

IN THE SENATE

SENATE BILL NO. 1320

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO BIRTH CERTIFICATES AND ADOPTION RECORDS; AMENDING SECTION
2 39-258, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN ADOP-
3 TIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-259, IDAHO
4 CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN ADOPTIONS AND TO MAKE
5 TECHNICAL CORRECTIONS; AMENDING SECTION 39-259A, IDAHO CODE, TO PRO-
6 VIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AND
7 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 39-258, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE IS-
13 SUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS
14 NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF
15 COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STA-
16 TISTICS. (a~~1~~) Whenever a final decree of adoption, issued by an Idaho court,
17 declares a person born in Idaho to be adopted by someone other than his or her
18 natural parents, the court shall require the preparation of a report (denom-
19 inated as a certificate in accordance with Idaho court rules) of adoption on
20 a form prescribed and furnished by the state registrar. The report shall in-
21 clude such facts as are necessary to locate and identify the certificate of
22 birth of the person adopted; shall provide information necessary to estab-
23 lish a new certificate of birth for the person adopted; and shall identify
24 the order of adoption and be certified by the clerk of the court.

25 (b~~2~~) Information necessary to prepare the report of adoption shall be
26 furnished by each petitioner for adoption or the petitioner's attorney. The
27 provision of such information shall be prerequisite to the issuance of a fi-
28 nal decree in the matter of the court.

29 (e~~3~~) The report of adoption shall, within fifteen (15) days after be-
30 coming final, be recorded by the clerk of the court with the ~~vital statistics~~
31 ~~unit~~ bureau of vital records and health statistics in the state department of
32 health and welfare.

33 (d~~4~~) If a court of some other state issued a decree or report of adoption
34 of a person actually born in Idaho, the certified copy or report may be sim-
35 ilarly filed by the person involved or by the adoptive parents. Failure to
36 file certified copies or reports of said decrees within said period of time,
37 however, shall not bar issuance of a new birth certificate as hereinafter
38 provided. This copy of said decree or report shall be filed with and remain a
39 part of the records of the ~~vital statistics unit~~ bureau of vital records and
40 health statistics.

41 (e~~5~~) Upon receipt by the ~~vital statistics unit~~ bureau of vital records
42 and health statistics of the certified report of adoption, a new certifi-

1 cate of birth shall be issued (but only in cases where such person's birth
2 is already recorded with the ~~vital statistics unit~~ bureau of vital records
3 and health statistics) bearing among other things the name of the person
4 adopted, as shown in the report of adoption, except that a new certificate
5 of birth shall not be established if so requested by the court decreeing
6 the adoption, the adoptive parents, or the adopted person. No such birth
7 certificate shall have reference to the adoption of said person. Such
8 birth certificate shall supplant and constitute a replacement of any birth
9 certificate previously issued for said person and shall be the only birth
10 certificate open to public inspection.

11 Provided however, upon good cause shown and the affidavit of the adop-
12 tive parents that a diligent search has been made, but no certificate of
13 birth for the adoptive child can be located, the magistrate judge may order
14 the adoptive child examined, at the expense of the adoptive parents, by a
15 doctor of medicine licensed by the state of Idaho. The examination will be
16 conducted pursuant to rules promulgated by the state board of health and wel-
17 fare for the purpose of determining those matters required for the issuance
18 of an original birth certificate. Upon the examination of the doctor made
19 pursuant to the rules of the state board of health and welfare, the court may
20 order the ~~vital statistics unit~~ bureau of vital records and health statis-
21 tics to issue an original birth certificate for the adoptive child based upon
22 those facts determined by the examination and included in the court's order.
23 In such case, a certified copy of the court order shall be provided to the
24 ~~vital statistics unit~~ bureau of vital records and health statistics.

25 (~~¶~~6) In respect to form and nature of contents, such a new birth cer-
26 tificate shall be identical with a birth certificate issued to natural par-
27 ents for the birth of a child, except that the adoptive parents shall be shown
28 as parents and the adopted person shall have the name assigned by the de-
29 cree of adoption as shown on the report of adoption. In a case where a single
30 person adopts another person, any new birth certificate may designate the
31 adopting parent as adoptive.

32 (~~¶~~7) Whenever an adoption decree is amended, annulled, or rescinded,
33 the clerk of the court shall forward a certified copy of the amendment, an-
34 nulment, or rescindment to the ~~vital statistics unit~~ bureau of vital records
35 and health statistics in accordance with the time provisions in subsection
36 (~~e~~3) of this section. Unless otherwise directed by the court, the ~~vital sta-~~
37 ~~tistics unit~~ bureau of vital records and health statistics shall amend the
38 certificate of birth upon receipt of a certified copy of an amended decree of
39 adoption. Upon receipt of a certified copy of a decree of annulment or re-
40 scindment of adoption, the original certificate of birth shall be restored
41 to its place in the files and the new certificate and evidence shall not be
42 subject to inspection except upon order of a court of record of this state.

43 (~~¶~~8) All records and information specified in this section, other than
44 a new birth certificate issued hereunder, and all records, files, and infor-
45 mation of any court in this state relating to adoption proceedings, shall not
46 be open to inspection except as provided in section 39-259A, Idaho Code, or
47 upon the order of a court of record of this state; provided however, that the
48 provisions of section 16-1616, Idaho Code, to the contrary notwithstanding,
49 any magistrate judge may furnish a certified copy of a decree of adoption to

1 any duly authorized agency of the United States or the state of Idaho without
2 procuring any prior court order therefor.

3 (9) For adoptions that occur on or after July 1, 2022, the provisions of
4 this section shall apply, except that:

5 (a) The natural or adoptive parentage of each parent shall be demon-
6 strated as determined by the registrar on the face of a new birth cer-
7 tificate described in subsection (6) of this section; and

8 (b) A copy of the original birth certificate, all medical and demo-
9 graphic information contained in the sealed file, and the report of
10 adoption must be provided upon the signed request, on a form prescribed
11 by the registrar, of the adoptee who is named on the birth certificate or
12 such adoptee's legal representative, provided that:

13 (i) The adoptee must be eighteen (18) years or older;

14 (ii) The documents referenced in this paragraph will be released
15 to the adult adoptee upon completion of the voluntary adoption
16 registration process. In the event of a match on the voluntary
17 adoption registry, a minimum thirty (30) day waiting period will
18 apply, during which time a registered birth parent may:

19 1. Indicate a preferred method of contact, which method will
20 be communicated to the adoptee at the time the documents are
21 released;

22 2. Request no contact, which request will be communicated to
23 the adoptee at the time the documents are released; or

24 3. Request that the registered birth parent's name be
25 redacted before records are released, which request shall be
26 effective for five (5) years. After the five (5) years have
27 elapsed, the adoptee may again request documents accord-
28 ing to this paragraph, and all provisions of this paragraph
29 shall apply; and

30 (iii) The bureau of vital records and health statistics is not ob-
31 ligated to provide court records to the adoptee under the provi-
32 sions of this paragraph.

33 SECTION 2. That Section 39-259, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 39-259. ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES. (a~~1~~) When it
36 appears from a final decree of adoption issued by an Idaho court that a per-
37 son born in a foreign country has been adopted in Idaho by someone other than
38 the person's natural parents, the court shall require the preparation of a
39 report (denominated as a certificate in accordance with Idaho court rules)
40 of adoption on a form prescribed and furnished by the state registrar. The
41 report shall contain evidence from sources determined to be reliable by the
42 court as to the true or probable date and place of birth and parentage of such
43 person; shall provide information necessary to establish a new certificate
44 of birth for the person adopted; and shall identify the order of adoption and
45 be certified by the clerk of the court. Upon receipt by the state registrar
46 of vital statistics of the report of adoption, the state registrar of vital
47 statistics shall make and file a new birth certificate for the child when re-
48 quested to do so by the court decreeing the adoption, the adoptive parents,
49 or the adopted person. The new birth certificate shall show the true or prob-

1 able foreign country (and city, town, village, or other local designation,
 2 if known) of birth and the true or probable date of birth as established by
 3 the court and shown on the court report of adoption, the child's new name and
 4 parentage as stated in the report of adoption, and any other necessary facts
 5 as required by the state registrar. This birth certificate shall not be evi-
 6 dence of United States citizenship. The form and content of the certificate
 7 of foreign birth shall be established by the director.

8 (b~~2~~) All records and information specified in this section, other than
 9 a new birth certificate issued hereunder, and all records, files, and infor-
 10 mation of any court in this state relating to adoption proceedings, shall not
 11 be open to inspection except as provided in section 39-259A, Idaho Code, or
 12 upon the order of a court of record of this state; provided however, that the
 13 provisions of section 16-1616, Idaho Code, to the contrary notwithstanding,
 14 any probate court, or the judge thereof, may furnish a certified copy of a
 15 decree of adoption to any duly authorized agency of the United States or the
 16 state of Idaho without procuring any prior court order therefor.

17 (e~~3~~) The report of adoption shall, within fifteen (15) days after be-
 18 coming final, be recorded by the clerk of the court with the ~~vital statistics~~
 19 unit bureau of vital records and health statistics in the state department of
 20 health and welfare.

21 (d~~4~~) Whenever an adoption decree is amended, annulled, or rescinded,
 22 the clerk of the court shall forward a certified copy of the amendment, an-
 23 nulment, or rescindment to the ~~vital statistics unit~~ bureau of vital records
 24 and health statistics in accordance with the time provisions in subsection
 25 (e~~3~~) of this section. Unless otherwise directed by the court, the ~~vital sta-~~
 26 ~~tistics unit~~ bureau of vital records and health statistics shall amend the
 27 certificate of birth upon receipt of a certified copy of an amended decree of
 28 adoption. Upon receipt of a certified copy of a decree of annulment or re-
 29 scindment of adoption, the Idaho birth certificate shall be removed from the
 30 file and along with the decree of annulment or rescindment shall be placed in
 31 the sealed file for that person. Such sealed file shall not be subject to in-
 32 spection except upon order of a court of record of this state.

33 (5) For adoptions that occur on or after July 1, 2022, the provisions of
 34 this section shall apply, except that:

35 (a) The natural or adoptive parentage of each parent shall be demon-
 36 strated as determined by the registrar on the face of a new birth cer-
 37 tificate described in subsection (1) of this section; and

38 (b) A copy of the foreign birth certificate, if available, all medical
 39 and demographic information contained in the sealed file, and the re-
 40 port of adoption must be provided upon the signed request, on a form pre-
 41 scribed by the registrar, of the adoptee who is named on the birth cer-
 42 tificate or such adoptee's legal representative, provided that:

43 (i) The adoptee must be eighteen (18) years or older;

44 (ii) The documents referenced in this paragraph will be released
 45 to the adult adoptee upon completion of the voluntary adoption
 46 registration process. In the event of a match on the voluntary
 47 adoption registry, a minimum thirty (30) day waiting period will
 48 apply, during which time a registered birth parent may:

1 1. Indicate a preferred method of contact, which method will
 2 be communicated to the adoptee at the time the documents are
 3 released;

4 2. Request no contact, which request will be communicated to
 5 the adoptee at the time the documents are released; or

6 3. Request that the registered birth parent's name be
 7 redacted before records are released, which request shall be
 8 effective for five (5) years. After the five (5) years have
 9 elapsed, the adoptee may again request documents accord-
 10 ing to this paragraph, and all provisions of this paragraph
 11 shall apply; and

12 (iii) The bureau of vital records and health statistics is not ob-
 13 ligated to provide court records to the adoptee under the provi-
 14 sions of this paragraph.

15 SECTION 3. That Section 39-259A, Idaho Code, be, and the same is hereby
 16 amended to read as follows:

17 39-259A. VOLUNTARY ADOPTION REGISTRY FOR PROVIDING LIMITED ACCESS TO
 18 BIRTH INFORMATION OF ADULT ADOPTees. (a) The state registrar of vital sta-
 19 tistics shall establish and maintain a confidential list of qualified adult
 20 adoptees who have presented a consent regarding the release of identifying
 21 information about themselves. Any consent by a qualified adult adoptee
 22 shall be accompanied by the adoptee's desired method of notification in the
 23 event that a match occurs; however, the state shall not incur costs of noti-
 24 fication in excess of that part of the fee charged to the applicant for the
 25 purpose of notification. Any consent shall also indicate whether the quali-
 26 fied adult adoptee desires release of his identifying information if a match
 27 occurs after his death. The qualified adult adoptee may revise his consent
 28 with respect to change of address or method of notification. Any name and
 29 accompanying information shall be removed from the list upon the verified
 30 written request of the listed adoptee. The registrar shall maintain a closed
 31 record of such list and accompanying information, except as provided in ac-
 32 cordance with the provisions of this section.

33 (b) The state registrar of vital statistics shall establish and main-
 34 tain a confidential list of qualified ~~birthparents~~ birth parents who have
 35 presented a consent regarding the release of identifying information about
 36 themselves. Any consent by a qualified ~~birthparent~~ birth parent shall be
 37 accompanied by the ~~birthparent's~~ birth parent's desired method of noti-
 38 fication in the event that a match occurs; however, the state shall not
 39 incur costs of notification in excess of that part of the fee charged to the
 40 applicant for the purpose of notification. Any consent shall also indi-
 41 cate whether the qualified ~~birthparent~~ birth parent desires release of his
 42 identifying information if a match occurs after his death. The qualified
 43 ~~birthparent~~ birth parent may revise his consent with respect to change of
 44 address or method of notification. Any name and accompanying information
 45 shall be removed from the list upon the verified written request of the
 46 listed ~~birthparent~~ birth parent. The registrar shall maintain a closed
 47 record of such list and accompanying information, except as provided in ac-
 48 cordance with the provisions of sections ~~39-258(h), and subsections (b), (c)~~
 49 and (d) of section 39-259(8) and 39-259(2), (3), and (4), Idaho Code. Any

1 ~~birthparent~~ birth parent who, in terminating his parental rights, used an
 2 alias and this alias is listed in the original sealed birth certificate, may
 3 also file a consent with the registry. A ~~birthparent~~ birth parent shall not
 4 be matched with a qualified adult adoptee without the consent of the other
 5 ~~birthparent~~ birth parent unless:

6 (1) There is only one (1) ~~birthparent~~ birth parent listed on the birth
 7 certificate; or

8 (2) The other ~~birthparent~~ birth parent is deceased; or

9 (3) The other ~~birthparent~~ birth parent is unable to be located by the
 10 department of health and welfare or by a licensed child placement agency
 11 designated by the department of health and welfare, after a search,
 12 which shall consist, at a minimum, of a certified letter to the other
 13 ~~birthparent~~ birth parent at the last known address and a newspaper ad-
 14 vertisement made in the county of the last known address; such search
 15 to be completed within ninety (90) days and the cost of said search to
 16 be fully funded and completed by the ~~birthparent~~ birth parent seeking
 17 a match; said search to be in accordance with the rules and regulations
 18 promulgated by the department.

19 (c) The state registrar of vital statistics shall establish and
 20 maintain a confidential list of qualified adult birth siblings who have
 21 presented a consent regarding the release of identifying information about
 22 themselves. Any consent by a qualified birth sibling shall be accompanied by
 23 the birth sibling's desired method of notification in the event that a match
 24 occurs; however, the state shall not incur costs of notification in excess
 25 of that part of the fee charged to the applicant for the purpose of notifica-
 26 tion. Any consent shall also indicate whether the qualified birth sibling
 27 desires release of his identifying information if a match occurs after his
 28 death. The qualified birth sibling may revise his consent with respect to
 29 change of address or method of notification. Any name and accompanying in-
 30 formation shall be removed from the list upon the verified written request
 31 of the listed birth sibling. The registrar shall maintain a closed record
 32 of such list and accompanying information, except as provided in accordance
 33 with the provisions of section 39-258 (~~h8~~) and 39-259 (~~h2~~), Idaho Code, and
 34 this section.

35 (d) The state registrar shall maintain a confidential list of relatives
 36 of deceased qualified adult adoptees and relatives of deceased qualified
 37 ~~birthparents~~ birth parents who have presented a consent regarding the re-
 38 lease of identifying information about themselves. Any consent by such
 39 relative shall be accompanied by the person's desired method of notification
 40 in the event that a match occurs; however, the state shall not incur costs
 41 of notification in excess of that part of the fee charged to the applicant
 42 for the purpose of notification. Such relative may revise his consent with
 43 respect to change of address or method of notification. Any name and accom-
 44 panying information shall be removed from the list upon the verified written
 45 request of the listed relative. The state registrar shall maintain a closed
 46 record of such list and accompanying information, except as provided in ac-
 47 cordance with the provisions of this section.

48 (e) The state registrar shall regularly review the lists provided for
 49 in subsections (a), (b), (c), and (d) of this section, and any other non-
 50 sealed administrative files or records within the office to determine if

1 there is a match. If it appears that a match has occurred, then and only then
2 is the registrar authorized to proceed to confirm the match through recourse
3 to sealed documents on file in the office of the registrar. When a match is
4 confirmed, the registrar shall notify each party, by its designated method
5 only, prior to an exchange of identifying information. Nothing in this sec-
6 tion shall be construed to allow any state or local governmental department,
7 agency, or institution, or any employee thereof, to solicit any consent for
8 the release of identifying information.

9 (f) When a match is made and both the adopted person and the ~~birthparent~~
10 birth parent or parents, submit to the state registrar a notarized request
11 for a copy of the original birth record of the adopted person, the state reg-
12 istrar shall issue such copy, marked "NOT FOR OFFICIAL USE", at the usual
13 cost of certificate copies.

14 (g) Nothing in this section shall be construed to allow the registrar to
15 issue a copy of the original birth certificate to any registrant, except as
16 provided for in subsection (f) of this section.

17 (h) Except upon order of a court of record of this state and notwith-
18 standing any other provision of law, the information acquired by the reg-
19 istry shall not be disclosed under its public records law, sunshine or free-
20 dom of information legislation, rules, or practice.

21 (i) The initial fee to be charged each person requesting that his name
22 be placed on the list provided for in subsections (a), (b), (c), and (d) of
23 this section, and for the services provided by the registrar in establishing
24 and implementing the registry pursuant to this section, shall be ten dollars
25 (\$10.00). Except for the cost of the search described in subsection (b) (3)
26 of this section, the fee shall cover all direct and indirect costs incurred
27 pursuant to this section. The state board of health and welfare shall annu-
28 ally review the fees and expenses incurred pursuant to this section and, as
29 needed, adjust the fees charged to cover the expenses of administering the
30 provisions of this section.

31 SECTION 4. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after
33 July 1, 2022.