

NJ Coalition for Adoption Reform and Education (NJCARE)

New Jersey Adoptees' Access-to-Original-Birth-Certificate Legislation



www.nj-care.org

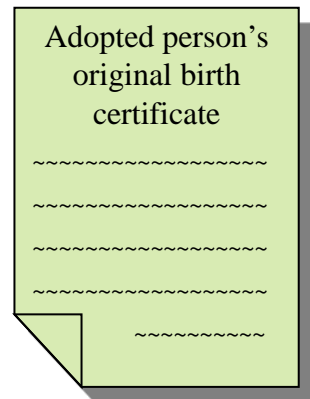
Our Mission

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.

History of sealed records in New Jersey

- 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.
- 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.*”

Why were NJ adoption records sealed?

Statement to A188

□ *adopted in 1940.*

(RS, sections 9:3-6 and 9:3-9, PL 1938 Chapter 355)

- The above amendments are designed to make secret all proceedings relating to adoption and to have them impounded by the surrogate subject to inspection only when the court in its discretion shall deem it advisable or necessary to permit such inspection. **The reasons for these amendments are three-fold:**

Adoption records were sealed:

- **1. To keep out of the hands of any person who would have no interest in the subject matter, the facts relating to adoption.**
- **2. To assure people adopting children that a parent or the parent of the child adopted may not turn up at some future date to embarrass both them and the child and possibly even to do harm. A parent may surrender a child in good faith and subsequently have a change of heart or mind and upon discovering the whereabouts of the child the problem may become an embarrassing one. Then, too, there is always the danger of such information being used illegally.**
- **3. To eliminate the possibility of persons using information relating to adoption illegally and for extortion purposes.**

Adopted person's right-to-know 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.**



Know the Truth



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



You be the judge

Critical facts about implications of access

- **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.

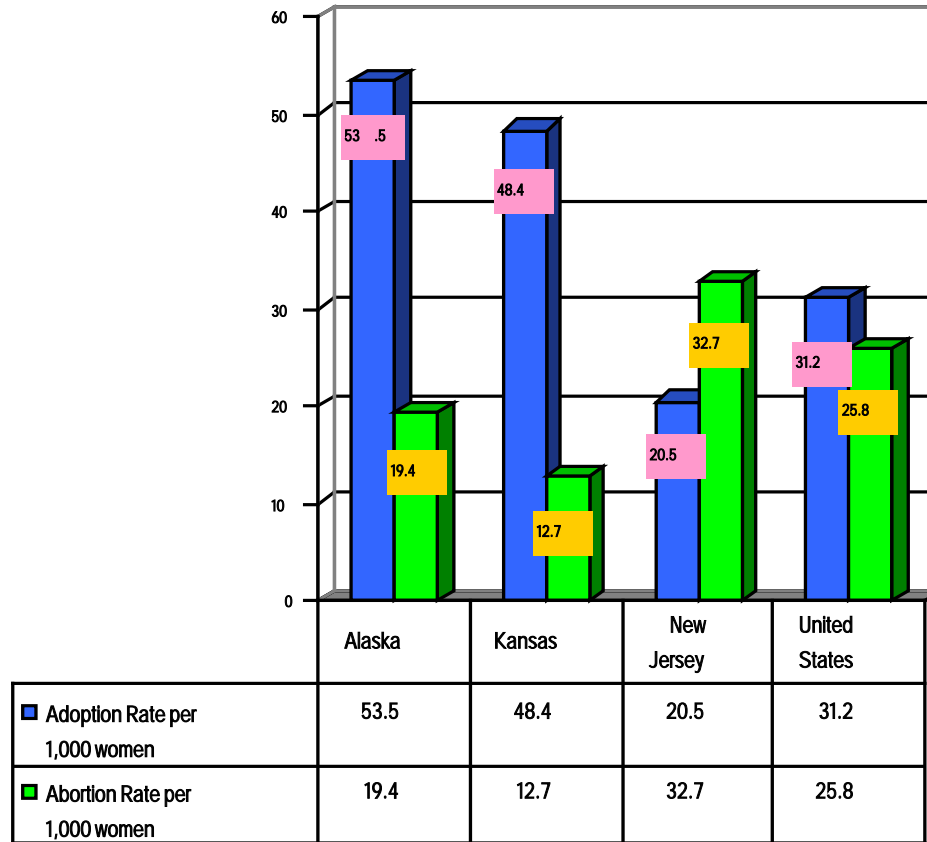


Critical facts about adoption rates



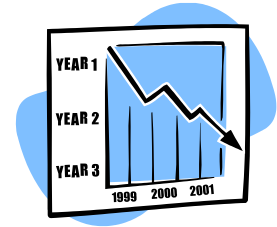
- **Adoption** rates are **higher** in states allowing **access**.
- Kansas & Alaska (always accessible) have **higher** adoption rates than national average.
- Oregon attorney-assisted adoptions **increased 6.3%** since access legislation.

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

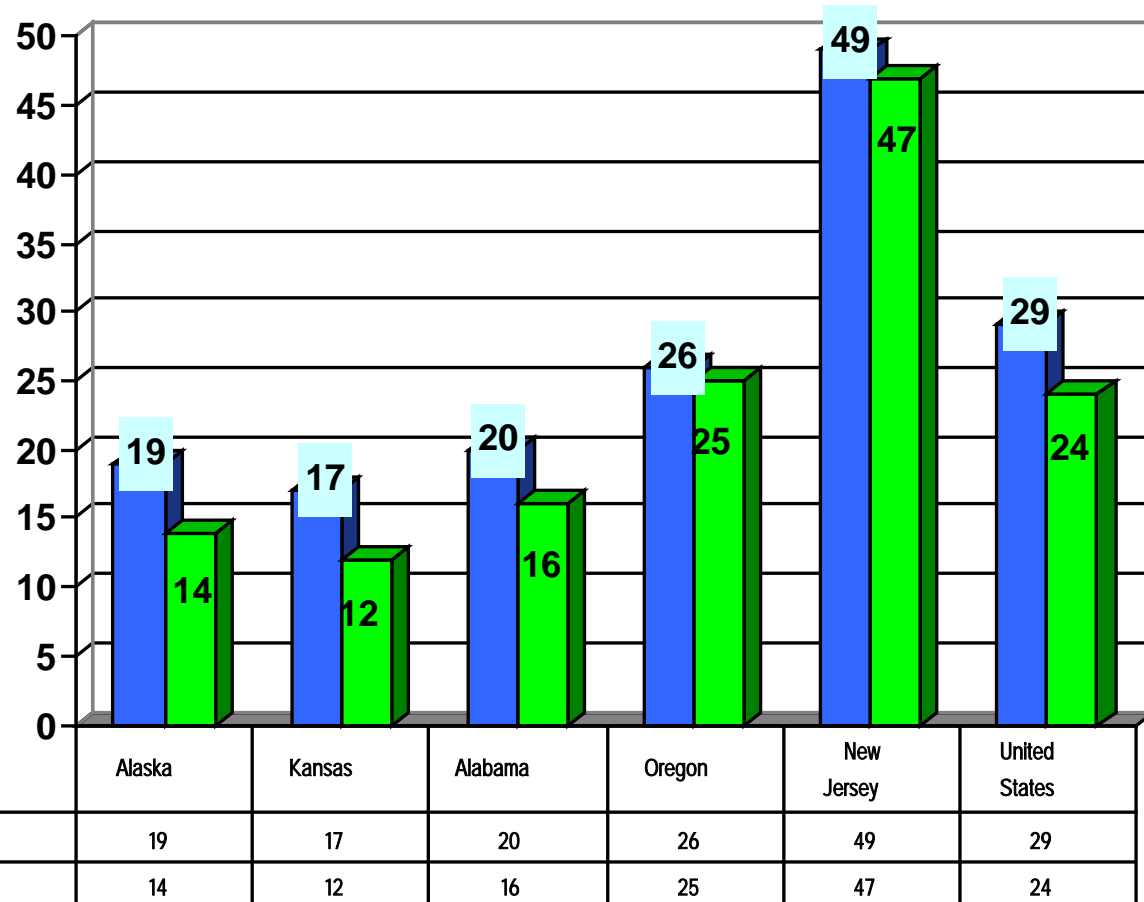
Critical Facts about abortion rates



- **Abortion** rates are **lower** in states and nations allowing access.
- Kansas and Alaska abortion rates are **lower** than national average.
- Abortions in Oregon **dropped 7.2%** since access legislation.
- Abortions in Alabama **dropped 9.6%** since access legislation.

Abortion rates per 1,000 women aged 15 – 19

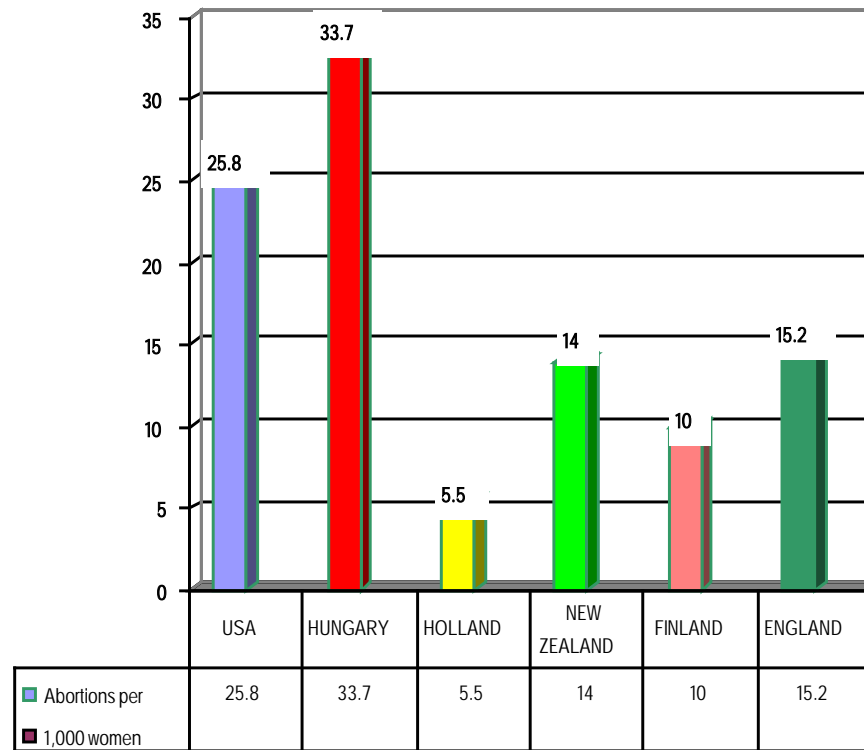
While teenage abortion rates continue their downward trend, New Jersey has the highest teenage abortion rate in the country.



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

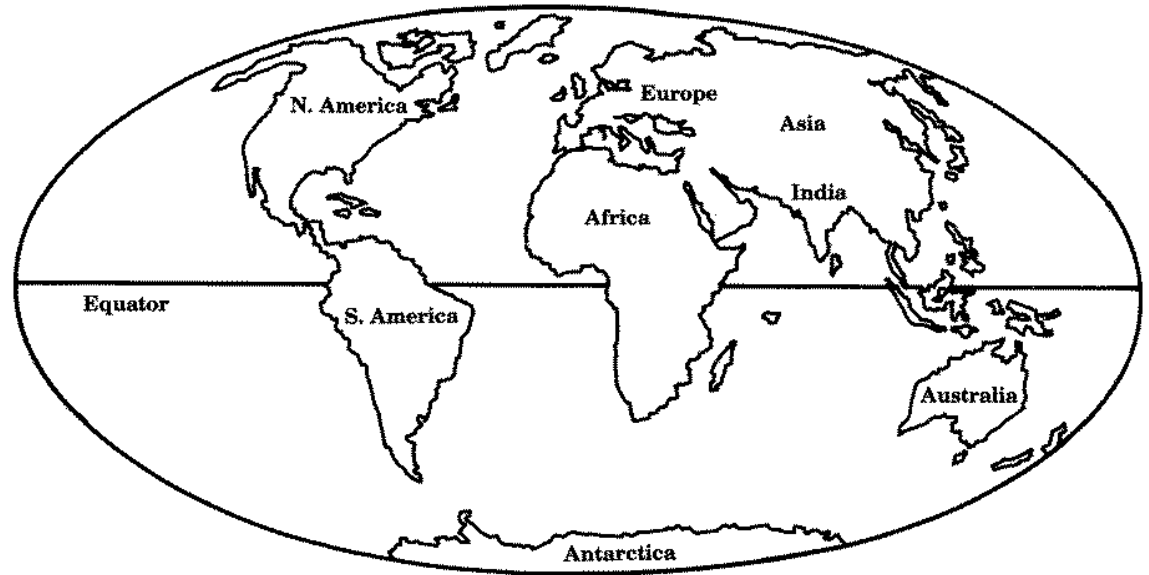
Access-to-birth-certificate laws are successful in:

- Alabama
- Alaska
- Delaware
- Kansas
- New Hampshire
- Oregon
- Tennessee



Access-to-birth-certificate laws are successful in:

- British Columbia
- Finland
- Germany
- Israel
- Holland
- New South Wales
- New Zealand
- Scotland
- United Kingdom
- Victoria, AU



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



- *“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



- 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 requesting **non-disclosure** or indicating a **contact preference** will complete a family history form.
- Family history form will be sent to adopted person upon request for OBC.



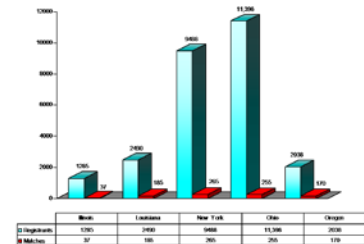
Non-disclosure
~~~~~  
Contact Preference  
I prefer:  
 Direct contact  
 Intermediary  
 No contact  
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Adopted person's original birth certificate
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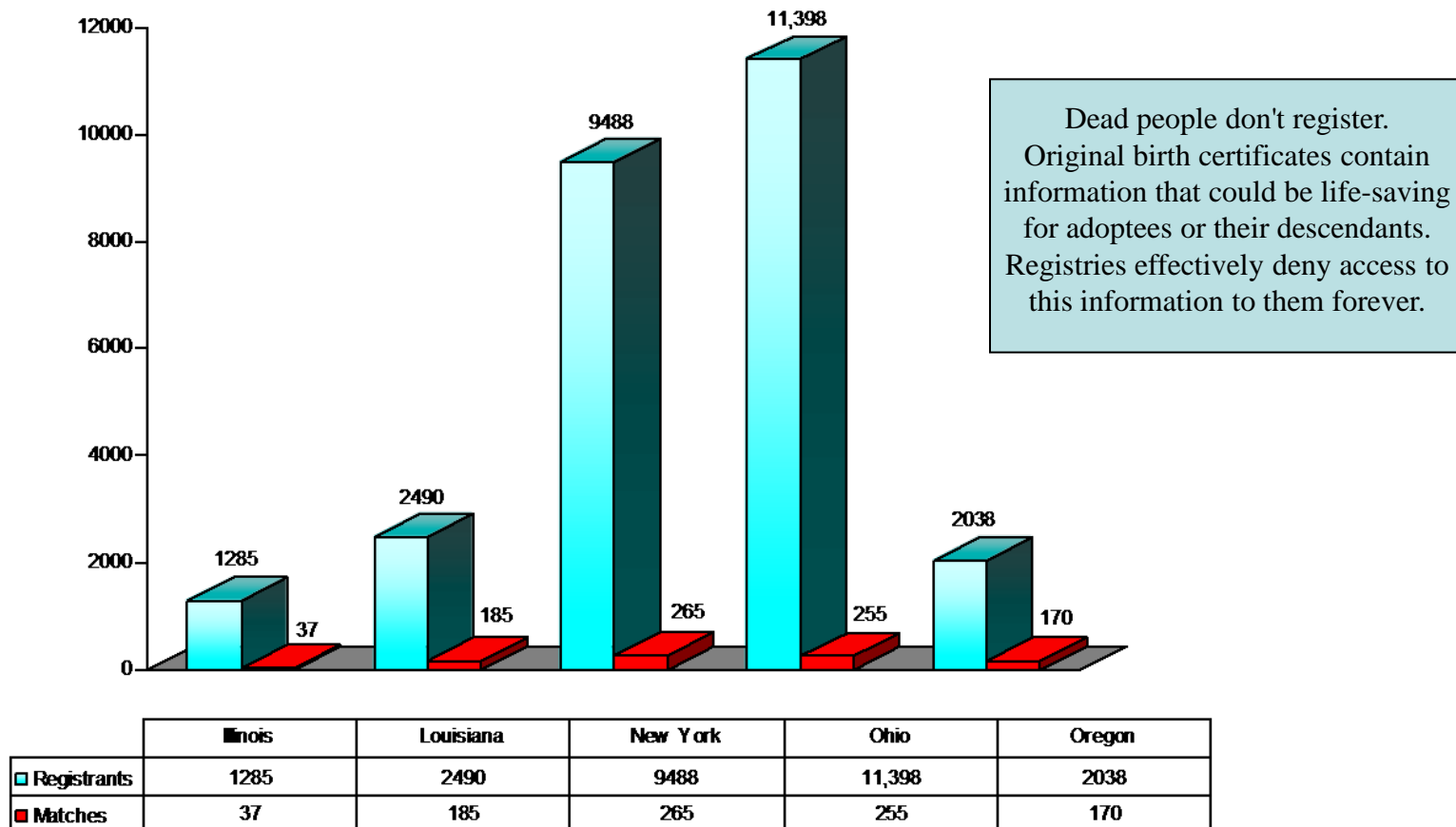
Family History  
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Critical facts about mutual consent voluntary registries (MCVR's)

- 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:

Non-disclosure and/or contact preference

- Birth parents:
 - have no protection from unwanted contact under current law.
 - may have their name “whited-out” on the copy of the certificate given to the adoptee.
 - may indicate their preference regarding contact, either
 - directly
 - through an intermediary, or
 - no contact.
- This legislation, **for the first time in NJ history**, gives birth parents a voice in the process!

Summary



- Advocates for S1093/A3237 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 S1093/A3237. It's the right thing to do!

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