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An Act To Protect Original Birth Certificates

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2765, as amended by PL 2017, c. 402, Pt. C, §§47 and 48 and affected by Pt. F, §1, is further amended to read:

§ 2765. New certificate of birth following foreign adoption or legitimation

1. New certificate of birth. The state registrar shall establish a new certificate of birth for a person born in this State when the state registrar receives the following:

A. ~~A certificate of adoption as provided in Title 18-C, section 9-304, or a certified copy of the decree of adoption along with the information necessary to identify the original certificate and establish the new certificate of birth, except that a new certificate may not be established if so requested by the adopting parents or the adopted person if the adopted person is at least 18 years of age;~~

B. A request that a new certificate be established and such evidence as the department may require by rule proving that the person has been legitimated.

1-A. Persons born in a foreign country. The state registrar shall establish a Maine certificate of birth for a person born in a foreign country and for whom a decree of adoption has been entered in a court of competent jurisdiction in Maine when the registrar receives the following:

A. A certificate of adoption as provided in Title 18-C, section 9-304; and

C. A request that a new certificate be established. A Maine certificate of birth may not be established, if so requested by the court decreeing the adoption, the adoptive parents or the adopted person, if the adopted person is 18 years of age or older.

1-B. Content of certificate. Any birth certificate issued under subsection 1-A ~~shall~~must show the true or probable foreign country of birth and ~~shall~~must indicate that the certificate is not evidence of United States citizenship for the child for whom it is issued or for the adoptive parents.

2-A. Certificate after foreign adoption or legitimation. This subsection governs birth certificates after adoption of a person born in a foreign country or legitimation.

A. When a new birth certificate is established after adoption pursuant to ~~subsection 1, paragraph A,~~ or subsection 1-A, the actual place and date of birth, the names and personal data of the adoptive parents at the time of the child's birth and the name of the child after adoption must be entered on the new birth certificate.

(1) At the request of an adopted person who is at least 18 years of age or of the adoptive parents of an adopted child under 18 years of age, the new certificate must carry a notation that it has been amended, all items that have been revised pursuant to the adoption decree must be identified, and the notation "court action" and the date of the adoption decree must be shown on the new certificate.

(2) If the birth certificate has been annotated pursuant to subparagraph (1), the annotation may be deleted in accordance with department regulations at the request of an adopted person who is at least 18 years of age or of the adoptive parents of an adopted child under 18 years of age.

B. When a new certificate is established after legitimation pursuant to subsection 1, paragraph B, the actual place and date of birth, the name of the child and the names and personal data of both parents at the time of birth must be shown. Notwithstanding section 2705, the new certificate may not be marked "amended." The new certificate must be filed with all other birth certificates and is not subject to the provisions of section 2761, subsection 4.

C. When a new certificate of birth is established following adoption pursuant to subsection 1-A or legitimation, it must be substituted for the original certificate of birth. ~~After that substitution, the original certificate of birth and the evidence of adoption are not subject to inspection except upon order of the Probate Court or the Superior Court or pursuant to section 2768.~~ The application for legitimation may be released to persons listed on the original birth certificate upon completion of written application to the State Registrar of Vital Statistics or the registrar's designee.

~~**3. Original certificate restored.** Upon receipt of notice of an annulment or revocation of adoption, the original certificate shall be restored to its place in the files and the new certificate and evidence of adoption shall not be subject to inspection except upon order of a probate court or the Superior Court.~~

4. Delayed birth registration. If ~~no~~ a certificate of birth is not on file for the person for whom a new certificate is to be established under this section, a delayed birth registration ~~shall~~must be filed as provided by law before a new certificate of birth is established.

5. Copies of original certificate. When the new certificate of birth is established, the state registrar shall provide each municipal clerk who is required by law to have a copy of the certificate of birth on file with a copy of the new certificate of birth. In the case of a Maine certificate of birth established for a person born in a foreign country, a copy of the certificate must be provided to and must be maintained on file by the clerk of the municipality where the adoptive parents resided on the date of the adoption. ~~All copies of the original certificate in the custody of any municipal clerk must be sealed from inspection, except as provided in section 2768, or surrendered to the state registrar as the state registrar directs.~~

Sec. 2. 22 MRSA §2765-A is enacted to read:

§ 2765-A. Amended certificate of birth following adoption of person born in this State

1. Amended certificate of birth following adoption. The state registrar shall establish an amended certificate of birth for a person born in this State when the state registrar receives a certificate of adoption as provided in Title 18-C, section 9-304 or a certified copy of the decree of adoption along with the information necessary to identify and amend the original certificate, except that an amended certificate may not be established if so requested by the adoptive parents or the adopted person if the adopted person is at least 18 years of age.

2. Content of amended certificate following adoption. The amended certificate of birth must add the names and personal data of the legal parents at the time of the child's adoption. The data on the original certificate of birth may not be deleted or removed from the certificate. The adopted child's name must be amended by drawing a single line through the child's name on the certificate of birth and inserting the new data immediately above or to the side of the original entry. The line drawn through the original entry may not obliterate the entry.

3. Copies of amended certificate of birth. When the amended certificate of birth is established or changed, the state registrar shall provide each municipal clerk who is required by law to have a copy of the certificate of birth on file with a copy of the amended certificate of birth.

4. Change to amended certificate of birth. Upon receipt of notice of an annulment of a decree of adoption pursuant to Title 18-C, section 9-315, subsection 3 or revocation of adoption by the state registrar, the state registrar shall change the amended certificate of birth by restoring the data of the original certificate of birth.

Sec. 3. 22 MRSA §2766, as amended by PL 2009, c. 601, §21, is repealed.

Sec. 4. 22 MRSA §2768, first ¶, as enacted by PL 2007, c. 409, §4 and affected by §6, is amended to read:

An adopted personA person adopted before October 1, 2019, thethat adopted person's attorney or, if thethat adopted person is deceased, thethat adopted person's descendants may obtain a copy of that person's original certificate of birth from the State Registrar of Vital Statistics, referred to in this section as "the state registrar," in accordance with this section. A person adopted on or after October 1, 2019 may obtain a copy of that person's original certificate of birth pursuant to section 2706.

Sec. 5. 22 MRSA §2768, sub-§§3 and 4, as enacted by PL 2007, c. 409, §4 and affected by §6, are amended to read:

3. Issuance of birth certificate and forms. Upon receipt of the written application and proof of identification pursuant to subsection 2 and fulfillment of the requirements of subsection 4, the state registrar shall issue a ~~nonecertified~~certified copy of the unaltered original certificate of birth to the applicant. If a contact preference or medical history form has been completed and submitted to the state registrar pursuant to section 2769, the state registrar also must provide that information.

4. Fees; waiting period; application requirements. The state registrar may require a waiting period and impose a fee for the ~~noncertified~~certified copy provided pursuant to subsection 3. The fees ~~and~~, waiting period and all other application requirements imposed under this subsection must be identical to the fees ~~and~~, waiting period and application requirements generally imposed on persons seeking their own birth certificates.

Sec. 6. Effective date. This Act takes effect October 1, 2019.

SUMMARY

This bill repeals the law authorizing the creation of a new birth certificate for an adopted person and it removes the provision that requires the sealing of the original birth certificate. The bill allows a person born in this State to retain that person's original birth certificate, even if that person is adopted. This change does not affect a person born in a foreign country who is adopted in this State. A person adopted before October 1, 2019 will still need to follow the current statutory procedure to receive access to that person's original birth certificate upon attaining 18 years of age. This bill requires a certificate of birth for a child who is being adopted to be amended to include the adoptee's new name and the adoptive parent's name or parents' names and personal data.