

SENATE BILL NO. 446—COMMITTEE ON JUDICIARY

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Allows certain persons to access files and records relating to their adoption or birth and eliminates State Register for Adoptions. (BDR 11-709)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to records; allowing adopted persons who are 18 years of age or older to access the files and records concerning their adoption; allowing certain persons who are 18 years of age or older to access certain records relating to their birth; eliminating the State Register for Adoptions; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 127.140 is hereby amended to read as follows:
2 127.140 1. All hearings held in proceedings under this
3 chapter are confidential and must be held in closed court, without
4 admittance of any person other than the petitioners, their witnesses,
5 the director of an agency, or their authorized representatives,
6 attorneys and persons entitled to notice by this chapter, except by
7 order of the court.
8 2. The files and records of the court in adoption proceedings
9 are not open to inspection by any person except upon ~~an~~ :
10 (a) *The request of the person who was the subject of the*
11 *adoption proceedings, if the person is 18 years of age or older; or*
12 (b) An order of the court expressly ~~so~~ permitting *such an*
13 *inspection* pursuant to a petition setting forth the reasons ~~therefor~~



~~or if a natural parent and the child are eligible to receive information from the State Register for Adoptions.]~~ *for the inspection.*

Sec. 2. NRS 440.170 is hereby amended to read as follows:

440.170 1. All certificates in the custody of the State Registrar are open to inspection subject to the provisions of this chapter. It is unlawful for any employee of the State to disclose data contained in vital statistics, except as authorized by this chapter or by the Board.

2. Information in vital statistics indicating that a birth occurred out of wedlock must not be disclosed except upon :

(a) The request of the person whose birth is recorded, if that person is 18 years of age or older; or

(b) An order of a court of competent jurisdiction.

3. The Board:

(a) Shall allow the use of data contained in vital statistics to carry out the provisions of NRS 442.300 to 442.330, inclusive;

(b) Shall allow the use of certificates of death by a multidisciplinary team to review the death of a child established pursuant to NRS 432B.405 and 432B.406; and

(c) May allow the use of data contained in vital statistics for other research purposes, but without identifying the persons to whom the records relate.

Sec. 3. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or his designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.



1 3. If a birth occurs in a moving conveyance, the place of birth
2 is the place where the child is removed from the conveyance.

3 4. In cities, the certificate of birth must be filed sooner than 10
4 days after the birth if so required by municipal ordinance or
5 regulation.

6 5. If the mother was:

7 (a) Married at the time of birth, the name of her husband must
8 be entered on the certificate as the father of the child unless:

9 (1) A court has issued an order establishing that a person
10 other than the mother's husband is the father of the child; or

11 (2) The mother and a person other than the mother's husband
12 have signed an affidavit for the voluntary acknowledgment of
13 paternity developed by the Board pursuant to NRS 440.283.

14 (b) Widowed at the time of birth but married at the time of
15 conception, the name of her husband at the time of conception must
16 be entered on the certificate as the father of the child unless:

17 (1) A court has issued an order establishing that a person
18 other than the mother's husband at the time of conception is the
19 father of the child; or

20 (2) The mother and a person other than the mother's husband
21 at the time of conception have signed an affidavit for the voluntary
22 acknowledgment of paternity developed by the Board pursuant to
23 NRS 440.283.

24 6. If the mother was unmarried at the time of birth, the name of
25 the father may be entered on the original certificate of birth only if:

26 (a) The provisions of paragraph (b) of subsection 5 are
27 applicable;

28 (b) A court has issued an order establishing that the person is the
29 father of the child; or

30 (c) The mother and father of the child have signed an affidavit
31 for the voluntary acknowledgment of paternity developed by the
32 Board pursuant to NRS 440.283. If both the father and mother
33 execute an affidavit consenting to the use of the surname of the
34 father as the surname of the child, the name of the father must be
35 entered on the original certificate of birth and the surname of the
36 father must be entered thereon as the surname of the child.

37 7. An order entered or an affidavit executed pursuant to
38 subsection 6 must be submitted to the local health officer, his
39 authorized representative, or the attending physician or midwife
40 before a proper certificate of birth is forwarded to the State
41 Registrar. The order or affidavit must then be delivered to the State
42 Registrar for filing. The State Registrar's file of orders and
43 affidavits must be sealed , and the contents of the file may be
44 examined only upon order of a court of competent jurisdiction or at
45 the request of the father ~~or~~ , the mother , the person whose birth is



1 *recorded, if the person is 18 years of age or older,* or the Welfare
2 Division of the Department of Human Resources as necessary to
3 carry out the provisions of 42 U.S.C. § 654a. The local health
4 officer shall complete the original certificate of birth in accordance
5 with subsection 6 and other provisions of this chapter.

6 8. As used in this section, "court" has the meaning ascribed to
7 it in NRS 125B.004.

8 **Sec. 4.** NRS 440.310 is hereby amended to read as follows:

9 440.310 1. Whenever the State Registrar receives a certified
10 report of adoption or amendment of adoption filed in accordance
11 with the provisions of NRS 127.157 or the laws of another state or
12 foreign country, or a certified copy of the adoption decree,
13 concerning a person born in Nevada, the State Registrar shall
14 prepare and file a supplementary certificate of birth in the new name
15 of the adopted person which shows the adoptive parents as the
16 parents and seal and file the report or decree and the original
17 certificate of birth.

18 2. Whenever the State Registrar receives a certified report of
19 adoption, amendment or annulment of an order or decree of
20 adoption from a court concerning a person born in another state, the
21 District of Columbia, the Commonwealth of Puerto Rico, a territory
22 or possession of the United States, or Canada, the report must be
23 forwarded to the office responsible for vital statistics in the person's
24 place of birth.

25 3. Whenever the State Registrar receives a certified report of
26 adoption or amendment of adoption filed in accordance with the
27 provisions of NRS 127.157 concerning a person born in a foreign
28 country other than Canada, the State Registrar shall, if he receives
29 evidence that:

30 (a) The person being adopted is a citizen of the United States;
31 and

32 (b) The adoptive parents are residents of Nevada,
33 ➤ prepare and file a supplementary certificate of birth as described
34 in subsection 1 and seal and file the report.

35 4. Sealed documents may be opened only upon ~~{an}~~ :

36 (a) *The request of the person who was the subject of the*
37 *adoption, if the person is 18 years of age or older; or*

38 (b) *An order of the court [issuing] that issued the adoption*
39 *decree [~~expressly so permitting.~~] expressly permitting the opening*
40 *of the sealed documents* pursuant to a petition setting forth the
41 reasons ~~{therefor.}~~ *for opening the sealed documents.*

42 5. Except as otherwise provided in subsection 2, upon the
43 receipt of a certified copy of a court order of annulment of adoption,
44 the State Registrar shall seal and file the order and supplementary



1 certificate of birth and, if the person was born in Nevada, restore the
2 original certificate to its original place in the files.

3 **Sec. 5.** NRS 440.325 is hereby amended to read as follows:

4 440.325 1. In the case of the paternity of a child being
5 established by the:

6 (a) Mother and father acknowledging paternity of a child by
7 signing an affidavit for the voluntary acknowledgment of paternity
8 developed by the Board pursuant to NRS 440.283; or

9 (b) Order of a district court,

10 ➔ the State Registrar, upon the receipt of the affidavit or court
11 order, shall prepare a new certificate of birth in the name of the
12 child as shown in the affidavit or order with no reference to the fact
13 of legitimation.

14 2. The new certificate must be identical with the certificate
15 registered for the birth of a child born in wedlock.

16 3. Except as otherwise provided in subsection 4, the evidence
17 upon which the new certificate was made and the original certificate
18 must be sealed and filed and may be opened only upon **[the]** :

19 (a) *The request of the person whose birth the certificate*
20 *records, if the person is 18 years of age or older; or*

21 (b) *An* order of a court of competent jurisdiction.

22 4. The State Registrar shall, upon the request of the Welfare
23 Division of the Department of Human Resources, open a file that
24 has been sealed pursuant to subsection 3 to allow the Division to
25 compare the information contained in the affidavit or order upon
26 which the new certificate was made with the information maintained
27 pursuant to 42 U.S.C. § 654a.

28 **Sec. 6.** NRS 440.330 is hereby amended to read as follows:

29 440.330 1. Whoever assumes the custody of a living child of
30 unknown parentage shall immediately report, on a form to be
31 approved by the Board, to the local registrar of the registration
32 district in which such custody is assumed, the following:

33 (a) Date of finding or assumption of custody.

34 (b) Place of finding or assumption of custody.

35 (c) Sex.

36 (d) Color or race.

37 (e) Approximate age.

38 (f) Name and address of the person or institution with whom the
39 child has been placed for care, if any.

40 (g) Name given to the child by the finder or custodian.

41 2. The place where the child was found or where custody has
42 been assumed shall be known as the place of birth, and the date of
43 birth shall be determined by approximation.

44 3. The foundling report **~~[shall constitute]~~ constitutes** the
45 certificate of birth for such foundling child, and the provisions of



1 this chapter relating to certificates of birth ~~[shall]~~ apply in the same
2 manner and with the same effect to such report.

3 4. If a foundling child ~~[shall later be]~~ *is later* identified and a
4 regular certificate of birth ~~[be]~~ *is* found or obtained, the report
5 constituting the certificate of birth ~~[shall]~~ *must* be sealed and filed
6 and may be opened only upon ~~[the]~~ :

7 *(a) The request of the person whose birth the certificate*
8 *records, if the person is 18 years of age or older; or*

9 *(b) An* order of a court of competent jurisdiction.

10 **Sec. 7.** NRS 127.007 is hereby repealed.

TEXT OF REPEALED SECTION

127.007 State Register for Adoptions: Establishment; contents; release of information.

1. The Division shall maintain the State Register for Adoptions, which is hereby established, in its central office to provide information to identify adults who were adopted and persons related to them within the third degree of consanguinity.

2. The State Register for Adoptions consists of:

(a) Names and other information, which the Administrator of the Division deems to be necessary for the operation of the Register, relating to persons who have released a child for adoption or have consented to the adoption of a child, or whose parental rights have been terminated by a court of competent jurisdiction, and who have submitted the information voluntarily to the Division;

(b) Names and other necessary information of persons who are 18 years of age or older, who were adopted and who have submitted the information voluntarily to the Division; and

(c) Names and other necessary information of persons who are related within the third degree of consanguinity to adopted persons, and who have submitted the information voluntarily to the Division.

➔ Any person whose name appears in the Register may withdraw it by requesting in writing that it be withdrawn. The Division shall immediately withdraw a name upon receiving a request to do so, and may not thereafter release any information to identify that person, including the information that such a name was ever in the Register.

3. Except as otherwise provided in subsection 4, the Division may release information:

(a) About a person related within the third degree of consanguinity to an adopted person; or



(b) About an adopted person to a person related within the third degree of consanguinity,

→ if the names and information about both persons are contained in the Register and written consent for the release of such information is given by the natural parent.

4. An adopted person may, by submitting a written request to the Division, restrict the release of any information concerning himself to one or more categories of relatives within the third degree of consanguinity.



