

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 544

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 39-258, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE RELEASE OF ADOPTION INFORMATION TO ADOPTees IN CERTAIN CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE ISSUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STATISTICS. (1) Whenever a final decree of adoption, issued by an Idaho court, declares a person born in Idaho to be adopted by someone other than his or her natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court.

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

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

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

(5) Upon receipt by the bureau of vital records and health statistics of the certified report of adoption, a new certificate of birth shall be issued (but only in cases where such person's birth is already recorded with the bureau of vital records and health statistics) bearing among other things the name of the person adopted, as shown in the report of adoption, except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person.

1 No such birth certificate shall have reference to the adoption of said per-
2 son. Such birth certificate shall supplant and constitute a replacement of
3 any birth certificate previously issued for said person and shall be the only
4 birth certificate open to public inspection.

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

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

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

37 (8) All records and information specified in this section, other than a
38 new birth certificate issued hereunder, and all records, files, and infor-
39 mation of any court in this state relating to adoption proceedings shall not
40 be open to inspection except as provided in section 39-259A, Idaho Code, or
41 upon the order of a court of record of this state; provided however, that the
42 provisions of section 16-1616, Idaho Code, to the contrary notwithstanding,
43 any magistrate judge may furnish a certified copy of a decree of adoption to
44 any duly authorized agency of the United States or the state of Idaho without
45 procuring any prior court order therefor.

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

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

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

6 (i) The adoptee must be eighteen (18) years of age or older if the
7 adoption occurred on or after July 1, 2022, or for adoptions occur-
8 ring prior to July 1, 2022, the adoptee must be forty (40) years of
9 age or older;

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

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

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

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

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

29 SECTION 2. An emergency existing therefor, which emergency is hereby
30 declared to exist, this act shall be in full force and effect on and after
31 July 1, 2024.