

Senate Engrossed

adoption; original birth certificate; release.

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 384
SENATE BILL 1831

AN ACT

AMENDING SECTIONS 8-106, 8-121, 8-534, 36-322, 36-336 AND 36-337, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-340; RELATING TO BIRTH CERTIFICATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-106, Arizona Revised Statutes, is amended to
3 read:

4 8-106. Consent to adoption; waiver; consent to the release of
5 information; notification to potential fathers

6 A. The court shall not grant an adoption of a child unless consent
7 to adopt has been obtained and filed with the court from the following:

8 1. The child's birth or adoptive mother, if living.

9 2. The child's father if any of the following is true:

10 (a) The father was married to the child's mother at the time of
11 conception or at any time between conception and the child's birth unless
12 his paternity is excluded or another man's paternity is established
13 pursuant to title 25, chapter 6, article 1.

14 (b) The father has adopted the child.

15 (c) The father's paternity is established under title 25, chapter
16 6, article 1 or section 36-334.

17 3. A child who is twelve years of age or older and who gives
18 consent in open court.

19 4. Any guardian of the person of the child who is appointed by a
20 court and who is given authority by it to consent to the child's adoption.

21 5. An agency that has been given consent to place the child for
22 adoption by the parent or parents whose consent would be necessary under
23 paragraph 1 or 2 of this subsection, or that has been given authority in
24 other legal proceedings to place the child for adoption.

25 6. The guardian of any adult parent for whom a guardian is
26 currently appointed.

27 7. The division if it has been given consent to place the child for
28 adoption by the parent or parents whose consent would otherwise be
29 necessary pursuant to paragraph 1 or 2 of this subsection or if it has
30 been given authority in other legal proceedings to place the child for
31 adoption. The court may waive the requirement for consent if the court
32 determines, after a hearing on actual notice to all persons who may be
33 adversely affected, that waiving the requirement is clearly in the child's
34 best interest.

35 B. It is not necessary for a person to obtain consent to adopt from
36 the following:

37 1. An adult parent for whom a guardian is currently appointed.

38 2. A parent whose parental rights have been terminated by court
39 order.

40 3. A parent who has previously consented to an agency's or the
41 division's placement of the child for adoption.

42 4. A person whose consent is not required under subsection A of
43 this section.

1 C. The minority of the child or parent does not affect the child's
2 or parent's competency to give consent in the instances set forth in this
3 section.

4 D. A consent to adopt is irrevocable unless obtained by fraud,
5 duress or undue influence.

6 E. An agency, the division or an attorney participating or
7 assisting in a direct placement adoption pursuant to section 8-130 shall
8 obtain from a birth parent, at the time consent for adoption is obtained,
9 a notarized statement ~~granting permission or withholding permission for~~
10 ~~the child being adopted, when the child reaches eighteen years of age, to~~
11 ~~obtain identifying and nonidentifying information about the child and the~~
12 ~~consenting birth parent. The agency, division or attorney shall inform~~
13 ~~the birth parent at the time of obtaining the notarized statement that the~~
14 ~~decision to grant permission or withhold permission may be changed at any~~
15 ~~time by filing a notarized statement with the court. The most recent~~
16 ~~notarized statement shall operate as consent for the court to grant or~~
17 ~~withhold identifying and nonidentifying information.~~ THAT ACKNOWLEDGES
18 THAT WHEN THE CHILD BEING ADOPTED REACHES EIGHTEEN YEARS OF AGE, THE CHILD
19 MAY OBTAIN A COPY OF THE CHILD'S ORIGINAL BIRTH CERTIFICATE AS PROVIDED IN
20 SECTION 36-340. THE BIRTH PARENT SHALL ALSO SUBMIT THE CONTACT PREFERENCE
21 FORM PRESCRIBED IN SECTION 36-340 TO THE AGENCY, DIVISION OR ATTORNEY FOR
22 FILING WITH THE COURT.

23 F. A notarized affidavit signed by the mother listing all potential
24 fathers shall be filed with the court. The affidavit shall attest that
25 all of the information contained in the affidavit is complete and
26 accurate.

27 G. Notice shall be served on each potential father as provided for
28 the service of process in civil actions. The notice shall be
29 substantially in the form prescribed in subsection I of this section and
30 shall inform the potential father of all of the following:

31 1. That adoption is planned.

32 2. The potential father's right to consent or withhold consent to
33 the adoption.

34 3. The potential father's responsibility to initiate paternity
35 proceedings under title 25, chapter 6, article 1, and to serve the mother
36 within thirty days of completion of service.

37 4. The potential father's responsibility to proceed to judgment in
38 the paternity action.

39 5. The potential father's right to seek custody.

40 6. The potential father's responsibility to begin to provide
41 financial support for the child if paternity is established.

42 7. That the potential father's failure to file a paternity action
43 pursuant to title 25, chapter 6, article 1, and to serve the mother and
44 proceed to judgment in the paternity action as prescribed by this section,

1 bars the potential father from bringing or maintaining any action to
2 assert any interest in the child.

3 H. Service on a mother of a title 25, chapter 6, article 1
4 paternity action pursuant to this section may be accepted by an attorney
5 or agency that is licensed in this state and that is representing the
6 mother. A mother may omit her address from the affidavit and notice to
7 potential fathers if the address of her attorney or the agency is provided
8 in the affidavit. Service on an attorney or agency pursuant to this
9 subsection is limited to service of the initial verified petition and
10 summons in the paternity action. Service on the attorney does not make
11 the attorney the attorney of record for the mother in the paternity action
12 and does not make the agency the agent for the mother in the paternity
13 action.

14 I. The notice required pursuant to subsection G of this section
15 shall be in substantially the following form:

16 Notice:

17 Notice is given to _____ that you have been
18 identified by _____, the natural mother, as a
19 potential father of a child to be born or, born on
20 _____, in _____.

21 You are informed of the following:

22 1. _____, the natural mother, plans to place
23 the child for adoption.

24 2. Under sections 8-106 and 8-107, Arizona Revised
25 Statutes, you have the right to consent or withhold consent to
26 the adoption.

27 3. Your written consent to the adoption is irrevocable
28 once you give it.

29 4. If you withhold consent to the adoption, you must
30 initiate paternity proceedings under title 25, chapter 6,
31 article 1, Arizona Revised Statutes, and serve the mother
32 within thirty days after completion of service of this notice.

33 5. You have the obligation to proceed to judgment in
34 the paternity action.

35 6. You have the right to seek custody.

36 7. If you are established as the child's father, you
37 must begin to provide financial support for the child.

38 8. If you do not file a paternity action under title
39 25, chapter 6, article 1, Arizona Revised Statutes, and do not
40 serve the mother within thirty days after completion of the
41 service of this notice and pursue the action to judgment, you
42 cannot bring or maintain any action to assert any interest in
43 the child.

44 9. The Indian child welfare act may supersede the
45 Arizona Revised Statutes regarding adoption and paternity.

1 10. For the purposes of service of a paternity action
2 under title 25, chapter 6, article 1, Arizona Revised
3 Statutes, service may be made on the mother at _____
4 or her agency or attorney at _____.

5 11. You may wish to consult with an attorney to assist
6 you in responding to this notice.

7 J. A potential father who fails to file a paternity action and who
8 does not serve the mother within thirty days after completion of service
9 on the potential father as prescribed in subsection G of this section
10 waives his right to be notified of any judicial hearing regarding the
11 child's adoption or the termination of parental rights and his consent to
12 the adoption or termination is not required.

13 Sec. 2. Section 8-121, Arizona Revised Statutes, is amended to
14 read:

15 8-121. Confidentiality of information; exceptions

16 A. It is unlawful, except for purposes for which files and records
17 or social records or parts thereof or information therefrom have been
18 released pursuant to subsection C of this section or section 8-120, 8-129,
19 ~~or~~ 8-134 ~~OR~~ 36-340, or except for purposes ~~permitted~~ ALLOWED by order of
20 the court, for any person to disclose, receive or make use of, or
21 authorize, knowingly ~~permit~~ ALLOW, participate in or acquiesce in the use
22 of, any information involved in any proceeding under this article directly
23 or indirectly derived from the files, records, reports or other papers
24 compiled pursuant to this article, or acquired in the course of the
25 performance of official duties until one hundred years after the date of
26 the order issued pursuant to section 8-116. After one hundred years has
27 elapsed from the date of the order issued pursuant to section 8-116 the
28 court shall transfer all files, records, reports and other documents in
29 possession of the court relating to the adoption to the Arizona state
30 library, archives and public records. The items transferred pursuant to
31 this subsection shall be available for public inspection during business
32 hours and may be made available in an alternative format.

33 B. ~~The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~
34 prohibit persons employed by the court, the division or an agency from
35 conducting the investigations or performing other duties pursuant to this
36 article within the normal course of their employment.

37 C. This section does not prohibit persons employed by the court,
38 the division, an attorney participating or assisting in a direct placement
39 adoption pursuant to section 8-130 or an agency from providing partial or
40 complete identifying information between a birth parent and adoptive
41 parent when the parties mutually agree to share specific identifying
42 information and make a written request to the court, the division or the
43 agency.

44 D. A person may petition the court to obtain information relating
45 to an adoption in the possession of the court, the division or any agency

1 or attorney involved in the adoption. Nonidentifying information may be
2 released by the court pursuant to section 8-129. The court shall not
3 release identifying information unless the person requesting the
4 information has established a compelling need for disclosure of the
5 information or consent has been obtained pursuant to subsection E of this
6 section or from the birth parent pursuant to section 8-106. If a
7 compelling need for disclosure of information is established, the court
8 may decide what information, if any, should be disclosed and to whom and
9 under what conditions disclosure may be made.

10 E. An adoptee who is eighteen years of age or older or a birth
11 parent may file at any time with the court and the agency, division or
12 attorney who participated in the adoption a notarized statement granting
13 consent, withholding consent or withdrawing a consent previously given for
14 the release of confidential information. If an adoptee who is eighteen
15 years of age or older and the birth mother or birth father have filed a
16 notarized statement granting consent to the release of confidential
17 information, the court may disclose information, except identifying
18 information relating to a birth parent who did not grant written consent,
19 to the adoptee or birth parent.

20 F. This section does not prohibit a person from notifying a birth
21 parent of the death of a child that the birth parent has placed for
22 adoption.

23 Sec. 3. Section 8-534, Arizona Revised Statutes, is amended to
24 read:

25 8-534. Contents of petition

26 A. The petition for the termination of the parent-child
27 relationship filed pursuant to this article shall include, to the best
28 information or belief of the petitioner:

29 1. The name and place of residence of the petitioner.

30 2. The name, sex, date and place of birth and residence of the
31 child.

32 3. The basis for the court's jurisdiction.

33 4. The relationship of the petitioner to the child or the fact that
34 no relationship exists.

35 5. The names, addresses and dates of birth of the parents, if
36 known.

37 6. The names and addresses of the person having legal custody or
38 guardianship of the person or acting in loco parentis to the child or the
39 organization or authorized agency having legal custody or providing care
40 for the child.

41 7. The grounds on which termination of the parent-child
42 relationship is sought.

43 8. The names and addresses of the persons or authorized agency or
44 officer thereof to whom or to which legal custody or guardianship of the
45 person of the child might be transferred.

1 B. ~~Beginning January 1, 1993,~~ Whenever possible the court ~~upon~~ ON
2 terminating the parental rights of a birth parent in a termination of
3 parental rights proceeding shall obtain from the birth parent a notarized
4 statement ~~granting or withholding~~ THAT DOES BOTH OF THE FOLLOWING:

5 1. ACKNOWLEDGES THAT WHEN THE PERSON WHO IS THE SUBJECT OF THE
6 TERMINATION OF PARENTAL RIGHTS PROCEEDING REACHES EIGHTEEN YEARS OF AGE,
7 THE PERSON MAY OBTAIN A COPY OF THE PERSON'S ORIGINAL BIRTH CERTIFICATE AS
8 PROVIDED IN SECTION 36-340.

9 2. GRANTS OR WITHHOLDS consent for the person who is the subject of
10 the termination of parental rights proceeding to review adoption records,
11 if the person is subsequently adopted, when ~~such~~ THE person ~~is twenty-one~~
12 REACHES EIGHTEEN years of age ~~or older~~.

13 C. A copy of any relinquishment or consent and the notarized
14 consent pursuant to section 8-106, subsection F, if any, previously
15 executed by the parent shall be attached to the petition.

16 Sec. 4. Section 36-322, Arizona Revised Statutes, is amended to
17 read:

18 36-322. Sealing a certificate

19 A. The state registrar shall seal a certificate and evidentiary
20 documents when the state registrar amends the registered certificate.

21 B. Unless required by a court order AND EXCEPT AS PROVIDED IN
22 SECTION 36-340, the state registrar shall not issue a copy of a
23 certificate or other record sealed pursuant to this section.

24 Sec. 5. Section 36-336, Arizona Revised Statutes, is amended to
25 read:

26 36-336. Adoption certificate

27 A. For an adoption of a person born in this state, a state court
28 shall submit to the state registrar an adoption certificate on a form
29 approved by the state registrar or pursuant to a court order that
30 includes:

31 1. Information required by rule about the adoptive father and
32 adoptive mother.

33 2. Information required by rule about the child being adopted.

34 3. A statement by the court that the information on the adoption
35 certificate is accurate.

36 4. THE CONTACT PREFERENCE FORM PRESCRIBED IN SECTION 36-340.

37 B. For an adoption of a person born in this state and ordered by a
38 court in another state, the state registrar shall accept an order for an
39 adoption or an adoption certificate that contains the information in
40 subsection A.

41 C. If a court modifies a court order for adoption, the state
42 registrar shall follow the procedures in this chapter for amending a
43 registered certificate.

44 D. By the tenth day of each month, a court in this state shall
45 submit to the state registrar all adoption certificates, court orders for

1 adoption and court orders for modification of adoption for the preceding
2 month.

3 E. When the state registrar receives an adoption certificate, a
4 court order for adoption, a change to a court order for adoption or an
5 annulment of an adoption for a person born in another state, the state
6 registrar shall send the document to the appropriate registration
7 authority in the state where the person was born.

8 Sec. 6. Section 36-337, Arizona Revised Statutes, is amended to
9 read:

10 36-337. Amending birth certificates

11 A. The state registrar shall amend the birth certificate for a
12 person born in this state when the state registrar receives any of the
13 following:

14 1. Except as provided in subsection D of this section, an adoption
15 certificate or a court order for adoption required pursuant to section
16 36-336.

17 2. A voluntary acknowledgment of paternity pursuant to section
18 25-812.

19 3. For a person who has undergone a sex change operation or has a
20 chromosomal count that establishes the sex of the person as different than
21 in the registered birth certificate, both of the following:

22 (a) A written request for an amended birth certificate from the
23 person or, if the person is a child, from the child's parent or legal
24 guardian.

25 (b) A written statement by a physician that verifies the sex change
26 operation or chromosomal count.

27 4. A court order ordering an amendment to a birth certificate.

28 B. The state registrar shall change the name of the father on a
29 registered birth certificate if:

30 1. The state registrar receives an administrative order or a court
31 order ordering the state registrar to change the father's name on the
32 registered birth certificate.

33 2. Paternity is established through a voluntary acknowledgement of
34 paternity pursuant to section 25-812.

35 C. If a registered birth certificate does not exist for a person
36 born in this state who is requesting to amend a birth certificate the
37 person making that request shall comply with the requirements established
38 by rule.

39 D. The state registrar shall retain the information on a person's
40 registered birth certificate after the person's adoption if all of the
41 following documents are submitted to the state registrar:

42 1. A written request to retain the information signed by the
43 adoptive parent or a court order containing a request to retain the
44 information on the registered birth certificate.

1 2. A written statement agreeing to retain the mother's name on the
2 person's registered birth certificate, signed by the mother, or if the
3 mother is deceased, a certified copy of a registered death certificate for
4 the mother.

5 3. If there is a father's name stated on the registered birth
6 certificate, a written statement agreeing to retain the father's name on
7 the person's registered birth certificate, signed by the father, or if the
8 father is deceased, a certified copy of a registered death certificate for
9 the father.

10 E. If the state registrar amends a registered birth certificate
11 following adoption, the birth certificate shall state the city or county
12 of birth stated on the existing registered birth certificate and the date
13 of birth stated on the existing registered birth certificate. The state
14 registrar may omit the exact location of birth on the registered birth
15 certificate.

16 F. If a local registrar or deputy local registrar amends a
17 registered birth certificate, the local registrar or deputy local
18 registrar shall forward all evidentiary documents provided to create the
19 new birth certificate to the state registrar.

20 G. If the state registrar amends a registered birth certificate,
21 the state registrar shall seal the previously registered birth certificate
22 and the evidentiary documents provided to amend the registered birth
23 certificate. The state registrar shall provide access to a sealed
24 certificate or evidentiary documents only pursuant to section 36-322, ~~OR~~
25 36-340 OR a court order issued in this state or as prescribed by rule.

26 H. If the state registrar receives a court order annulling an
27 adoption, the state registrar shall unseal the sealed registered birth
28 certificate and shall seal the new birth certificate and evidentiary
29 documents.

30 Sec. 7. Title 36, chapter 3, article 3, Arizona Revised Statutes,
31 is amended by adding section 36-340, to read:

32 36-340. Adopted individual; sealed original birth
33 certificate; contact preference and medical history
34 forms; confidentiality

35 A. FROM AND AFTER DECEMBER 31, 2021 AND EXCEPT AS PROVIDED IN
36 SUBSECTION I OF THIS SECTION, THE STATE REGISTRAR SHALL PROVIDE TO AN
37 INDIVIDUAL A COPY OF THE INDIVIDUAL'S ORIGINAL BIRTH CERTIFICATE THAT HAS
38 BEEN SEALED DUE TO AN ADOPTION AND ANY EVIDENCE OF THE ADOPTION THAT IS
39 HELD WITH THE ORIGINAL BIRTH CERTIFICATE, IF ALL OF THE FOLLOWING ARE
40 TRUE:

- 41 1. THE INDIVIDUAL IS AT LEAST EIGHTEEN YEARS OF AGE.
42 2. THE INDIVIDUAL WAS BORN IN THIS STATE.
43 3. THE INDIVIDUAL SUBMITS TO THE STATE REGISTRAR A WRITTEN REQUEST
44 TO RECEIVE A COPY OF THE ORIGINAL BIRTH CERTIFICATE.

1 B. THE COPY OF THE ORIGINAL BIRTH CERTIFICATE SHALL CLEARLY
2 INDICATE THAT IT IS NOT A CERTIFIED COPY AND THAT IT MAY NOT BE USED FOR
3 LEGAL PURPOSES.

4 C. THE FEES AND PROCEDURES THAT APPLY TO OBTAINING A COPY OF A
5 REGISTERED CERTIFICATE APPLY TO OBTAINING A COPY OF AN ORIGINAL BIRTH
6 CERTIFICATE PURSUANT TO THIS SECTION.

7 D. THE STATE REGISTRAR SHALL DEVELOP A CONTACT PREFERENCE FORM TO
8 BE FILLED OUT BY A BIRTH PARENT, AT THE BIRTH PARENT'S OPTION, AND KEPT
9 WITH THE ORIGINAL BIRTH CERTIFICATE AS PROVIDED IN THIS SECTION. THE
10 PREFERENCE FORM SHALL DO ALL OF THE FOLLOWING:

11 1. INDICATE IF THE BIRTH PARENT WANTS TO DO ANY OF THE FOLLOWING:

12 (a) BE CONTACTED BY THE INDIVIDUAL WHO RECEIVES THE COPY OF THE
13 ORIGINAL BIRTH CERTIFICATE. IF THE BIRTH PARENT WANTS TO BE CONTACTED,
14 THE BIRTH PARENT SHALL INCLUDE THE BIRTH PARENT'S CURRENT NAME, ADDRESS
15 AND TELEPHONE NUMBER IN ADDITION TO ANY OTHER CONTACT INFORMATION THE
16 BIRTH PARENT WISHES TO INCLUDE.

17 (b) BE CONTACTED ONLY THROUGH AN INTERMEDIARY. IF THE BIRTH PARENT
18 WANTS TO BE CONTACTED THROUGH AN INTERMEDIARY, THE BIRTH PARENT SHALL
19 INCLUDE THE INTERMEDIARY'S NAME AND TELEPHONE NUMBER.

20 (c) NOT BE CONTACTED. THE FORM SHALL INDICATE THAT THE BIRTH
21 PARENT MAY CHANGE THE CONTACT PREFERENCE TO ALLOW DIRECT CONTACT OR
22 CONTACT THROUGH AN INTERMEDIARY BY FILING AN AMENDED CONTACT PREFERENCE
23 FORM.

24 2. INDICATE IF THE BIRTH PARENT HAS COMPLETED AND FILED WITH THE
25 STATE REGISTRAR A MEDICAL HISTORY FORM.

26 3. INCLUDE THE FOLLOWING INFORMATION:

27 (a) THE NAME OF THE CHILD ON THE ORIGINAL BIRTH CERTIFICATE.

28 (b) THE DATE OF BIRTH AND SEX OF THE CHILD.

29 (c) THE CITY OR TOWN, COUNTY AND NAME OF THE HOSPITAL IN WHICH THE
30 CHILD WAS BORN.

31 (d) THE MOTHER'S NAME AS SHOWN ON THE ORIGINAL BIRTH CERTIFICATE.

32 (e) THE NAME OF THE ATTORNEY OR AGENCY THAT PLACED THE CHILD FOR
33 ADOPTION OR THAT THE DEPARTMENT PLACED THE CHILD FOR ADOPTION.

34 (f) WHETHER THE PERSON FILLING OUT THE FORM IS THE BIRTH MOTHER OR
35 BIRTH FATHER OF THE CHILD.

36 E. THE STATE REGISTRAR SHALL DEVELOP A MEDICAL HISTORY FORM TO BE
37 COMPLETED BY A BIRTH PARENT AT THE BIRTH PARENT'S OPTION.

38 F. THE CONTACT PREFERENCE FORM AND THE MEDICAL HISTORY FORM ARE
39 CONFIDENTIAL. IF THE BIRTH PARENT FILES THE FORMS, THE STATE REGISTRAR
40 SHALL SEAL THE FORMS TOGETHER AND RETAIN THEM WITH THE ORIGINAL BIRTH
41 CERTIFICATE. THE FORMS SHALL BE GIVEN TO THE INDIVIDUAL WHO RECEIVES THE
42 ORIGINAL BIRTH CERTIFICATE. THE STATE REGISTRAR MAY NOT KEEP A COPY OF
43 THE CONTACT PREFERENCE FORM OR THE MEDICAL HISTORY FORM.

44 G. A BIRTH PARENT MAY FILE AN AMENDED CONTACT PREFERENCE FORM OR
45 MEDICAL HISTORY FORM WITH THE STATE REGISTRAR.

1 H. THE DEPARTMENT SHALL PUBLICIZE THE REQUIREMENTS OF THIS SECTION.

2 I. THE BIRTH PARENT MAY FILE AN AMENDED CONTACT PREFERENCE FORM
3 PURSUANT TO SUBSECTION D, PARAGRAPH 1, SUBDIVISION (c) OF THIS SECTION OR
4 UPDATE THE INFORMATION ON THE CONTACT PREFERENCE FORM BY PROVIDING THE
5 STATE REGISTRAR THE AMENDED CONTACT PREFERENCE FORM OR THE NEW INFORMATION
6 ELECTRONICALLY, IN WRITING OR IN PERSON.

7 J. THE STATE REGISTRAR MAY NOT PROVIDE TO AN INDIVIDUAL A COPY OF
8 THE INDIVIDUAL'S ORIGINAL BIRTH CERTIFICATE THAT HAS BEEN SEALED DUE TO AN
9 ADOPTION, IF THE INDIVIDUAL WAS BORN FROM AND AFTER JUNE 20, 1968 AND
10 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

APPROVED BY THE GOVERNOR JUNE 29, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 29, 2021.