

800 NE Oregon Street
Portland, OR 97232
Voice: (971) 673-1222
FAX: (971) 673-1299
TTY: 711

Date: December 12, 2023

TO: Hearing Attendees and Commenters – OAR 333-011-0277, "Application and Documentation in Support of Amending Original Record of Live Birth Prior to Adoption"

FROM: Brittany Hall, Hearing Officer and Administrative Rules Coordinator

cc: Jennifer Woodward, Section Manager
Center for Health Statistics

SUBJECT: Presiding Hearing Officer's Report on Rulemaking Hearing and Public Comment Period

Hearing Officer Report

Date of Hearing: November 20, 2023, via Microsoft Teams

Purpose of Hearing: The purpose of this hearing was to receive testimony regarding the Oregon Health Authority (OHA), Public Health Division's proposed permanent adoption of OAR 333-011-0277 pertaining to the amendment of an original record of live birth prior to adoption. [Senate Bill 573](#) (OL 2023, ch. 157), passed during the 2023 Oregon Legislative Session, authorizes the 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.

Hearing Officer: Brittany Hall

Testimony Received: No individuals provided oral testimony at the hearing.

Other Comments: One individual submitted written comments to OHA within the period allotted for public comment, which closed at 5:00 PM on November 22, 2023. These comments are briefly summarized as follows and attached to this report as **Exhibit 1**.

Written comments expressed concern about how the proposed rule was written, requiring a court order to open a sealed file (OAR 333-011-0277(3)(a)). They state that under ORS 432.228, “the closed file can be unsealed without a court order” and question why an individual would have to obtain a court order for something they already have (original birth certificate), citing the financial burden to individuals going through this process.

Agency response:

Senate Bill 573, enrolled, explicitly states “SECTION 2. (1) If an original record of live birth for a person at least 21 years of age was sealed under ORS 432.245 and was later opened under ORS 432.250...” ORS 432.250 is related to access to adoption records with an order from a court of competent jurisdiction. Therefore, the court order used to access the original birth record will need to be provided. Since ORS 432.228 was not cited in the enrolled bill, it does not apply. The Center for Health Statistics must follow the law as written and therefore will not be able to amend original birth records unless they have been opened under ORS 432.450.

EXHIBIT 1

From: [Darla Kroll](#)
To: [Public Health Rules](#)
Subject: SB 573
Date: Monday, November 20, 2023 9:50:07 AM

You don't often get email from tdkroll1992@gmail.com. [Learn why this is important](#)

Think twice before clicking on links or opening attachments. This email came from outside our organization and might not be safe. If you are not expecting an attachment, contact the sender before opening it.

Dancia,

I will be unable to attend the meeting on Monday, November 20 regarding SB 573. I did however, want to reiterate the conversation held at the last meeting regarding how the rule is written now that requires a court order to open a sealed file 333-011-0277(3)(a).

Under the vital statistics rule 432.228, the closed file can be unsealed without a court order. AND I have already utilized that rule in order to obtain my original birth certificate. Therefore, it would be a financial burden to me as an individual to have to obtain a court order to obtain something I already have. So imagine that burden would apply to other individuals. So who will benefit from this requirement of a court order? Lawyers who retain clients who need assistance with the court order and pro-adoption businesses that would like to see this process be complicated. The point of this bill was to assist adoptees and making the process difficult with a court order for something we don't need a court order for just makes things more difficult.

I think its important to address this issue with how the rule was written before it is finalized.

--

Darla Kroll, PT, MSPT, PCS