
10 attorney who facilitated the adoption any family history information
11 concerning the adopted person that is contained in that person's
12 adoption file, upon submission of a written request to the approved
13 agency or attorney who facilitated the adoption.

14 Family history information includes medical, cultural and social
15 history information provided by the adopted person's birth parent and
16 maintained by an approved adoption agency or attorney.

17

18 5. (New section) Beginning 90 days after the date of enactment of
19 P.L. , c. (C.)(pending before the Legislature as this bill), an
20 approved agency or attorney who facilitates an adoption in this State
21 shall provide the birth parent with a copy of the document of contact
22 preference and information about the procedure for submitting the
23 document to the State Registrar, as provided in section 3 of P.L. , c.
24 (C.)(pending before the Legislature as this bill).

25

26 6. (New section) a. The State Registrar, through the Department
27 of Health and Senior Services, shall prepare information regarding
28 counseling resources and the use of an intermediary for the purpose of
29 enabling an adopted person to make contact with a birth parent.

30 b. The State Registrar shall provide the information prepared
31 pursuant to subsection a. of this section to an adopted person 18 years
32 of age or older, direct descendant 18 years of age or older of the
33 deceased adopted person, adoptive parent or guardian of a minor
34 adopted person, who requests a copy of the long-form birth certificate
35 pursuant to R.S.26:8-40.1 or a copy of the birth parent's document of
36 contact preference or the form to update family history information,
37 pursuant to section 3 of this act.

38

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

43

44 8. (New section) Within two years after the date of enactment of
45 this act, the Commissioner of Health and Senior Services, in
46 consultation with the Commissioner of Human Services, shall provide

1 to the Legislature, and make available to the public, a report on the
2 development and administration of the initiatives established pursuant
3 to sections 2 through 6 of this act. The report shall include, but not
4 be limited to, statistical, non-identifying data regarding:

5 a. the number of uncertified, long-form copies of original birth
6 certificates that were provided to adopted persons, the direct
7 descendants of deceased adopted persons and the adoptive parents or
8 guardians of minor adopted persons;

9 b. the number of requests submitted by birth parents, through the
10 document of contact preference, for direct contact, contact by an
11 intermediary and no contact; and

12 c. the number of family history forms submitted by birth parents.

13 The report shall also make recommendations for any needed
14 changes in the requirements, regulations or State policy concerning the
15 initiatives established by this act.

16
17 9. (New section) The Commissioner of Health and Senior
18 Services, in consultation with the Commissioner of Human Services,
19 shall adopt rules and regulations pursuant to the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which shall:

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

23 b. establish required information and procedures for the family
24 history form and the form to update family history; and

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

27
28 10. (New section) The Department of Health and Senior Services
29 shall contract with media outlets throughout the country to produce
30 and distribute national public service messages to increase public
31 awareness of and encourage participation in the initiatives established
32 pursuant to this act. The public service messages shall inform the
33 public of the procedures for: obtaining a long-form copy of an adopted
34 person's birth certificate; submitting a document of contact preference;
35 and submitting family history information.

36
37 11. There is appropriated \$90,000 from the General Fund to the
38 Department of Health and Senior Services for the purpose of
39 providing public service messages pursuant to section 10 of this act.

40
41 12. This act shall take effect immediately.

42
43 STATEMENT

44
45 This bill provides adult adopted persons and their adult descendants
46 and adoptive parents and guardians of minors access to an adopted

1 person's original birth certificate and other related information.

2 The bill amends N.J.S.A.26:8-40.1 to permit an adopted person 18
3 years of age or older, a direct descendant 18 years of age or older of
4 a deceased adopted person, or the adoptive parent or guardian of a
5 minor adopted person to obtain an uncertified, long-form copy of the
6 adopted person's original birth certificate, upon submission of a
7 written request to the State Registrar. Under current law, the State
8 Registrar is required to place the adopted person's original birth
9 certificate and all papers pertaining to the new certificate of birth
10 under seal.

11 The bill also provides an opportunity for a birth parent to indicate
12 his preference concerning contact with the adopted person, by filing
13 a document with the State Registrar that states whether the parent
14 would prefer direct contact with the adopted person, prefer contact
15 through the use of an intermediary, or prefer no contact. Following
16 implementation of this bill, adoption agencies and attorneys who
17 facilitate adoptions also would be required to provide a copy of the
18 document of contact preference to all birth parents.

19 The bill recognizes that family history information, which includes
20 medical, cultural and social history information about an adopted
21 person's birth parent, is important for an adopted person's medical
22 concerns and emotional health. Therefore, the bill provides that an
23 adopted person 18 years of age or older, a direct descendant 18 years
24 of age or older of the adopted person if the adopted person is
25 deceased, or the adoptive parent or guardian of a minor adopted
26 person may, upon submission of a written request to the adoption
27 agency or attorney who facilitated the adoption, obtain any existing
28 family history information concerning the adopted person.

29 Further, the bill provides that when a birth parent submits a
30 document of contact preference to the State Registrar, the birth parent
31 shall be requested to also submit family history information. The birth
32 parent whose preference is no contact will be encouraged to update
33 the family history information every 10 years until the birth parent
34 reaches the age of 40, and every five years thereafter. In order to
35 ensure that an adopted person gains access to this family history
36 information, the State Registrar, upon receiving a request for a long-
37 form birth certificate, would provide the requestor with information
38 regarding the birth parent's preference for contact, as well as any
39 family history information that has been submitted to the Registrar by
40 the birth parent.

41 The bill directs the State Registrar, through the Department of
42 Health and Senior Services, to prepare information regarding
43 counseling resources and the use of an intermediary for the purpose of
44 enabling an adopted person to make contact with a birth parent, and
45 to provide this information to any person requesting the long-form
46 birth certificate, document of contact preference or family history

1 information.

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

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

13 The bill requires the Commissioner of Health and Senior Services,
14 in consultation with the Commissioner of Human Services, to provide
15 to the Legislature, and make available to the public, a report on the
16 development and administration of the adoption-related initiatives
17 established pursuant to the bill. The report shall include statistical,
18 nonidentifying data regarding:

19 -- the number of uncertified, long-form copies of original birth
20 certificates that were provided to adopted persons, the direct
21 descendants of adopted persons and the parents or guardians of minor
22 adopted persons;

23 -- the number of requests submitted by birth parents, through the
24 document of contact preference, for direct contact, contact by an
25 intermediary and no contact; and

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

27 The bill also directs the Commissioner of Health and Senior
28 Services, in consultation with the Commissioner of Human Services,
29 to adopt rules and regulations, which shall: establish required
30 information and procedures for the document of contact preference;
31 establish required information and procedures for the family history
32 form and the form to update family history; and establish a nominal fee
33 for services provided under this bill, to meet the costs of its
34 implementation.

35 The bill also directs the Department of Health and Senior Services
36 to contract with media outlets throughout the country to produce and
37 distribute national public service messages to increase public
38 awareness of and encourage participation in the initiatives established
39 pursuant to this bill. The public service messages shall inform the
40 public of the procedures for: obtaining a long-form copy of an adopted
41 person's birth certificate; submitting a document of contact preference;
42 and submitting family history information. The bill appropriates
43 \$90,000 to the department for the purpose of providing the public
44 service messages.