

**ORIGINAL**

**IN THE SUPREME COURT OF OHIO**

**STATE OF OHIO, EX REL.  
JOHN DOE AND JANE DOE  
c/o Michael R. Voorhees  
Counsel for Relators  
11159 Kenwood Road  
Cincinnati, Ohio 45242**

**Relators**

**v.**

**JUDGE THOMAS J. CAPPER  
Clark County Common Pleas Court  
Domestic Relations Division  
Juvenile Section  
101 North Limestone Street  
Springfield, Ohio 45502**

**Respondent**

**CASE NO. 2012-0133**

**ORIGINAL ACTION IN PROHIBITION**

**EXPEDITED: This action involves the  
adoption of a minor - S.Ct.Prac.R. X(10)**

**FILED**  
**MAR 23 2012**  
**CLERK OF COURT**  
**SUPREME COURT OF OHIO**

---

**MERIT BRIEF OF RELATORS JOHN AND JANE DOE**

---

Michael R. Voorhees (0039293)  
Voorhees & Levy LLC  
11159 Kenwood Road  
Cincinnati, Ohio 45242  
Telephone: (513) 489-2555  
Facsimile: (513) 489-2556  
[mike@ohioadoptionlawyer.com](mailto:mike@ohioadoptionlawyer.com)

Counsel for Relators, John and Jane Doe

Andrew P. Pickering (0068770)  
Assistant Prosecuting Attorney  
Clark County Prosecutor  
50 E. Columbia Street, 4<sup>th</sup> Floor  
P.O. Box 1608  
Springfield, Ohio 45501  
Telephone: (937) 521-1770  
Facsimile: (937) 328-2657  
[apickering@clarkcountyohio.gov](mailto:apickering@clarkcountyohio.gov)

Counsel for Respondent, Judge Capper

**RECEIVED**  
**MAR 23 2012**  
**CLERK OF COURT**  
**SUPREME COURT OF OHIO**

**I. TABLE OF CONTENTS**

	<u>Page</u>
<b>I. TABLE OF AUTHORITIES.....</b>	<b>ii</b>
<b>II. STATEMENT OF FACTS.....</b>	<b>1</b>
<b>III. ARGUMENT.....</b>	<b>1</b>
 <b><u>Proposition of Law No. I</u></b>	
<b>The Writ of Prohibition is appropriate because in personam jurisdiction does not exist and Respondent does patently and unambiguously lack jurisdiction to proceed in the matter.....</b>	<b>1</b>
 <b><u>Proposition of Law No. II</u></b>	
<b>The Writ of Prohibition is appropriate because subject matter jurisdiction does not exist and Respondent does patently and unambiguously lack jurisdiction to proceed in the matter.....</b>	<b>2</b>
<b>IV. CONCLUSION.....</b>	<b>4</b>
<b>CERTIFICATE OF SERVICE.....</b>	<b>5</b>

**APPENDIX**

Appx. Page

Ohio Revised Code § 3107.07(B)(1).....	A-1
Ohio Revised Code § 3107.09.....	A-1
Ohio Revised Code § 3107.091.....	A-3
Ohio Revised Code § 3107.15.....	A-4
Ohio Revised Code § 3107.16(B).....	A-5
Ohio Revised Code § 3107.17.....	A-5
Ohio Revised Code § 3107.19.....	A-8
Ohio Revised Code § 3111.07(A).....	A-8
Ohio Revised Code § 3705.12.....	A-9

**TABLE OF AUTHORITIES**

<b>A.    <u>CASES</u></b>	<b><u>PAGES</u></b>
<i>State ex rel. Furnas v. Monnin</i> (2008), 120 Ohio St. 3d 279, 2008 Ohio 5569.....	4
<i>State ex rel. Kaylor v. Bruening</i> (1997), 80 Ohio St. 3d 142, 1997 Ohio 350, 684 N.E.2d 1228.....	4
 <b>B.    <u>STATUTES</u></b>	
Ohio Revised Code § 3107.07(B)(1).....	1
Ohio Revised Code § 3107.09.....	4
Ohio Revised Code § 3107.091.....	4
Ohio Revised Code § 3107.15.....	3
Ohio Revised Code § 3107.15(A)(1).....	2, 4
Ohio Revised Code § 3107.17.....	1
Ohio Revised Code § 3107.16(B).....	3, 4
Ohio Revised Code § 3107.19.....	3
Ohio Revised Code § 3111.07(A).....	2
Ohio Revised Code § 3705.12.....	3

## II. STATEMENT OF FACTS

This matter relates to a child (the "Child"), whose birth-name and current name are confidential under R.C. 3107.17, born on November 13, 2009 in Dayton, Ohio. The unmarried birth-mother of the Child placed the Child for adoption when the Child was three days old. At the time of the Child's birth, the birth-mother was the sole legal parent of the Child and was the one and only person who had the legal authority to place the Child for adoption. No putative father registered with the Ohio Putative Father Registry and his consent to the adoption of the Child was not required, as a matter of law, pursuant to R. C. 3107.07(B)(1). The adoption was finalized on May 26, 2010 (redacted copy of the final decree is attached as Exhibit A).

Relators are not residents of the State of Ohio and are the adoptive parents of the Child. On October 6, 2010, a Complaint to Establish Paternity was filed in the Clark County Juvenile Court under Case Number 2010-JUV-0536 by Todd (Tad) S. Roccaro (redacted copy is attached as Exhibit B). Todd (Tad) S. Roccaro later filed a Consent to Jurisdiction (redacted copy is attached as Exhibit C). Respondent made orders in this matter by the Court's Entry dated November 9, 2011 (redacted copy is attached as Exhibit D).

## III. ARGUMENT

### Proposition of Law No. I

**The Writ of Prohibition is appropriate because in personam jurisdiction does not exist and Respondent does patently and unambiguously lack jurisdiction to proceed in the matter.**

Relators are requesting a Writ of Prohibition because the Respondent, Judge Thomas J. Capper, has exercised judicial power in a case in which he patently and unambiguously does not have jurisdiction. No other adequate legal remedy exists for the Relators. The facts are essentially undisputed and this is a matter of law.

In his Amended Answer, Respondent has admitted that in personam jurisdiction does not exist and that Respondent does in fact patently and unambiguously lack jurisdiction to proceed in the matter. Respondent stated the following:

In the underlying case, Clark C.P. 2010-JUV-0536, the child was not named as a party, and the plaintiff in the underlying case did not show good cause why the child should not be named or attempt to amend the complaint, pursuant to R.C. 3111.07(A). Therefore, in personam jurisdiction over the child and Relators is lacking, and Respondent does not have jurisdiction to order the genetic testing or to order the filing of a social and medical history by the claimed putative father of the child, and the underlying matter must be dismissed.

Based on this admission by Respondent alone, this Court should grant the requested Writ of Prohibition. The Child and the Relators do not reside in the State of Ohio. The Child was born in Montgomery County, Ohio and placed directly from the hospital with the Relators. The Relators never resided in Clark County, Ohio. The Child has never been in Clark County, Ohio. Relators are entitled to the requested Writ of Prohibition.

### **Proposition of Law No. II**

**The Writ of Prohibition is appropriate because subject matter jurisdiction does not exist and Respondent does patently and unambiguously lack jurisdiction to proceed in the matter.**

The adoption was finalized on May 26, 2010. There was no objection filed in the adoption proceedings and there was no appeal filed regarding the adoption. Pursuant to R.C. 3107.15(A)(1), a final decree of adoption terminates all rights of any and all biological parents. R.C. 3107.15(A)(1) patently and unambiguously divested the Respondent and the Clark County Juvenile Court of jurisdiction to proceed on any attempt to establish a parent-child relationship after the final decree of adoption has been entered.

The initial filing in the Clark County Juvenile Court was made on October 6, 2010, which was after the adoption was already final. The legal effect of an adoption is set forth in R.C. 3107.15 and provides that the adoption relieves the biological parents of the adopted person of all parental rights and responsibilities, and terminates all legal relationships between the adopted person and the adopted person's biological parents, and creates the relationship of parent and child between the adoptive parents and the adopted person, as if the adopted person were a legitimate blood descendant of each of the adoptive parents. Therefore, on the date the action in Clark County was initiated, October 6, 2010, the birth-mother was not the mother of the child, the Relators were and are the parents of the Child, and Relator John Doe was and is the father of the child. Pursuant to R.C. 3107.19 and R.C. 3705.12, the original birth record was sealed and the new birth certificate has been issued naming Relators as the parents of the Child. Tad Roccaro cannot be added to the Child's birth certificate as the father because Relator John Doe is the named father of the Child on his birth certificate. The original birth record is already sealed and the Clark County Juvenile Court has no jurisdiction to unseal the original birth record or to remove Relator John Doe as the father from the existing birth certificate.

The adoption was finalized on May 26, 2010. There was no objection filed in the adoption proceedings and there was no appeal filed regarding the adoption. R.C. 3107.16(B) provides that "upon the expiration of one year after an adoption decree is issued, the decree cannot be questioned by any person, including the petitioner, in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, . . . ." The purpose and intent of R.C. 3107.16(B) is to promote and protect permanency for the child. The one year period since the final decree has passed. Respondent can exercise no jurisdiction over the Child.

There is precedent for this Supreme Court to grant the requested Writ on the basis that, pursuant to R.C. 3107.15(A)(1), the Respondent patently and unambiguously lacks jurisdiction to proceed with the paternity action. *State ex rel. Kaylor v. Bruening* (1997), 80 Ohio St. 3d 142, 1997 Ohio 350, 684 N.E.2d 1228. If the action had been filed prior to the finalization of the adoption, Tad Roccaro may have had the right to establish paternity for the sole and limited purpose of completing the social and medical history pursuant to R.C. 3107.09 and R.C. 3107.091 and filing the social and medical history with the Probate Court. See *State ex rel. Furnas v. Monnin* (2008), 120 Ohio St. 3d 279, 2008 Ohio 5569. However, Tad Roccaro waived this right when he failed to object to the adoption. The facts in this case are clearly distinguishable from *State ex rel. Furnas v. Monnin*.

Respondent has exercised judicial power, the exercise of that power is unauthorized by law, and denial of the Writ will cause injury to Relators for which no other adequate legal remedy exists. The inchoate rights of Tad Roccaro have been terminated. A denial of the Writ will cause injury to Relators by allowing Tad Roccaro, whose inchoate rights have already been terminated, to possibly establish paternity. A denial will result in emotional harm to the Relators by casting a doubt on their adoption and is contrary to R.C. 3107.16(B). A denial will result in financial loss to the Relators in defending against any subsequent action. A denial will result in an invasion into the privacy of the Relators and their child, who are residents of another state.

#### **IV. CONCLUSION**

Respondent has exercised judicial power in a case in which he patently and unambiguously does not have jurisdiction. Relators are entitled to the requested Writ of Prohibition. A denial of the Writ will cause injury to Relators for which no other adequate legal remedy exists.

The Relators, John Doe and Jane Doe, by and through counsel, respectfully request this Ohio Supreme Court to issue the requested Writ of Prohibition that prohibits the Respondent, Judge Thomas J. Capper, from proceeding with Case Number 2010-JUV-0536 of the Clark County

Common Pleas Court, Domestic Relations Division, Juvenile Section, and that directs the Respondent, Judge Thomas J. Capper, to dismiss Case Number 2010-JUV-0536 of the Clark County Common Pleas Court, Domestic Relations Division, Juvenile Section, in its entirety and that directs the Respondent, Judge Thomas J. Capper, to enter a finding that all orders entered in Case Number 2010-JUV-0536 of the Clark County Common Pleas Court, Domestic Relations Division, Juvenile Section, are void ab initio and that directs the Respondent, Judge Thomas J. Capper, to exercise no further jurisdiction over this matter and that the Relators be awarded costs, attorney fees, and such other and further relief as the Relators may be entitled under law or in equity.

Respectfully submitted,

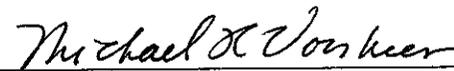


Michael R. Voorhees (0039293)  
Voorhees & Levy LLC  
11159 Kenwood Road  
Cincinnati, Ohio 45242  
(513) 489-2555 phone  
(513) 489-2556 fax  
[mike@ohioadoptionlawyer.com](mailto:mike@ohioadoptionlawyer.com)

Counsel for Relators, John and Jane Doe

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Brief has been sent by regular U.S. mail this 22<sup>d</sup> day of March, 2012 to: Andrew P. Pickering, Clark County Assistant Prosecutor, 50 E. Columbia Street, P.O. Box 1608, Springfield, Ohio 45501.



Michael R. Voorhees (0039293)

APPENDIX

Ohio Revised Code § 3107.07(B)(1)..... A-1  
Ohio Revised Code § 3107.09..... A-1  
Ohio Revised Code § 3107.091..... A-3  
Ohio Revised Code § 3107.15..... A-4  
Ohio Revised Code § 3107.16(B)..... A-5  
Ohio Revised Code § 3107.17..... A-5  
Ohio Revised Code § 3107.19..... A-8  
Ohio Revised Code § 3111.07(A)..... A-8  
Ohio Revised Code § 3705.12..... A-9



§ 3107.07. Who need not consent

Consent to adoption is not required of any of the following:

(B) The putative father of a minor if either of the following applies:

(1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 [3107.06.2] of the Revised Code not later than thirty days after the minor's birth;



§ 3107.09. Taking social and medical histories of biological parents.

(A) The department of job and family services shall prescribe and supply forms for the taking of social and medical histories of the biological parents of a minor available for adoption.

(B) An assessor shall record the social and medical histories of the biological parents of a minor available for adoption, unless the minor is to be adopted by the minor's stepparent or grandparent. The assessor shall use the forms prescribed pursuant to division (A) of this section. The assessor shall not include on the forms identifying information about the biological parents or other ancestors of the minor.

(C) A social history shall describe and identify the age; ethnic, racial, religious, marital, and physical characteristics; and educational, cultural, talent and hobby, and work experience background of the biological parents of the minor. A medical history shall identify major diseases, malformations, allergies, ear or eye defects, major conditions, and major health problems of the biological parents that are or may be congenital or familial. These histories may include other social and medical information relative to the biological parents and shall include social and medical information relative to the minor's other ancestors.

The social and medical histories may be obtained through interviews with the biological parents or other persons and from any available records if a biological parent or any legal guardian of a biological parent consents to the release of information contained in a record. An assessor who considers it necessary may request that a biological parent undergo a medical examination. In obtaining social and medical histories of a biological parent, an assessor shall inform the biological parent, or a person other than a biological parent who provides information pursuant to this section, of the purpose and use of the histories and of the biological parent's or other person's right to correct or expand the histories at any time.

(D) A biological parent, or another person who provided information in the preparation of the social and medical histories of the biological parents of a minor, may cause the histories to be corrected or expanded to include different or additional types of information. The biological parent or other person may cause the histories to be corrected or expanded at any time prior or subsequent to the adoption of the minor, including any time after the minor becomes an adult. A biological parent may cause the histories to be corrected or expanded even if the biological parent did not provide any information to the assessor at the time the histories were prepared.

To cause the histories to be corrected or expanded, a biological parent or other person who provided information shall provide the information to be included or specify the information to be corrected to whichever of the following is appropriate under the circumstances:

(1) Subject to division (D)(2) of this section, if the biological parent or other person knows the assessor who prepared the histories, to the assessor;

(2) If the biological parent or person does not know the assessor or finds that the assessor has ceased to perform assessments, to the court involved in the adoption or, if that court is not known, to the department of health.

An assessor who receives information from a biological parent or other person pursuant to division (D)(1) of this section shall determine whether the information is of a type that divisions (B) and (C) of this section permit to be included in the histories. If the assessor determines the information is of a permissible type, the assessor shall cause the histories to be corrected or expanded to reflect the information. If, at the time the information is received, the histories have been filed with the court as required by division (E) of this section, the court shall cooperate with the assessor in correcting or expanding the histories.

If the department of health or a court receives information from a biological parent or other person pursuant to division (D)(2) of this section, it shall determine whether the information is of a type that divisions (B) and (C) of this section permit to be included in the histories. If a court determines the information is of a permissible type, the court shall cause the histories to be corrected or expanded to reflect the information. If the department of health so determines, the court involved shall cooperate with the department in the correcting or expanding of the histories.

An assessor or the department of health shall notify a biological parent or other person in writing if the assessor or department determines that information the biological parent or other person

provided or specified for inclusion in a history is not of a type that may be included in a history. On receipt of the notice, the biological parent or other person may petition the court involved in the adoption to make a finding as to whether the information is of a type that may be included in a history. On receipt of the petition, the court shall issue its finding without holding a hearing. If the court finds that the information is of a type that may be included in a history, it shall cause the history to be corrected or expanded to reflect the information.

(E) An assessor shall file the social and medical histories of the biological parents prepared pursuant to divisions (B) and (C) of this section with the court with which a petition to adopt the biological parents' child is filed. The court promptly shall provide a copy of the social and medical histories filed with it to the petitioner. In a case involving the adoption of a minor by any person other than the minor's stepparent or grandparent, a court may refuse to issue an interlocutory order or final decree of adoption if the histories of the biological parents have not been so filed, unless the assessor certifies to the court that information needed to prepare the histories is unavailable for reasons beyond the assessor's control.



§ 3107.091. Completing social and medical history forms subsequent to adoption.

(A) As used in this section, "biological parent" means a biological parent whose offspring, as a minor, was adopted and with respect to whom a medical and social history was not prepared prior or subsequent to the adoption.

(B) A biological parent may request the department of job and family services to provide the biological parent with a copy of the social and medical history forms prescribed by the department pursuant to section 3107.09 of the Revised Code. The department, upon receipt of such a request, shall provide the forms to the biological parent, if the biological parent indicates that the forms are being requested so that the adoption records of the biological parent's offspring will include a social and medical history of the biological parent.

In completing the forms, the biological parent may include information described in division (C) of section 3107.09 of the Revised Code, but shall not include identifying information. When the biological parent has completed the forms to the extent the biological parent wishes to provide information, the biological parent shall return them to the department. The department shall review the completed forms, and shall determine whether the information included by the biological parent is of a type permissible under divisions (B) and (C) of section 3107.09 of the Revised Code and, to the best of its ability, whether the information is accurate. If it determines that the forms contain accurate, permissible information, the department, after excluding from the forms any information the department deems impermissible, shall file them with the court that entered the interlocutory order or final decree of adoption in the adoption case. If the department needs assistance in determining that court, the department of health, upon request, shall assist it.

The department of job and family services shall notify the biological parent in writing if it excludes from the biological parent's social and medical history forms information deemed

impermissible. On receipt of the notice, the biological parent may petition the court with which the forms were filed to make a finding as to whether the information is permissible. On receipt of the petition, the court shall issue its finding without holding a hearing. If the court finds the information is permissible, it shall cause the information to be included on the forms.

Upon receiving social and medical history forms pursuant to this section, a court shall cause them to be filed in the records pertaining to the adoption case.

Social and medical history forms completed by a biological parent pursuant to this section may be corrected or expanded by the biological parent in accordance with division (D) of section 3107.09 of the Revised Code.

Access to the histories shall be granted in accordance with division (D) of section 3107.17 of the Revised Code.

.....

#### § 3107.15. Effect of adoption

(A) A final decree of adoption and an interlocutory order of adoption that has become final as issued by a court of this state, or a decree issued by a jurisdiction outside this state as recognized pursuant to section 3107.18 of the Revised Code, shall have the following effects as to all matters within the jurisdiction or before a court of this state, whether issued before or after May 30, 1996:

(1) Except with respect to a spouse of the petitioner and relatives of the spouse, to relieve the biological or other legal parents of the adopted person of all parental rights and responsibilities, and to terminate all legal relationships between the adopted person and the adopted person's relatives, including the adopted person's biological or other legal parents, so that the adopted person thereafter is a stranger to the adopted person's former relatives for all purposes including inheritance and the interpretation or construction of documents, statutes, and instruments, whether executed before or after the adoption is decreed, which do not expressly include the person by name or by some designation not based on a parent and child or blood relationship;

(2) To create the relationship of parent and child between petitioner and the adopted person, as if the adopted person were a legitimate blood descendant of the petitioner, for all purposes including inheritance and applicability of statutes, documents, and instruments, whether executed before or after the adoption is decreed, and whether executed or created before or after May 30, 1996, which do not expressly exclude an adopted person from their operation or effect;

(3) Notwithstanding division (A)(2) of this section, a person who is eighteen years of age or older at the time the person is adopted, and the adopted person's lineal descendants, are not included as recipients of gifts, devises, bequests, or other transfers of property, including transfers in trust made to a class of persons including, but not limited to, children, grandchildren, heirs, issue, lineal descendants, and next of kin, for purposes of inheritance and applicability of statutes, documents, and instruments, whether executed or created before or after May 30, 1996, unless the document or instrument expressly includes the adopted person by name or expressly states that it includes a person who is eighteen years of age or older at the time the person is adopted.

(B) Notwithstanding division (A) of this section, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent thereafter adopts the child, the child's rights from or through the deceased parent for all purposes, including inheritance and applicability or construction of documents, statutes, and instruments, are not restricted or curtailed by the adoption.

(C) Notwithstanding division (A) of this section, if the relationship of parent and child has not been terminated between a parent and that parent's child and a spouse of the other parent of the child adopts the child, a grandparent's or relative's right to companionship or visitation pursuant to section 3109.11 of the Revised Code is not restricted or curtailed by the adoption.

(D) An interlocutory order of adoption, while it is in force, has the same legal effect as a final decree of adoption. If an interlocutory order of adoption is vacated, it shall be as though void from its issuance, and the rights, liabilities, and status of all affected persons that have not become vested are governed accordingly.

.....

§ 3107.16(B). Appeals

(B) Subject to the disposition of an appeal, upon the expiration of one year after an adoption decree is issued, the decree cannot be questioned by any person, including the petitioner, in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless, in the case of the adoption of a minor, the petitioner has not taken custody of the minor, or, in the case of the adoption of a minor by a stepparent, the adoption would not have been granted but for fraud perpetrated by the petitioner or the petitioner's spouse, or, in the case of the adoption of an adult, the adult had no knowledge of the decree within the one-year period.

.....

§ 3107.17. Hearings to be closed; confidentiality of information; indexing of proceedings

(A) All hearings held under sections 3107.01 to 3107.19 of the Revised Code shall be held in closed court without the admittance of any person other than essential officers of the court, the parties, the witnesses of the parties, counsel, persons who have not previously consented to an adoption but who are required to consent, and representatives of the agencies present to perform their official duties.

(B) (1) Except as provided in divisions (B)(2) and (D) of this section and sections 3107.39 to 3107.44 and 3107.60 to 3107.68 of the Revised Code, no person or governmental entity shall knowingly reveal any information contained in a paper, book, or record pertaining to an adoption that is part of the permanent record of a court or maintained by the department of job and family services, an agency, or attorney without the consent of a court.

(2) An agency or attorney may examine the agency's or attorney's own papers, books, and records pertaining to an adoption without a court's consent for official administrative purposes. The department of job and family services may examine its own papers, books, and records pertaining to an adoption, or such papers, books, and records of an agency, without a court's consent for official administrative, certification, and eligibility determination purposes.

(C) The petition, the interlocutory order, the final decree of adoption, and other adoption proceedings shall be recorded in a book kept for such purposes and shall be separately indexed. The book shall be a part of the records of the court, and all consents, affidavits, and other papers shall be properly filed.

(D) All forms that pertain to the social or medical histories of the biological parents of an adopted person and that were completed pursuant to section 3107.09 or 3107.091 [3107.09.1] of the Revised Code shall be filed only in the permanent record kept by the court. During the minority of the adopted person, only the adoptive parents of the person may inspect the forms. When an adopted person reaches majority, only the adopted person may inspect the forms. Under the circumstances described in this division, an adopted person or the adoptive parents are entitled to inspect the forms upon requesting the clerk of the court to produce them.

(E) (1) The department of job and family services shall prescribe a form that permits any person who is authorized by division (D) of this section to inspect forms that pertain to the social or medical histories of the biological parents and that were completed pursuant to section 3107.09 or 3107.091 [3107.09.1] of the Revised Code to request notice if any correction or expansion of either such history, made pursuant to division (D) of section 3107.09 of the Revised Code, is made a part of the permanent record kept by the court. The form shall be designed to facilitate the provision of the information and statements described in division (E)(3) of this section. The department shall provide copies of the form to each court. A court shall provide a copy of the request form to each adoptive parent when a final decree of adoption is entered and shall explain to each adoptive parent at that time that an adoptive parent who completes and files the form will be notified of any correction or expansion of either the social or medical history of the biological parents of the adopted person made during the minority of the adopted person that is made a part of the permanent record kept by the court, and that, during the adopted person's minority, the adopted person may inspect the forms that pertain to those histories. Upon request, the court also shall provide a copy of the request form to any adoptive parent during the minority of the adopted person and to an adopted person who has reached the age of majority.

(2) Any person who is authorized to inspect forms pursuant to division (D) of this section who wishes to be notified of corrections or expansions pursuant to division (D) of section 3107.09 of the Revised Code that are made a part of the permanent record kept by the court shall file with the court, on a copy of the form prescribed by the department of job and family services pursuant to division (E)(1) of this section, a request for such notification that contains the information and statements required by division (E)(3) of this section. A request may be filed at any time if the person who files the request is authorized at that time to inspect forms that pertain to the social or medical histories.

(3) A request for notification as described in division (E)(2) of this section shall contain all of the following information:

(a) The adopted person's name and mailing address at that time;

(b) The name of each adoptive parent, and if the adoptive person is a minor at the time of the filing of the request, the mailing address of each adoptive parent at that time;

(c) The adopted person's date of birth;

(d) The date of entry of the final decree of adoption;

(e) A statement requesting the court to notify the person who files the request, at the address provided in the request, if any correction or expansion of either the social or medical history of the biological parents is made a part of the permanent record kept by the court;

(f) A statement that the person who files the request is authorized, at the time of the filing, to inspect the forms that pertain to the social and medical histories of the biological parents;

(g) The signature of the person who files the request.

(4) Upon the filing of a request for notification in accordance with division (E)(2) of this section, the clerk of the court in which it is filed immediately shall insert the request in the permanent record of the case. A person who has filed the request and who wishes to update it with respect to a new mailing address may inform the court in writing of the new address. Upon its receipt, the court promptly shall insert the new address into the permanent record by attaching it to the request. Thereafter, any notification described in this division shall be sent to the new address.

(5) Whenever a social or medical history of a biological parent is corrected or expanded and the correction or expansion is made a part of the permanent record kept by the court, the court shall ascertain whether a request for notification has been filed in accordance with division (E)(2) of this section. If such a request has been filed, the court shall determine whether, at that time, the person who filed the request is authorized, under division (D) of this section, to inspect the forms that pertain to the social or medical history of the biological parents. If the court determines that the person who filed the request is so authorized, it immediately shall notify the person that the social or medical history has been corrected or expanded, that it has been made a part of the permanent record kept by the court, and that the forms that pertain to the records may be inspected in accordance with division (D) of this section.

.....

§ 3107.19. Forwarding records to department of health and birth state's vital statistics office.

If the adopted person was born in this state or outside the United States, the court shall forward all of the following to the department of health within thirty days after an adoption decree becomes final:

(A) A copy of the adopted person's certificate of adoption;

(B) The form prescribed under division (A)(1) of section 3107.083 of the Revised Code, if a parent filled out and signed the form pursuant to section 3107.071, 3107.081, or 5103.151 of the Revised Code;

(C) A statement of whether the adopted person is an adopted person as defined in section 3107.39 or 3107.45 of the Revised Code.

If the adopted person was born in another state of the United States, the court shall forward a copy of the adopted person's certificate of adoption to that state's vital statistics office within thirty days after an adoption decree becomes final.

.....

§ 3111.07(A). Parties to action - intervention.

(A) The natural mother, each man presumed to be the father under section 3111.03 of the Revised Code, and each man alleged to be the natural father shall be made parties to the action brought pursuant to sections 3111.01 to 3111.18 of the Revised Code or, if not subject to the jurisdiction of the court, shall be given notice of the action pursuant to the Rules of Civil Procedure and shall be given an opportunity to be heard. The child support enforcement agency of the county in which the action is brought also shall be given notice of the action pursuant to the Rules of Civil Procedure and shall be given an opportunity to be heard. The court may align the parties. The child shall be made a party to the action unless a party shows good cause for not doing so. Separate counsel shall be appointed for the child if the court finds that the child's interests conflict with those of the mother.

If the person bringing the action knows that a particular man is not or, based upon the facts and circumstances present, could not be the natural father of the child, the person bringing the action shall not allege in the action that the man is the natural father of the child and shall not make the man a party to the action.

.....

§ 3705.12. Issuance of new or foreign birth record after adoption - access to original record, adoption file.

(A)(1) Upon receipt of the items sent by a probate court pursuant to section 3107.19 of the Revised Code concerning the adoption of a child born in this state whose adoption was decreed on or after January 1, 1964, the department of health shall issue, unless otherwise requested by the adoptive parents, a new birth record using the child's adopted name and the names of and data concerning the adoptive parents. The new birth record shall have the same overall appearance as the record that would have been issued under section 3705.09 of the Revised Code if the adopted child had been born to the adoptive parents. Where handwriting is required to effect that appearance, the department shall supply the handwriting.

(2) Upon the issuance of the new birth record, the original birth record shall cease to be a public record. The index references to the original birth record, including references that were not a public record under this section as it existed prior to the effective date of this amendment, are a public record under section 149.43 of the Revised Code. The department shall place the original birth record and the items sent by the probate court pursuant to section 3107.19 of the Revised Code in an adoption file and seal the file. The contents of the adoption file shall not be open to inspection, be copied, or be available for copying, except as follows:

(a) The department shall copy and provide an agency with a copy of the original birth record upon the presentation by the agency, by mail or in another reasonable manner, of a certified copy of an order issued by a probate judge under section 3107.41 of the Revised Code.

(b) The department shall inspect the file to determine the court involved for the purpose of division (D) of section 3107.09 or section 3107.091 or provide the name of that court to an agency under the circumstances described in division (B)(2)(b) of section 3107.41 of the Revised Code.

(c) The department shall make the file's contents available to an adopted person or adoptive parent in accordance with section 3107.47 of the Revised Code.

(d) The department shall inspect the file to assist a birth parent or birth sibling in finding the adopted person's name by adoption in accordance with section 3107.49 of the Revised Code.

(e) The department shall open the file to file a denial of release form under division (A) of section 3107.46 of the Revised Code or an authorization of release form under division (B) of that section.

(f) The department shall open the file to file a request from an adopted person under division (A) of section 3107.48 of the Revised Code or to remove and destroy the request pursuant to division (B) of that section.

(g) The court that decreed the adoption may order that the contents be made open for inspection or available for copying.

(3) The department of health shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred. The local registrar shall file a copy of the new birth record along with and in the same manner as the other copies of birth records in the registrar's possession of the local registrar. All copies of the original birth record and all other papers, documents, and index references pertaining to the original birth record in the possession of the local registrar or the probate court shall be destroyed, except that the probate court shall retain permanently in the file of the adoption proceedings information that is necessary to enable the court to identify both the child's original birth record and the child's new birth record.

(4) On receipt of the items sent by a probate court pursuant to section 3107.19 of the Revised Code concerning the adoption of a person born in a foreign country, the department of health shall issue a "foreign birth record" unless the adoptive parents or adopted person over eighteen years of age requests that such record not be issued.

On receipt of an order issued under section 3107.18 of the Revised Code, the department of health shall issue a foreign birth record.

A foreign birth record shall be the same in all respects as a birth record issued under division (A)(1) of this section, except that it shall show the actual country of birth. After registration of the birth record in the new name of the adopted person, the department shall place the items sent by the probate court in an adoption file and seal the file. The contents of the file shall not be open to inspection, be copied, or be available for copying, except as follows:

(a) The department shall copy and provide an agency with a copy of the original birth record if available, upon presentation by the agency by mail or in another reasonable manner of a certified copy of an order issued by a probate judge under section 3107.41 of the Revised Code.

(b) The department shall inspect the envelope to determine the court involved in an adoption for the purpose of division (D) of section 3107.09 or section 3107.091 or provide the name of that court to an agency under the circumstances described in division (B)(2)(b) of section 3107.41 of the Revised Code.

(c) The department shall make the file's contents available to an adopted person or adoptive parent in accordance with section 3107.47 of the Revised Code.

(d) The department shall inspect the file to examine the adoption certificate and to assist a birth parent or birth sibling in finding the adopted person's name by adoption in accordance with section 3107.49 of the Revised Code.

(e) The department shall open the file to file a denial of release form under division (A) of section 3107.46 of the Revised Code or an authorization of release form under division (B) of that section.

(f) The department shall open the file to file a request from an adopted person under division (A) of section 3107.48 of the Revised Code or to remove and destroy the request pursuant to division (B) of that section.

(g) The court that decreed the adoption may order that the contents of the envelope be made open for inspection or available for copying.

(5) A new birth record or foreign birth record, and any certified or exact copy of the new birth record or foreign birth record, when properly authenticated by a duly authorized person, shall be prima-facie evidence in all courts and places of the facts stated in the new birth record.

(B) When the adoption of a child whose birth occurred in this state is decreed by a court in another state and when the department of health has received, from the court that decreed the adoption, an official communication containing information similar to that contained in the certificate of adoption for adoptions decreed in this state, division (A) of this section shall apply to the child's case just as if the adoption had taken place in this state. The department shall place the original birth record and all papers and documents in its possession that pertain to the original birth record or to the adoption of the child in an adoption file and seal the file. Index references to the original birth record, including references that were not a public record under this section as it existed prior to the effective date of this amendment, are a public record under section 149.43 of the Revised Code. The contents of the file shall be open to inspection and be copied or available for copying, and a copy of an original birth record shall be provided, only as authorized by division (A) of this section for adoptions decreed in this state.

(C)(1) No original birth record of any person whose birth occurred in this state and whose adoption was decreed prior to January 1, 1964, no birth record in the adopted name of any person whose birth occurred in this state and whose adoption was decreed prior to January 1, 1964, and no papers or documents that pertain to either such type of birth record or to the adoption of any such person shall be sealed on or after March 19, 1985.

(2) Original birth records of persons whose births occurred in this state and whose adoptions were decreed prior to January 1, 1964, and papers and documents that pertain to original birth records or to the adoptions of such persons, that are in the possession of the department of health, and that were sealed pursuant to division (C) of this section as it existed prior to March 19, 1985, or that were mistakenly or otherwise sealed, shall be open to inspection by and either shall be copied or made available for copying by, the adopting parents, the adopted person, or any lineal descendant of the adopted person, upon request. In all other cases, such an original birth record and such papers shall not be open to inspection, be copied, or be available for copying, except as follows:

(a) The department shall copy and provide an agency with a copy of the original birth record upon the presentation by the agency, by mail or in another reasonable manner, of a certified copy of an order issued by a probate judge under section 3107.41 of the Revised Code.

(b) The department shall inspect the file to determine the court involved in an adoption for the purpose of division (D) of section 3107.09 or section 3107.091 or provide the name of that court

to an agency under the circumstances described in division (B)(2)(b) of section 3107.41 of the Revised Code.

(c) The department shall provide an adopted person a copy of the contents of the adoption file pursuant to division (B)(1) of section 3107.38 of the Revised Code.

(d) The court that decreed the adoption may order that the contents be made open for inspection or available for copying.

(3) Birth records in the adopted names of persons whose births occurred in this state and whose adoptions were decreed prior to January 1, 1964, and papers and documents that pertain to such birth records or to the adoptions of such persons, that are in the possession of the department, and that were sealed pursuant to division (D) of this section as it existed prior to March 19, 1985, shall be open to inspection by, and either shall be copied for or made available for copying by, the adopting parents, the adopted person, or any lineal descendant of the adopted person, upon request. In all other cases, such birth records and such papers and documents shall not be open to inspection, be copied, or be available for copying, except that the court that decreed the adoption may order that the contents be made open for inspection or available for copying.

(D) An adopted person whose birth occurred in this state, whose adoption was decreed prior to January 1, 1964, who did not have a new or reissued birth record in the person's the adopted person's adopted name prepared pursuant to division (C) or (D) of this section as those divisions existed prior to March 19, 1985, and whose adoption is in full force and effect, may apply to the department of health at any time for the preparation of a new birth record in the person's adopted name. Upon receipt of such an application, the department shall prepare a new birth record in the person's name, in accordance with, and in the form described in, division (A)(1) of this section. Upon the preparation of a birth record in that form, the original birth record of the applicant or the birth record issued in the adopted name of the applicant prior to January 1, 1964, that is being replaced, whichever is applicable, shall cease to be a public record; however, the department shall maintain that birth record and papers and documents that pertain to it or to the adoption of the applicant and upon request, the adoptive parents of the applicant, the applicant, or any lineal descendant of the applicant may inspect that birth record and those papers and records at all reasonable times and may copy it or any of them or obtain a copy of it or any of them at cost from the department. A birth record in an applicant's adopted name prepared by the department under this division, and any certified or exact copy of it that is properly authenticated by a duly authorized person, is prima-facie evidence in all courts and places of the facts stated in it.

The department promptly shall forward a copy of a birth record in an applicant's adopted name that is prepared under this division to the local registrar of vital statistics of the district in which the applicant's birth occurred. The local registrar shall file the copy along with, and in the same manner as, the other copies of birth records in the registrar's possession. All copies of the applicant's original birth record or the birth record issued in the applicant's adopted name prior to January 1, 1964, that is being replaced, and all other papers, documents, and index references pertaining to it that are in the possession of the local registrar or a probate court shall be destroyed, except that the probate court shall retain permanently in the file of adoption proceedings information that is necessary to enable the court to identify both the applicant's

original birth record or birth record issued in the applicant's adopted name prior to January 1, 1964, that is being replaced, and the new birth record in the applicant's adopted name that is prepared pursuant to this division in accordance with, and in the form described in, division (A)(1) of this section.