

Emergency Rules

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 10—Office of the Director
Chapter 10—Vital Records**

EMERGENCY AMENDMENT

19 CSR 10-10.130 Missouri Adoptee Rights. The Department of Health and Senior Services is amending sections (1), (2), (3), (5), (7), (8), and (10), adding new sections (4), (6), (9), and (11), deleting previous section (5), and renumbering as necessary.

PURPOSE: This rule is being amended to provide the process for the birth parent to receive a copy of the adoptee original birth certificate, the process for an adoptee to state his or her preference regarding whether and how the birth parent can contact him or her, and provide the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee's original birth certificate.

EMERGENCY STATEMENT: The Missouri Adoptee Rights Act was established in August 2016, and includes sections 193.125 and 193.128, RSMo. In August 2016, adoptees or adoptees' attorneys were allowed to obtain copies of adoptee's original birth certificates and birth parents of adoptees were able to file contact preference forms, which accompany the original birth certificates. Senate Committee Substitute for House Committee Substitute for House Bill 1713, 99th General Assembly, Second Regular Session (2018), went into effect on August 28, 2018. This act amends section 193.128, RSMo, to allow birth parents to obtain copies of adoptees' original birth certificates and to allow lineal descendants of deceased adoptees to obtain copies of deceased adoptees' original birth certificates, accompanying contact preference forms, and medical history forms. In addition, beginning August 28, 2018, adoptees may file contact preference forms indicating they wish to be contacted directly, do not wish to be contacted, or only wish to be contacted through an intermediary. In order to implement and comply with the new law on August 28, 2018, this rule must be amended and the forms must be available on August 28, 2018, or as soon as possible thereafter. As a result of the immediate effective date, the Department of Health and Senior Services finds a compelling governmental interest which requires an early effective date for this rule. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Health and Senior Services believes this emergency amendment is fair to all interested persons and parties under these circumstances. This emergency amendment was filed September 10, 2018, becomes effective September 20, 2018, and expires March 18, 2019.

PURPOSE: This rule provides the process for an adoptee, an adoptee's attorney, and the birth parents of an adoptee to receive a copy of [his or her] the adoptee's original birth certificate, the process for a birth parent and the adoptee to state his or her contact preference[, and] regarding whether and how the adoptee/birth parent can contact him or her, the process for completion of a medical history form by a birth parent, and the process for lineal descendants of a deceased adoptee to receive a copy of the adoptee's original birth certificate.

(1) For purposes of this rule only, unless the context clearly indicates otherwise, the following terms mean:

(B) "Adoptee Contact Preference Form," a form used by an adoptee to indicate his or her preference about contact with the birth parent(s);

[(B)](C) "Applicant," the person completing application for a form or certificate as specified in this rule and may be the adoptee

[or the], adoptee's attorney, birth parent, or lineal descendant of a deceased adoptee;

[(C)](D) "Attorney," a currently-licensed member of the Missouri Bar or bar of another state of the United States;

[(D)](E) "Birth parent," the parent(s) identified on the adoptee's original birth certificate;

[(E)](F) "Birth Parent Contact Preference Form," a form used by a birth parent to indicate his or her preference about contact with the adoptee;

[(F)](G) "Birth Parent Medical History Form," a form used by a birth parent to provide his or her medical history information to the adoptee;

[(G)](H) "Department," the Missouri Department of Health and Senior Services;

[(H)](I) "Identifying information," the name, date of birth, *[age, race,]* place of birth, *[occupation/industry/business, and address of the birth parent(s); any part of the child's name or any other name containing surnames of either birth parent; and informant name]* and last known address of the biological parent;

[(I)](J) "Intermediary," the person or agency identified by the birth parent or adoptee to act as a means of contact between the birth parent and adoptee;

(K) "Lineal descendant," a person who is in direct line to an ancestor, such as child, grandchild, great-grandchild, and so on, either by blood or legal adoption. This does not include a stepchild or collateral descendant. Collateral descendants are those from the line of a brother, sister, aunt, or uncle;

[(J)](L) "Original birth certificate," the adoptee's registered birth certificate sealed upon court order at the time of adoption;

[(K)](M) "Redact," to obscure or remove identifying information.

(2) Birth Parent Contact Preference Form. A birth parent may state his or her preference for contact with the adoptee by completing a Cover Sheet for Birth Parent Contact Preference Form *[as published August 2016]* and a Birth Parent Contact Preference Form as published *[November 2016]* August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(D) If a birth parent has filed a Birth Parent Contact Preference Form with the department, the department shall provide a copy of the form to the adoptee, adoptee's attorney, or lineal descendant applicant.

(E) If a birth parent has filed more than one (1) Birth Parent Contact Preference Form, the department shall issue a copy of only the most recently dated Birth Parent Contact Preference Form to the adoptee, adoptee's attorney, or lineal descendant applicant.

(F) The Birth Parent Contact Preference Form issued to the adoptee, adoptee's attorney, or lineal descendant shall not include the Cover Sheet for Birth Parent Contact Preference Form.

(G) The department shall not issue a copy of the original birth certificate to the adoptee, adoptee's attorney, birth parent, or lineal descendant applicant when—

1. The applicant does not meet the requirements of section 193.12/5/8, RSMo, and this rule; or

2. Both birth parents have filed a Birth Parent Contact Preference Form indicating that they prefer not to be contacted or prefer contact through an intermediary.

(H) The department shall issue a non-certified, unredacted copy of the original birth certificate stamped "For genealogical purposes only-not to be used for establishing identity" upon request to a qualified adoptee, adoptee's attorney, birth parent, or lineal descendant

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applicant when—

1. The original birth certificate lists two (2) parents and neither birth parent has filed a Birth Parent Contact Preference Form;

2. The original birth certificate lists two (2) parents and both have filed a Birth Parent Contact Preference Form indicating he/she prefers to be contacted;

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted and the other parent has not filed a Birth Parent Contact Preference Form;

4. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted; or

5. The original birth certificate only lists one (1) parent and that parent has not filed a Birth Parent Contact Preference Form.

(I) The department shall issue a non-certified copy of the original birth certificate stamped “For genealogical purposes only-not to be used for establishing identity” to the **adoptee, adoptee’s attorney, birth parent, or lineal descendant** applicant with the identifying information redacted for the birth parent who indicated they prefer not to be contacted or preferred to be contacted by an intermediary when—

1. The original birth certificate only lists one (1) parent and that parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact by an intermediary;

2. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has not filed a Birth Parent Contact Preference Form; or

3. The original birth certificate lists two (2) parents and one (1) parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers not to be contacted or prefers contact through an intermediary and the other parent has filed a Birth Parent Contact Preference Form indicating that he/she prefers to be contacted.

(3) Birth Parent Medical History Form. A birth parent may provide or update his or her medical history by completing a Cover Sheet for Birth Parent Medical History Form and a Birth Parent Medical History Form as **published August 2018** which are incorporated by reference in this rule *[as published August 2016]* and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(E) The department shall not use the information on the Cover Sheet for Birth Parent Medical History Form or Birth Parent Medical History Form for statistical or any other purposes and shall not disclose the information to anyone other than the adoptee *[or the]*, adoptee’s attorney, or **lineal descendant applicant**.

(F) The copy of the Birth Parent Medical History Form issued to the adoptee, **adoptee’s attorney, or lineal descendant** shall not include the Cover Sheet for Birth Parent Medical History Form.

(4) Adoptee Contact Preference Form. An adoptee may state his or her preference for contact with the birth parent(s) by completing a Cover Sheet for Adoptee Contact Preference Form and an Adoptee Contact Preference Form as published August 2018 which are incorporated by reference in this rule and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. Completed forms may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail

to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) An adoptee shall provide to the department adequate information as requested on the Cover Sheet for Adoptee Contact Preference Form so that the department can identify the correct sealed file in which to place the form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(B) An adoptee may change his or her contact preference by completing a new Cover Sheet for Adoptee Contact Preference Form and Adoptee Contact Preference Form. An adoptee shall also pay a non-refundable fee for processing the form and searching for the original birth record in an amount equal to the fee for a certified copy of a birth certificate. The forms and fee shall be mailed or delivered to the department at the address listed in section (4) above. If the department is unable to identify the correct sealed file based upon the information provided by the adoptee on the Cover Sheet for Adoptee Contact Preference Form, the department shall return the Cover Sheet for Adoptee Contact Preference Form and the Adoptee Contact Preference Form to the adoptee.

(C) An adoptee may request that a birth parent contact him or her only through an intermediary, rather than be contacted directly by the birth parent, as indicated by the adoptee on the Adoptee Contact Preference Form. In this case, the adoptee shall write the name and contact information of the intermediary on the Adoptee Contact Preference Form.

(D) If an adoptee has filed an Adoptee Contact Preference Form with the department, the department shall provide a copy of the form to the birth parent and lineal descendant applicant.

(E) If an adoptee has filed more than one (1) Adoptee Contact Preference Form, the department shall issue a copy of only the most recently dated Adoptee Contact Preference Form to the birth parent or lineal descendant applicant.

(F) The Adoptee Contact Preference Form issued to the birth parent and lineal descendant applicant shall not include the Cover Sheet for Adoptee Contact Preference Form.

[(4)](5) Adoptee[s born before 1941], Adoptee’s Attorney, and Birth Parent Request for Original Birth Certificate. An adoptee *[born before 1941], [or the]* adoptee’s attorney, or **birth parent** may request a copy of the adoptee’s original birth certificate *[beginning August 28, 2016,]* by completing an Application for Non-Certified Copy of an Original Birth Certificate by **Adoptee, Adoptee’s Attorney, or Birth Parent** form which is incorporated by reference in this rule as published *[November 2016]* **August 2018** and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee’s attorney submits the Application for Non-Certified Copy of an Original Birth Certificate by **Adoptee, Adoptee’s Attorney, or Birth Parent** form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney’s authority to act on behalf of the adoptee.

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(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate **Adoptee, Adoptee's Attorney, or Birth Parent** form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the **original birth certificate to the adoptee, adoptee's attorney, or birth parent(s)** as provided in subsections (2)(G)–(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the **adoptee, adoptee's attorney, or birth parent** applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's **birth parent(s)** have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the **adoptee, adoptee's attorney, or lineal descendant** applicant.

[(5) Adoptees born in or after 1941. An adoptee born in or after 1941, or the adoptee's attorney, may request a copy of the adoptee's original birth certificate beginning January 1, 2018. To make a request, an applicant shall complete the Application for Non-Certified Copy of an Original Birth Certificate form which is incorporated by reference in this rule as published November 2016 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) If the adoptee's attorney submits the Application for Non-Certified Copy of an Original Birth Certificate form, the attorney shall provide the department with a statement signed by the adoptee or other documentation establishing the attorney's authority to act on behalf of the adoptee.

(B) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate form so that the department can identify the correct sealed file containing the original birth certificate.

(C) The department shall issue copies of the birth certificate as provided in subsections (2)(G)–(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, the department shall provide a copy to the applicant.]

(6) Lineal Descendant Request for Original Birth Certificate. Lineal descendants of a deceased adoptee may request a copy of the adoptee's original birth certificate by completing an Application for Non-Certified Copy of an Original Birth Certificate by Lineal Descendant form which is incorporated by reference in this rule as published August 2018 and may be obtained at www.health.mo.gov or by calling (573) 751-6387. This rule does not incorporate any subsequent amendments or additions. The application shall include a non-refundable fee in an amount equal to the fee for a certified copy of a birth certificate. Completed forms and fees may be delivered in person to the

department at 930 Wildwood Drive, Jefferson City, Missouri, or by mail to the Department of Health and Senior Services, PO Box 570, Jefferson City, MO 65102.

(A) The applicant shall furnish to the department adequate information as requested on the Application for Non-Certified Copy of an Original Birth Certificate by Lineal Descendant form so that the department can identify the correct sealed file containing the original birth certificate.

(B) The department shall not issue a copy of the original birth certificate to the applicant when—

1. The applicant cannot provide a certified death certificate of the adoptee; or

2. The applicant cannot provide documentation that confirms the applicant is a lineal descendant of the adoptee.

(C) The department shall issue copies of the original birth certificate to the lineal descendant as provided in subsections (2)(G)–(I) of this rule. If the department cannot locate the original birth certificate, the department shall issue to the applicant a written statement that no record was found.

(D) The copy of the original birth certificate issued to the applicant shall be stamped "For genealogical purposes only—not to be used for establishing identity."

(E) If the adoptee's birth parent(s) have provided a Birth Parent Contact Preference Form or Birth Parent Medical History Form to the department, or the adoptee has provided an Adoptee Contact Preference Form to the department, the department shall provide a copy of the form(s) to the lineal descendant applicant.

[(6)](7) Applicants, birth parents, or others shall not send to the department items other than the forms prescribed by this regulation (e.g., letters, papers, photos, mementos, etc). Any such items sent to the department shall be discarded.

[(7)](8) The department shall not issue copies of vital records, including birth, death, marriage, or divorce records, for the birth parents to an adoptee, adoptee's attorney, or lineal descendant of the adoptee.

(9) The department shall not release any information pertaining to the adoptee other than the original birth certificate or Adoptee Contact Preference form, if completed, to the birth parent.

[(8)](10) The department shall not amend the adoptee's original birth certificate as defined in this rule.

(11) When the state registrar of vital records finds evidence that an application was made through misrepresentation or fraud, he or she shall have authority to withhold issuance of a certificate until a court determination of facts has been made.

AUTHORITY: sections 193.035[,] and 193.045, RSMo 2016, and section 193.128, RSMo [2016] Supp. 2018. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective Feb. 28, 2017. Emergency amendment filed Sept. 10, 2018, effective Sept. 20, 2018, expires March 18, 2019. An emergency amendment and a proposed amendment covering this same material will be published in the October 15, 2018, issue of the Missouri Register.