

A Bill for an Act Relating to the Preparation of Certificates of Birth for Adopted Children Born in a Foreign Country.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 338-17.7 Establishment of new certificates of birth, when.** (a) The director of health shall establish a new birth certificate for a person born in this State upon receipt of a certified copy of a court determination of paternity together with a request from the natural mother or person having legal custody of the child that such new certificate be prepared. The surname of the child shall be that of the mother unless the decree or request provided otherwise.

(b) A new certificate of birth shall be prepared by the director of health for a child or children legitimated as provided in section 338-21.

(c) A new certificate of birth shall be prepared by the director of health for a child or children born in a foreign country upon compliance with section 338-

(d) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has examined the person and has found that the sex item on the person's birth certificate was entered incorrectly.

(e) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has performed an operation on the person and that by reason of the operation the sex designation on such person's birth record should be changed. The director of health may make a further investigation or require any further information he deems necessary.

(f) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed. Such sealed document shall be opened only by an order of a court of record.”

SECTION 2. Section 338-20, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 338-20 Adoption; persons born within the State.** (a) In case of the adoption of any person born in the State, the department of health, upon receipt of a properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the department, shall prepare a supplementary certificate in the name of the adopted person, as fixed or changed by the decree, and seal and file the original certificate of birth with the certified copy attached thereto.

(b) Any certified copy of final decree of adoption, or abstract thereof, of persons born in the State, rendered by courts of other states and territories subject to the jurisdiction of the United States or a foreign country, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor, or magistrate that the attestation is in due form.

(c) If no original certificate of birth shall be on file with the department, the department may require such evidence as it deems necessary to establish the facts of birth before preparing a supplementary certificate in the new name of the adopted person; provided, that no such certificate shall be filed unless it shall be satisfactorily established that the adopted person was born in the State.

(d) Such sealed documents may be opened by the department only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the department shall restore the original certificate to its original place in the files.”

SECTION 3. Chapter 338, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 338- Adoption; foreign born persons.** (a) The department of health shall establish a Hawaii certificate of birth for a person born in a foreign country and for whom a final decree of adoption has been entered in a court of competent jurisdiction in Hawaii, when it receives the following:

- (1) A properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the department; and
- (2) A copy of any investigatory report and recommendation which may have been prepared by the director of social services; and
- (3) A report on a form to be approved by the department of health setting forth the following:
  - (A) Date of assumption of custody;
  - (B) Sex;
  - (C) Color or race;
  - (D) Approximate age of child;
  - (E) Name and address of the person or persons adopting said child;
  - (F) Name given to child by adoptive parent or parents;
  - (G) True or probable country of birth.

The true or probable country of birth shall be known as the place of birth, and the date of birth shall be determined by approximation. This report shall constitute an original certificate of birth, and;

- (4) A request that a new certificate of birth be established.

(b) After preparation of the new certificate of birth in the new name of the adopted person, the department of health shall seal and file the certified copy of the adoptive decree, the investigatory report and recommendation of the director of social services if any, the report constituting the original certificate of birth, and the request for a new certificate of birth. Such sealed documents may be opened by the department only by an order of a court of record. The new certificate of birth shall show the true or probable foreign country of birth, and that the certificate is not evidence of United States citizenship for the child for whom it is issued or for the adoptive parents.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 203**

**SECTION 5. This Act shall take effect upon its approval.**

(Approved June 8, 1979.)