

NJ Coalition for Adoption Reform and Education (NJCARE)

New Jersey's Birthright Legislation



www.nj-care.org

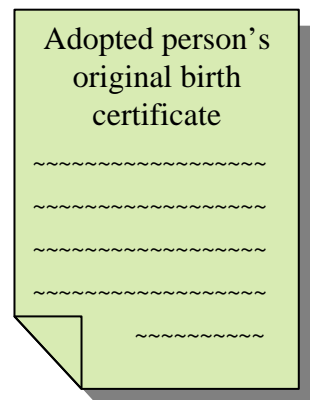
Our Mission

NJCARE believes that adult adopted persons should have the right:

- to know the truth of their origins,
- to obtain a copy of their original birth certificate,
- to have access to updated family medical, cultural, and social information upon request.

To know the truth of one's origin is the right of *every* human being.

Why is it a state secret?



History of sealed records in New Jersey

- **1938** Records of adoptions finalized in New Jersey were sealed from **public** access.
- **1940** Sealing of adoption records was extended to include adoptive parents, birth parents and adopted persons.

Note: Records were sealed to protect adoptive parents from birth parents. Confidentiality for birth parents was never mentioned in the law.

History of sealed records in New Jersey -2

- 1977** *Mills v. Atlantic City* decision allowed adoption agencies to share non-identifying background information and to act as intermediaries on behalf of searching adopted adults.
- 1978** Adoptive parents can change place of birth.
- 1980** Assemblyman Al Burstein introduced access-to-records legislation in New Jersey based on the proposed federal *Model State Adoption Act* which stated, [Birth] ***“Parent and child are considered co-owners of information concerning the event of birth.”***

History of sealed records in New Jersey - 3

- 1991** Access bill passed in the Assembly, no Senate action. Provided OBC to adoptees 21+ “to learn identity of biological parent.” Adoptees may indicate OK to disclose their identity to BP on request.
- 1994** Access bill passed in Assembly, no Senate action. Provided OBC to adoptees 18+ and 12-month non-disclosure option for birth parents, including providing family medical history. Fiscal note added.

History of sealed records in New Jersey - 4

- **2004, 2006 & 2008** Access bills passed in the Senate, no Assembly action. Birth parent contact preference provision added. Fiscal note removed (2008).
- **2010 & 2011** Access bills passed in the Assembly and Senate only to be *conditionally vetoed* by the governor. Veto eliminated all advocates' provisions and replaced them with a contact intermediary and prospective nondisclosure. Advocates rejected CV bill.

Current status of sealed records in New Jersey

- **2013** Clean birthright bill passed in the Senate. Action by Assembly is pending. Provides contact preference option for birth parents, indicating their desire for:
 - direct contact,
 - contact through an intermediary, whom they may name, or
 - no contact.
 - Birth parents also required to provide updated family history information which will be provided to adoptee upon request for their birth certificate.

Birthright law is necessary because adopted persons:

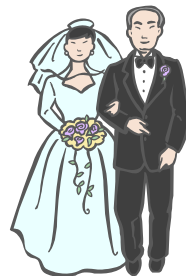
- need access to **accurate, current medical history;**
- need access to their **religious and ethnic histories;**
- need access to the **truth, for optimal personal development;**
- need freedom to **marry without concern of committing incest.**



“Knowing your family history can save your life.” - Dr. Benjamin Carmona,
US Surgeon General, 2004



Know the Truth



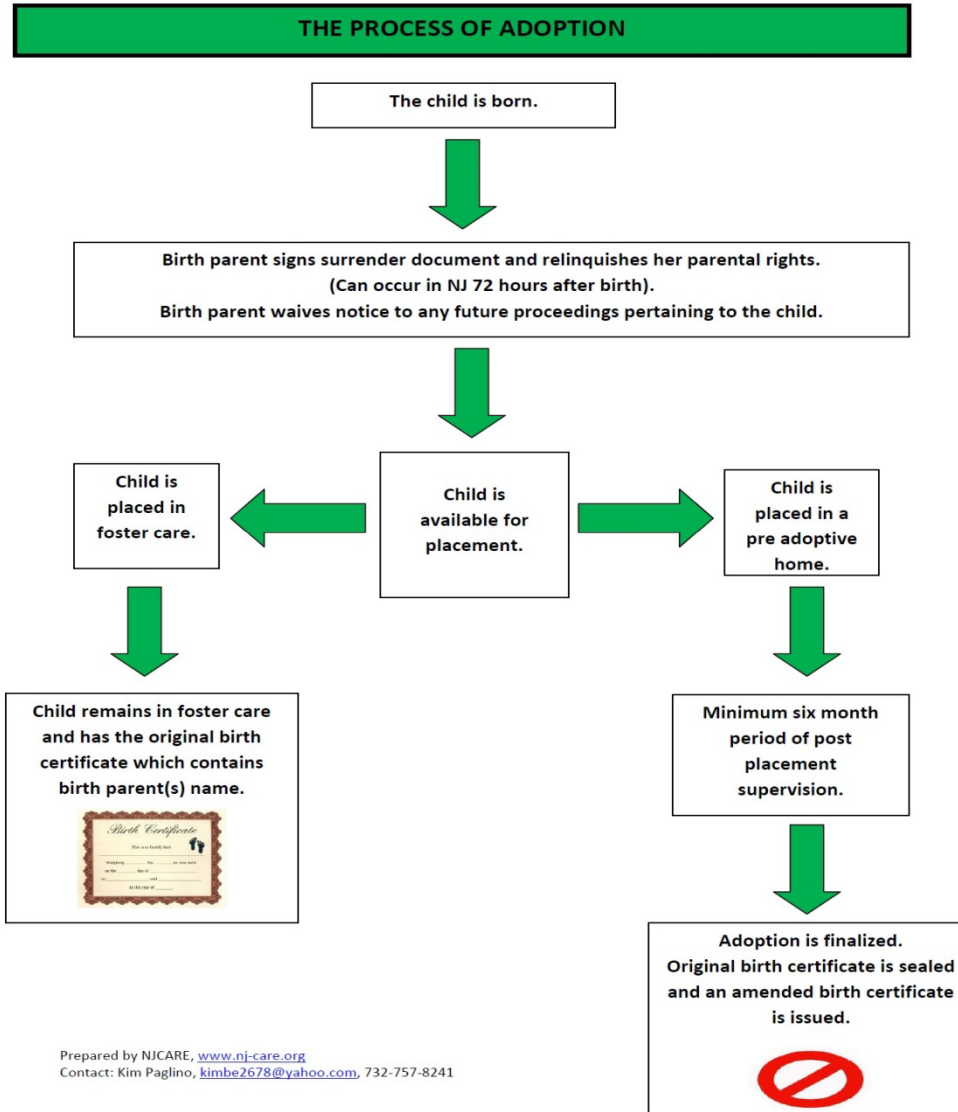
What's more important...
potential life-saving medical history?
or possible embarrassment
of a birth parent?



You be the judge

This chart outlines the typical adoption process in NJ. From start to finish it takes at least 6 months before a judge approves an adoption and the original birth certificate is sealed. In the cases where a child is placed in foster care and never adopted, the birth certificate would never be sealed.

What is critically important to note is that when a birth parent signs the documents (known as surrender documents) relinquishing their parental rights, the birth parent also waives notice to any future legal proceedings regarding the child. Because of this, the birth parent legally is not entitled to any notice surrounding whether the child will actually be adopted at all.



Critical facts about implications of birthright law

- **Adoption** rates are **higher** in states allowing access.
- **Abortion** rates are **lower** in states/nations allowing access.
- **Confidentiality** was **not** *promised or even mentioned* in statutes or surrender documents.
- **Retroactivity** will provide adoptees accurate updated family medical history.
- **Mutual consent voluntary registries** *without accompanying right-to-know legislation* are ineffective and obstructive.

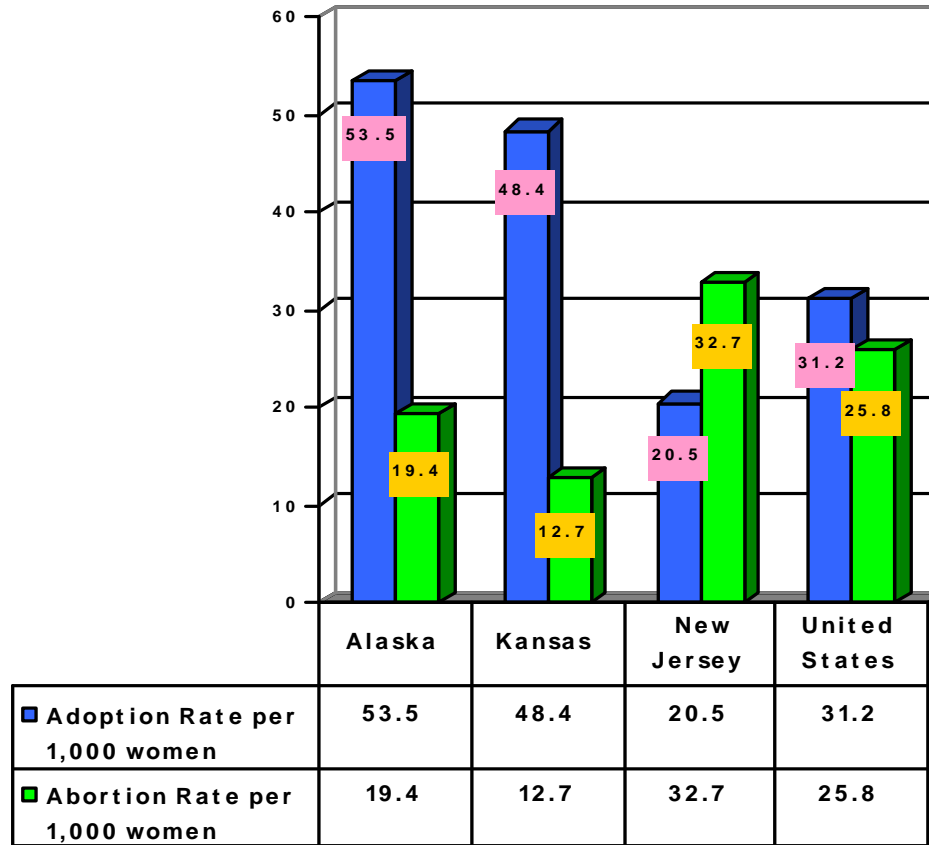


Critical facts about adoption rates



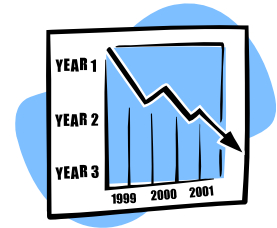
- **Adoption** rates are **higher** in states allowing **access**.
- Kansas & Alaska (always accessible) have **higher** adoption rates than national average.
- Oregon attorney-assisted adoptions **increased 6.3%** since access legislation.

USA: Adoption rates are *higher* and abortion rates are *lower* in states with access to birth certificates



Sources: National Center for Court Statistics, Alaska Bureau of Vital Statistics and the Alan Guttmacher Institute

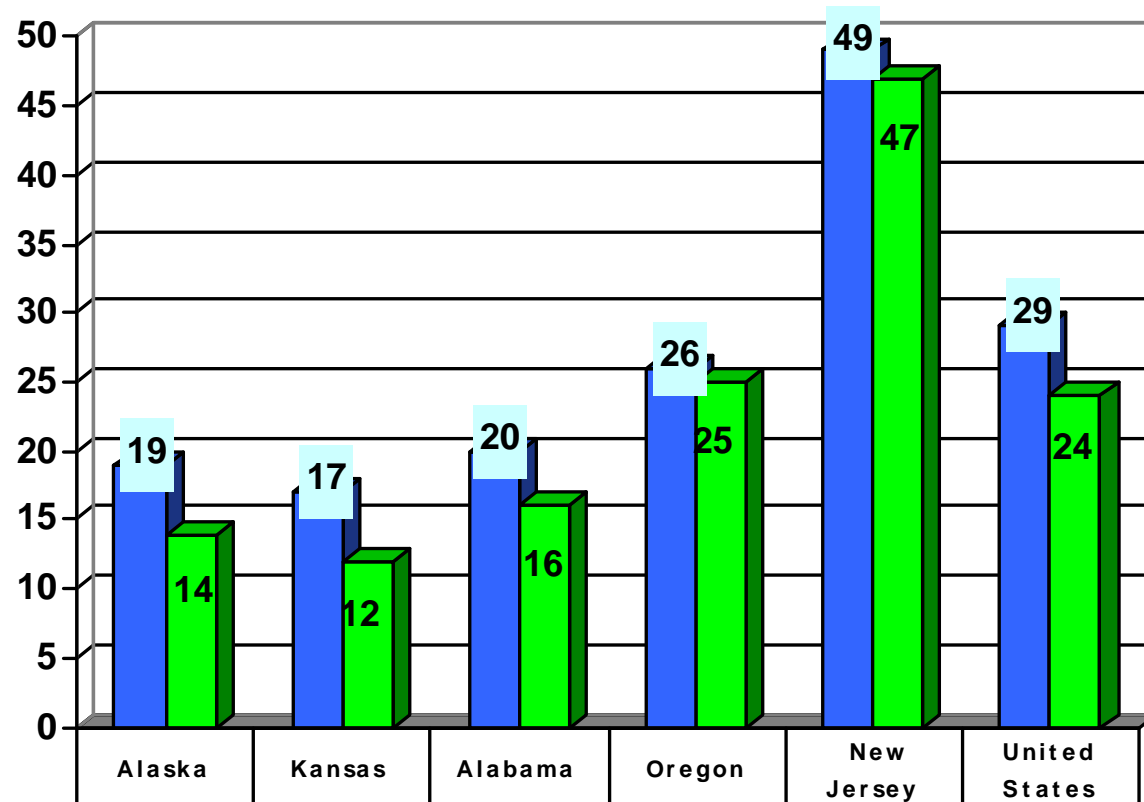
Critical facts about abortion rates



- **Abortion** rates are **lower** in states and nations allowing access.
- The U.S. abortion rate **dropped 9%** between 2000 and 2005. During that same time frame:
- Abortions in Oregon **dropped 25%** since access legislation.
- Abortions in Alabama **dropped 16%** since access legislation.

Abortion rates per 1,000 women aged 15 – 19

While teenage abortion rates continue their downward trend, New Jersey has the highest teenage abortion rate in the country.

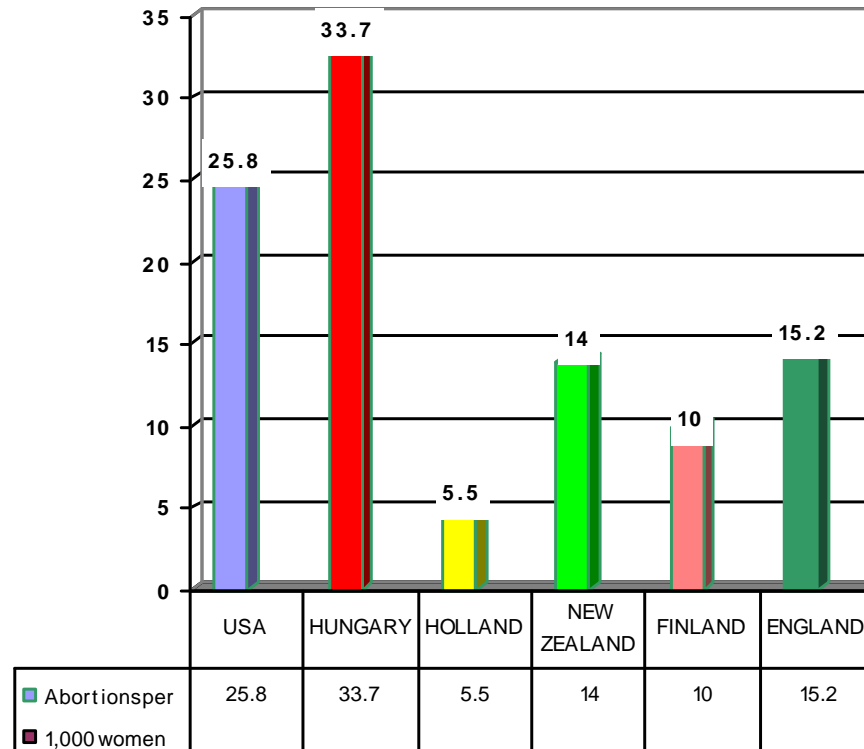


■ Abortion rate in 1996	19	17	20	26	49	29
■ Abortion rate in 2000	14	12	16	25	47	24

Source: The Alan Guttmacher Institute, February 2004

Worldwide, adoptees' access to their birth certificates ***DOES NOT*** increase abortion rates

ACCESS TO BIRTH CERTIFICATES WAS LEGALIZED IN:	
New Zealand	1985
England	1975
Holland	1956
Finland	1925
USA	NEVER
HUNGARY	NEVER



Sources: National Center for Court Statistics, Alaska Bureau of Vital Statistics and the Alan Guttmacher Institute

Birthright laws are successful in:

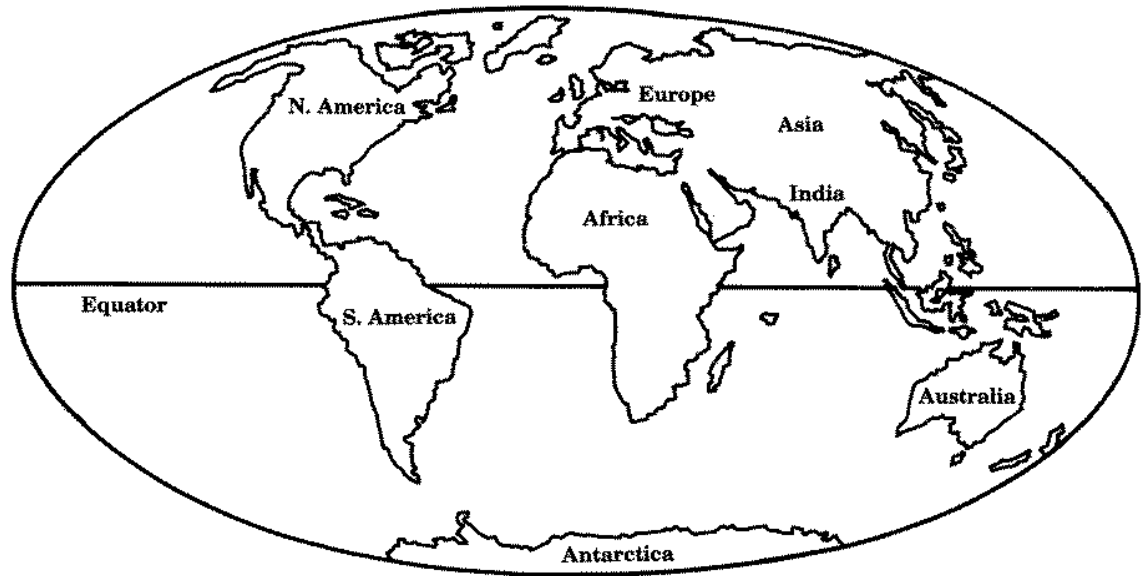
- Alabama
- Alaska
- Delaware
- Illinois
- Kansas
- Maine
- New Hampshire
- Oregon
- Rhode Island
- Tennessee



Native Americans have access to their original birth certificates.

Birthright laws are successful in:

- England
- Scotland
- Wales
- Finland
- Germany
- Israel
- Holland
- New Zealand
- Taiwan
- Provinces of Canada and Australia



Critical facts about confidentiality



- Confidentiality was not *promised or even mentioned* in statutes or surrender documents.
- Language in surrender documents **protected the adoptive family**. Catholic Charities 1961 document said, “*I agree that I will not seek to discover the home of said child, attempt to remove her therefrom, nor in any way molest or interfere with the family in which she may be placed.*”

Critical facts about confidentiality - 2



- *“The Constitution does not encompass a general right to nondisclosure of private information.”*
- *“...nothing in the...adoption statutes...evinces a legislative intent to enter into a contract with birth mothers to guarantee them that their identities will not be revealed to their adopted children without their consent.”*

U.S. Court of Appeals (6th Circuit)

Critical facts about confidentiality - 3



- Many adopted persons know their birth name.
 - Their name was on the adoption decree, or
 - it was given to the adoptive parents.
- 95% of birth parents welcome direct contact.

Most birth mothers want contact

- *“95% (of parents we search for) agree to some form of contact with the adoptee.”* Delores Helb, Adoption Registry Coordinator, NJ DYFS, December 13, 2004
- *“Contrary to our predictions... many happy reunions have occurred between birth parents and their children that might have not happened otherwise.”* Kathleen Ledesma, Program Manager for Adoption Services, Oregon Department of Human Services, December 2, 2004
- *“We do not feel it is just to thwart the many to protect the few.”* Maternity & Adoption Services for Trenton, Camden, Metuchen, Newark & Paterson Dioceses – Executive Directors, 1992

Critical facts about retroactivity

- Retroactivity will provide adoptees accurate **updated** family medical history.
- Birth parents indicating a **contact preference** will complete a **family history** form.
- Family history form will be sent to adopted person upon request for OBC.



Contact Preference

I prefer:

Direct contact

Intermediary

No contact

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Family History

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Adopted person's
original birth
certificate

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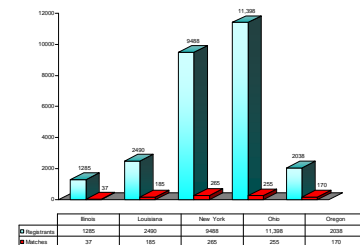
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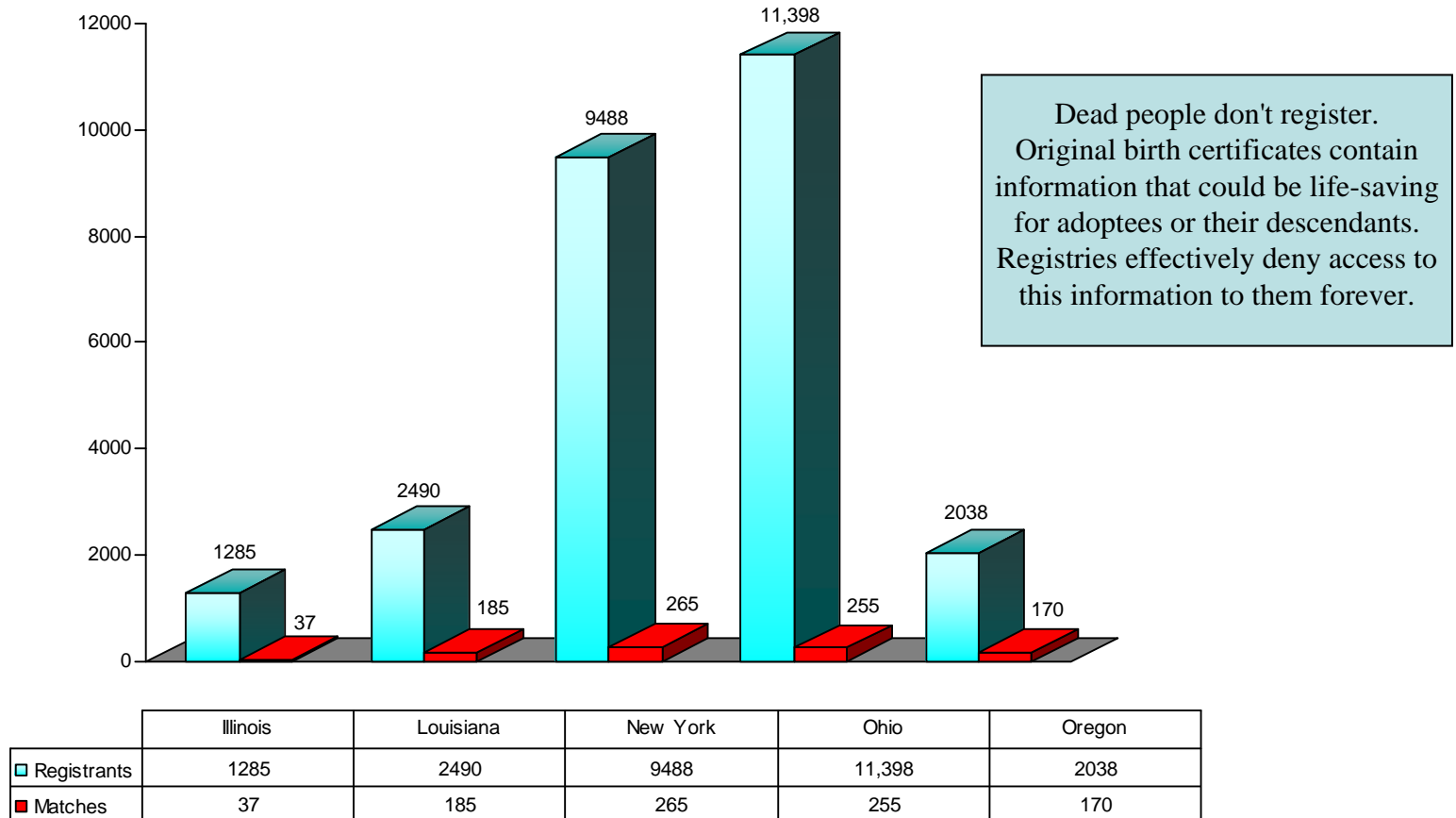
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Critical facts about mutual consent voluntary registries (MCVR's)

- MCVR's *without accompanying right-to-know legislation* are ineffective and obstructive.
- MCVR's have a 2% success rate!
- **Dead people don't register!**



Mutual consent voluntary registries are a failure – nationwide!



Statistics reflect number of registrants in the past two decades.

Data acquired through questionnaires, faxes and phone calls directly to each state, 1996 - 1998. Compiled by: Barbara Busharis, Esq., American Adoption Congress (AAC); Jane Nast, M. Ed., AAC & NJCARE; Pam Hasegawa, AAC & NJCARE; and Melisha Mitchell, AAC.

Options for birth parents:

Contact preference

- Birth parents:
 - have no protection from unwanted contact under current law.
 - may indicate their preference regarding contact, either
 - directly
 - through an intermediary, whom they may name, or
 - no contact.
- This legislation, **for the first time in NJ history**, gives birth parents a voice in the process!

Statistics for states implementing access to original birth certificate laws since 2000

State	Year OBCs Sealed	Access Law Effective	Data as of	Sealed Original Birth Certificates ¹	Adoptees Requesting OBCs	Percent Adoptees Requesting OBCs ²	Birth Parents		
							Requesting Contact	Requesting No Contact	Percent Requesting No Contact ³
Oregon	1957	5/31/00	5/31/13	107,730	11,547	10.7%	583	85	0.08%
Alabama ⁴	1991	8/1/00	5/31/13	300,000	5,854	2.0%	228	7	0.00%
New Hampshire	1973	1/1/05	12/31/12	24,000	1,572	6.6%	65	12	0.05%
Maine	1953	1/1/09	12/31/12	24,000	1,280	5.3%	26	8	0.03%
Illinois ⁵	1946	5/19/10	3/31/13	350,000	8,800	2.5%	167	457	0.13%
Rhode Island	1944	7/2/12	6/14/13	24,000	827	3.4%	10	10	0.04%
Totals/Averages				829,730	29,880	3.6%	1079	579	0.07%

Notes:

Bottom line: 1 out of 1,429 birth mothers requested no contact.

¹ Birth certificates are sealed upon final order of adoption. If a child remains in foster care and is never adopted, the certificate is not sealed. Statistics from each state.

The number of sealed records are estimates from Vital

Percentages are based on the number of *sealed records* equating to the number of birth mothers, because typically birth fathers' names were not on the certificate. Results are:

² **Adoptees requesting their original birth certificate represent a range up to about 10% of sealed records.**

³ **In 6 states, only 579 birth parents requested no contact, or seven-one-hundredths of one-percent, which equates to 1 out of 1,429 sealed records.**

⁴ Alabama-born adopted persons, whose original birth certificates were sealed, may obtain a non-certified copy along with all other documents in the file. While most of these requests are from adopted persons, others (who had a legal determination of paternity causing their OBC to be sealed) have also made requests to open sealed files and are included in these counts. Requests for no contact are not tracked. In 2011, they were estimated to be about 7 with none since then.

⁵ Illinois law effective 5/19/10 for adoptees born prior to 1/1/46 and on 11/15/11 for those born after 1945. Of the 8,800 certificates requested, 174 could not be found and 49 certificates had the birth parent information redacted from the original birth certificate released to the adopted adult upon request.

Delaware has ~10,000 sealed records. From 1/99 to 5/13, 841 birth certificates have been released and 18 persons filed disclosure vetos. Requests for contact are not tracked.

Tennessee sealed approximately 73,000 records in 1978 and reopened them in 1999. They do not track requests.

Sealed records are estimates, requests are actual as of date shown. All data provided by:

OR: Carol A. Sanders, Manager, Center for Health Statistics, Portland, OR 97232

AL: Catherine Molchan Donald, State Registrar and Director, Center for Health Statistics, Montgomery, AL 36103

NH: Melanie Orman, Adoption Coordinator, Division of Vital Records, Concord, NH 03301

ME: Sharon L. Wright, Adoption Coordinator, Vital Records, Augusta, ME 04333

IL: Rep. Sarah Feigenholtz, Chicago, IL

RI: Department of Health

Est. Population 4/10:

OR 3.8M

AL 4.8M

NH 1.3M

ME 1.3M

IL 12.8M

RI 1.1M

<http://oregon.gov/DHS/nh/chs/order/58update.shtml>

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<http://www.health.ri.gov/data/adultadoptees/index.php>

<http://www.health.ri.gov/data/adultadoptees/index.php>

[index.php](http://www.health.ri.gov/data/adultadoptees/index.php)

Organizations supporting birthright legislation - national

- Child Welfare League of America (CWLA)
- American Adoption Congress
- North American Council on Adoptable Children
- National Adoption Center
- Evan B. Donaldson Institute
- Parents for Ethical Adoption Reform (PEAR)
- National Association of Social Workers (NASW)
- Adoptees' Liberty Movement Association (ALMA)
- Concerned United Birthparents (CUB)
- General Assembly of the Presbyterian Church USA
- General Convention of the Episcopal Church
- British Association for Adoption and Fostering

Organizations supporting birthright legislation – New Jersey

- Adoption Agency Council of New Jersey (AACNJ) member agencies:
 - Adoptions from the Heart
 - Children of the World
 - Children’s Aid and Family Services
 - Family and Children’s Services
 - Holt International Children’s Services
 - Jewish Family and Children’s Services of Southern New Jersey
 - Reaching Out Through International Adoption
 - Spence-Chapin Services to Families and Children
 - Welcome House of Pearl S. Buck International
- Concerned Persons for Adoption (CPFA)
- Human Genetics Association of New Jersey
- New Jersey Medical Society

Organizations supporting birthright legislation – Other

- Catholic Charities, Atlanta – *“...we believe strongly that Georgia-born adult adoptees should have their civil right to obtain a copy of their Original Birth Certificate (OBC) restored to them.”*

Letter to Senator Shafer from Sandra Valencia Thompson, LPC, Manager of Clinical Services and Joseph Krygiel, Chief Operating Officer, February 8, 2012

- Ohio Right-to-Life – *“Legal guarantees could never have been made to these mothers to ensure their children would never have access to their original birth certificate.... It is our belief that supporting...(access bill for adult adoptees), would not be a disservice to birth mothers who have placed their child for adoption.”*

Testimony of Stephanie Ranade Krider to the OH House Judiciary Committee, March 6, 2013

Summary



- Advocates for the birthright legislation are those who **LIVE** adoption: adoptees, birth and adoptive parents. We ask for the *truth of our heritage* and the opportunity to obtain current medical information.
- Those who oppose this legislation make their **LIVING** through adoption.
- Please support the birthright bill. It's the right thing to do!

NJ Coalition for Adoption Reform and Education (NJCARE)

NJ Coalition for Adoption Reform and Education (NJ CARE)



www.nj-care.org

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