

HOUSE BILL NO. 1319

Introduced by

Representatives Magrum, Brandenburg

Senator Erbele

1 A BILL for an Act to amend and reenact subsections 7 and 8 of section 14-15-16, section
2 23-02.1-18, and subdivision d of subsection 1 of section 23-02.1-29 of the North Dakota
3 Century Code, relating to disclosure of original birth records to adopted individuals.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsections 7 and 8 of section 14-15-16 of the North Dakota
6 Century Code are amended and reenacted as follows:

- 7 7. Before the child reaches adulthood, ~~at the discretion of the child-placing agency, with-~~
8 ~~due regard for confidentiality~~ exchanges of identifying or nonidentifying information
9 may take place between the genetic parents, adoptive parents, and adopted child.
- 10 a. ~~Disclosure~~With the exception of an original birth record requested by the adopted
11 individual when eighteen years or older, disclosure of a party's identifying
12 information may not occur unless the party consents to disclosure.
- 13 b. ~~If one parent objects, the identifying information disclosed by the agency may-~~
14 ~~only relate to the consenting parent or parents.~~
- 15 8. An adopted individual who is eighteen years of age or older may request the
16 department to initiate the disclosure of information identifying the adopted individual's
17 genetic parents or to initiate the disclosure of nonidentifying information not on file with
18 the department or a child-placing agency. The department or child-placing agency
19 shall provide a copy of the original birth record, if on file, upon the written request by
20 the adopted individual when eighteen years of age or older, or by a lineal descendant
21 of the adopted individual, if the adopted individual is deceased.

22 **SECTION 2. AMENDMENT.** Section 23-02.1-18 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **23-02.1-18. New birth records following adoption, legitimation, and paternity**
2 **determination.**

- 3 1. The state registrar shall establish a new birth record for ~~a person~~an individual born in
4 this state when the registrar receives the following:
- 5 a. An adoption report as provided in section 23-02.1-17 or a certified copy of the
6 decree of adoption together with the information necessary to identify the original
7 birth record and to establish a new birth record; except that a new birth record
8 may not be established if so requested by the court decreeing the adoption, the
9 adoptive parents, or the adoptive ~~person~~individual.
- 10 b. A request that a new record be established and such evidence as required by
11 rules and regulations proving that ~~such person~~the individual has been legitimated
12 or that a court of competent jurisdiction has determined the paternity of ~~such~~
13 ~~person~~the individual.
- 14 2. For ~~a person~~an individual born in a foreign country whose adoptive parents are
15 residents of the state of North Dakota at the time of the adoption, the state registrar
16 shall prepare a new birth record:
- 17 a. In the case of a foreign-born ~~person~~individual adopted in North Dakota, upon
18 presentation of a report of adoption as required by section 23-02.1-17.
- 19 b. In the case of a foreign-born ~~person~~individual adopted outside the state of North
20 Dakota or outside the United States, or in the state of North Dakota prior to
21 July 1, 1979, upon presentation of a certified copy of the adoption decree, and:
- 22 (1) A certified copy of the birth record of the adopted ~~person~~individual; or
23 (2) An affidavit of an adoptive parent setting forth the true or probable date and
24 place of birth and parentage of the adopted ~~person~~individual.
- 25 Any~~A~~ certification of a birth record issued under this subsection must be in the same
26 form as other certifications of birth records issued in this state except that it must state
27 that it does not purport to be evidence of United States citizenship.
- 28 3. When a new birth record is established, the actual place and date of birth must be
29 shown. The new birth record must be substituted for the original birth record:
- 30 a. ~~Thereafter, the original birth record and the evidence of adoption, paternity, or~~
31 ~~legitimation.~~

- 1 4. After a new birth record is established, the original birth record is not subject to
2 inspection except upon:
3 a. By the adopted individual when eighteen years of age or older;
4 b. Upon order of a court of competent jurisdiction; or as
5 c. As provided by rules and regulations.
- 6 ~~b.5.~~ Upon receipt of a notice of annulment of adoption, the original birth record must be
7 restored to its place in the files and the new birth record and evidence is not subject to
8 inspection except upon order of a court of competent jurisdiction.
- 9 4.6. If no birth record is on file for the ~~person~~individual for whom a new birth record is to be
10 established under this section, an original birth record must be filed with the state
11 registrar in accordance with the appropriate rules and regulations promulgated by the
12 state department of health. The new record is also to be prepared on the standard
13 forms in use at the time of the adoption, legitimation, or paternity determination.
- 14 ~~5.7.~~ When a new birth record is established by the state registrar, all copies of the original
15 birth record in the custody of any custodian of permanent local records in the state
16 must be sealed from inspection or forwarded to the state registrar, as the registrar
17 directs.

18 **SECTION 3. AMENDMENT.** Subdivision d of subsection 1 of section 23-02.1-29 of the
19 North Dakota Century Code is amended and reenacted as follows:

- 20 d. Each filing of a delayed record of birth or death except as provided for in
21 subsection ~~46~~ of section 23-02.1-18.