

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 47

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO ADOPTION; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION
2 39-258, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RELEASE OF ADOP-
3 TION INFORMATION TO ADOPTEES AND TO MAKE A TECHNICAL CORRECTION; AND
4 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. LEGISLATIVE INTENT. The Legislature finds that a policy of
8 providing the individual who is the subject of an Idaho birth certificate
9 with access to the available material facts related to the individual's own
10 genetic origins and personal family history is in the best interest of indi-
11 viduals and families and, thereby, society as a whole.

12 SECTION 2. That Section 39-258, Idaho Code, be, and the same is hereby
13 amended to read as follows:

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

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

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

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

1 (5) Upon receipt by the bureau of vital records and health statistics of
2 the certified report of adoption, a new certificate of birth shall be issued
3 (but only in cases where such person's birth is already recorded with the bu-
4 reau of vital records and health statistics) bearing among other things the
5 name of the person adopted, as shown in the report of adoption, except that
6 a new certificate of birth shall not be established if so requested by the
7 court decreeing the adoption, the adoptive parents, or the adopted person.
8 No such birth certificate shall have reference to the adoption of said per-
9 son. Such birth certificate shall supplant and constitute a replacement of
10 any birth certificate previously issued for said person and shall be the only
11 birth certificate open to public inspection. Provided however, upon good
12 cause shown and the affidavit of the adoptive parents that a diligent search
13 has been made, but no certificate of birth for the adoptive child can be lo-
14 cated, the magistrate judge may order the adoptive child examined, at the ex-
15 pense of the adoptive parents, by a doctor of medicine licensed by the state
16 of Idaho. The examination will be conducted pursuant to rules promulgated by
17 the state board of health and welfare for the purpose of determining those
18 matters required for the issuance of an original birth certificate. Upon
19 the examination of the doctor made pursuant to the rules of the state board
20 of health and welfare, the court may order the bureau of vital records and
21 health statistics to issue an original birth certificate for the adoptive
22 child based upon those facts determined by the examination and included in
23 the court's order. In such case, a certified copy of the court order shall be
24 provided to the bureau of vital records and health statistics.

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

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

43 (8) All records and information specified in this section, other than a
44 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~~ 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) (10) For all adoptions,~~ a A copy of the original birth certificate,
9 all medical and demographic information contained in the sealed file, and
10 the report of adoption must be provided upon the signed request, on a form
11 prescribed by the registrar, of the adoptee who is named on the birth cer-
12 tificate or such adoptee's legal representative, provided that:

13 ~~(i) (a)~~ (a) The adoptee must be eighteen (18) years of age or older;

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

19 ~~1-~~ (i) Indicate a preferred method of contact, which method will
20 be communicated to the adoptee at the time the documents are re-
21 leased;

22 ~~2-~~ (ii) Request no contact, which request will be communicated to
23 the adoptee at the time the documents are released; or

24 ~~3-~~ (iii) 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 according to
28 this ~~paragraph~~ subsection, and all provisions of this ~~paragraph~~
29 subsection shall apply; and

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

33 SECTION 3. An emergency existing therefor, which emergency is hereby
34 declared to exist, this act shall be in full force and effect on and after
35 July 1, 2025.