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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333  
OREGON HEALTH AUTHORITY  
PUBLIC HEALTH DIVISION

**FILED**

10/25/2023 10:06 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Application and Documentation in Support of Amending Original Record of Live Birth Prior to Adoption

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2023 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Portland, OR 97232

Filed By:  
Public Health Division  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 11/20/2023

TIME: 10:00 AM

OFFICER: Staff

HEARING LOCATION

ADDRESS: Remote via Microsoft Teams, Video/telconference call, Portland, OR 97232

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-277-2343

CONFERENCE ID: 980366597

SPECIAL INSTRUCTIONS:

This hearing is being held remotely via Microsoft Teams. To provide oral testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register and receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 980 366 597# for audio only.

The hearing will close no later than 11:00AM, but may close as early as 10:30AM if everyone who has signed up to testify has provided their testimony.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before

the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

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#### NEED FOR THE RULE(S)

The purpose of this rulemaking is to adopt new rules required by passage of Senate Bill 573 (OL 2023, ch. 157) during the 2023 Oregon Legislative Session. SB 573 authorizes the Oregon Health Authority (OHA), Public Health Division, Center for Health Statistics to add a parent's name to an original (pre-adoption) birth record through an application process. Senate Bill 573 requires the Center for Health Statistics to adopt rules to (1) establish fees for the preparation and registration of the amended original birth records; and (2) describe the forms for requesting to make an amendment to an original birth record, identification requirements and evidentiary documentation needed.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Senate Bill 573 and testimony presented during legislative hearings.  
<https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/SB573>

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#### STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

It is uncertain how or in what ways SB 573 rules will affect racially/ethnically specific communities. There is no information on the race or ethnicity of persons who have their original birth record file with the Center for Health Statistics.

SB 573 applies to any individual who was born in Oregon, who was adopted, and who wants to add a biological parent to their original birth record. Testimony during the hearings for SB 573 indicate that allowing adoptees to amend their pre-adoption birth record will help adoptees have a truthful original birth record. Other testimony indicated this bill will help adoptees who were born during the "baby scoop era" who want to have their original birth record to include their birth mother and biological father. The Baby Scoop Era occurred between World War II and the early 1970s and is associated with an increase in pre-marital pregnancies and higher rates of newborn adoptions. Mothers who were not married during this time were expected to give up their babies for adoption. The original birth certificates usually included the mother's information but not the father's.

Based on the information provided in testimony and a survey conducted of Oregon adoptees who received their original birth records, the population that may benefit from the ability to amend their original birth record may be older (born between end of WWII and 1970), female, white, and have some college or higher level of education. (Rhodes, Julia C. et al. 2002, Releasing pre-adoption birth records: a survey of Oregon adoptees. Public Health Reports.)

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#### FISCAL AND ECONOMIC IMPACT:

The anticipated fiscal and economic impact is minimal. OHA anticipates only a few requests for these amendments annually so the revenue gain of the \$4 fee will be minimal. Individuals from the public who were born in Oregon and adopted who wish to amend their original birth record can do so if the original birth record was opened with a court order under ORS 432.250. There are costs associated with obtaining a court order to open the sealed file as required by Senate Bill 573. Individuals requesting to have their original birth record prior to adoption amended will need to pay the \$4 fee that is outlined in OAR 333-011-0340(17).

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#### COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The proposed rule applies only to the Oregon Health Authority, Public Health Division, Center for Health Statistics. The Center for Health Statistics is custodian of all original records of live birth and is the sole agency responsible for amending those records as outlined in Senate Bill 573. No other state agency or units of local government will have a cost of compliance impact.

Individuals from the public who were born in Oregon and adopted who wish to amend their original birth record can do so if the original birth record was opened with a court order under ORS 432.250. There are costs associated with obtaining a court order to open the sealed file as required by Senate Bill 573. The \$4 fee referenced in the new rule is already established in OAR 333-011-0340(17).

(2)(a) - (c) No small businesses or types of business and industries with small businesses are subject to the rule.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of this rule because the rule applies only to activities and responsibilities of the Oregon Health Authority, Public Health Division, Center for Health Statistics.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 333-011-0277

RULE SUMMARY: Adopt OAR 333-011-0277: The rule outlines who may request to amend an original record of live birth and the contents of the application to amend, along with what evidence, identification, and fees need to be provided. Information on how the record will be amended and what information will be added to the amended record is also included in the rule.

CHANGES TO RULE:

333-011-0277

Application and Documentation in Support of Amending an Original Record of Live Birth Prior to Adoption

(1) An applicant may request a biological parent name be added to or changed on an original record of birth prior to an adoption as specified in Oregon Laws 2023, chapter 157. The applicant must be:

(a) The person whose current record of live birth after adoption is filed with the Center for Health Statistics;

(b) The person who is listed as the child on the original record of live birth prior to adoption;

(c) Age 21 or older; and

(d) The person who has a court order to open the sealed file under ORS 432.250 to receive a copy of their original record of live birth prior to an adoption.

(2) A signed application to amend an original record of live birth as specified in Oregon Laws 2023, chapter 157 must be on a form prescribed by the state registrar, from the applicant, that:

(a) Identifies the full name of the person listed on the current record of live birth after adoption.

(b) Identifies the full name of the child and full name of the parent listed on the original record of live birth prior to adoption.

(c) Specifies the addition of or changes to the parent's name on the original record of live birth prior to adoption.

(3) The following documents are required to be submitted with the completed application:

(a) A copy of the court order used to open the sealed file under ORS 432.250.

(b) Evidence that the parent to be added is the biological parent, including but not limited to:

(A) A DNA test identifying that the person whose name is to be entered as the biological parent, is the biological parent of the applicant; or

(B) An order from a court of competent jurisdiction identifying that the person whose name is to be entered as the biological parent is the biological parent of the applicant; or ¶

(C) Other official documents acceptable to the state registrar.¶

(c) The applicant's identification as described in ORS 432.380(2)(b)(A)(i-iii).¶

(d) If the person whose name is to be entered as a biological parent is living, an affidavit attesting that the person is a biological parent of the applicant and that the name to be entered is that of the biological parent that was omitted from the original record of live birth.¶

(e) If the person whose name is to be entered as a biological parent is deceased, an affidavit from the personal representative of the estate of the decedent or nominated in the decedent's will or a relative as defined in OAR 333-011-0300(1)(a)(A-G) of the person attesting that the person is a biological parent of the applicant and that the name to be entered is that of the biological parent that was omitted from the original record of live birth.¶

(f) Fees outlined in OAR 333-011-0340(17) to provide an uncertified copy of an original record of live birth from the sealed file.¶

(4) Upon receipt of a completed application and all the required documentation the original record of live birth will be amended to include: ¶

(a) The name of the biological parent as determined by the evidence provided in section (3) of this rule; ¶

(b) A notation identifying the affidavit and evidence used as proof of the added items, the date the amendment was made, and the initials of the person making the change; and¶

(c) The following language:¶

"THIS RECORD OF LIVE BIRTH MAY NOT BE USED FOR ANY LEGAL PURPOSE¶

AND DOES NOT CREATE ANY LEGAL RIGHTS FOR THE CHILD OR THE PARENTS¶

LISTED ON THE RECORD."¶

(5) Application, documentation and amended original record of live birth will be placed in the original sealed file opened under ORS 432.250. Such file shall not be subject to inspection except upon order of a court of competent jurisdiction as outlined under ORS 432.250. Copies of the amended original record of live birth may be requested under ORS 432.250 or ORS 432.228.

Statutory/Other Authority: OL 2023, ch. 157

Statutes/Other Implemented: OL 2023, ch. 157