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Legislative Document

No. 1688

S.P. 553

In Senate, May 7, 2019

An Act To Protect Original Birth Certificates

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator DOW of Lincoln.
Cosponsored by Representative HEPLER of Woolwich and
Senators: MOORE of Washington, VITELLI of Sagadahoc, Representatives: BERRY of
Bowdoinham, HICKMAN of Winthrop.

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

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

4 **§2765. New certificate of birth following foreign adoption or legitimation**

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

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

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

14 **1-A. Persons born in a foreign country.** The state registrar shall establish a Maine
15 certificate of birth for a person born in a foreign country and for whom a decree of
16 adoption has been entered in a court of competent jurisdiction in Maine when the registrar
17 receives the following:

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

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

22 **1-B. Content of certificate.** Any birth certificate issued under subsection 1-A shall
23 must show the true or probable foreign country of birth and shall must indicate that the
24 certificate is not evidence of United States citizenship for the child for whom it is issued
25 or for the adoptive parents.

26 **2-A. Certificate after foreign adoption or legitimation.** This subsection governs
27 birth certificates after adoption of a person born in a foreign country or legitimation.

28 A. When a new birth certificate is established after adoption pursuant to ~~subsection~~
29 ~~1, paragraph A, or subsection 1-A~~, the actual place and date of birth, the names and
30 personal data of the adoptive parents at the time of the child's birth and the name of
31 the child after adoption must be entered on the new birth certificate.

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

37 (2) If the birth certificate has been annotated pursuant to subparagraph (1), the
38 annotation may be deleted in accordance with department regulations at the

1 request of an adopted person who is at least 18 years of age or of the adoptive
2 parents of an adopted child under 18 years of age.

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

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

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

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

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

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

34 **§2765-A. Amended certificate of birth following adoption of person born in this**
35 **State**

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

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

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

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

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

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

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

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

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

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

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

1

SUMMARY

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