

Annie Oxborough Birth Parents Registration Bill

Private Bill

As reported from the Governance and Administration Committee

Commentary

Recommendation

The Governance and Administration Committee has examined the Annie Oxborough Birth Parents Registration Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This is a private bill that seeks to amend the birth record of Annie Oxborough, by replacing the names of her adoptive parents with those of her birth parents. The bill would do this by enabling the Registrar-General to enter these details on Ms Oxborough's birth record. This is not possible under existing law, which is why a private bill has been brought to the House. The bill is promoted by Annie Oxborough and sponsored by Chris Penk MP.

Background context

This bill would enable Susan Mary Cox and Scott Geoffrey Sinel to be recorded as mother and father on Ms Oxborough's birth record. Annie Oxborough was adopted under the Adoption Act 1955 as the legal child of her adoptive parents, both of whom are now deceased. This bill would not alter the legal effect of that adoption order. Ms Oxborough's adoptive parents would continue to be recognised as her legal parents. The purpose of this bill is to ensure that the birth record includes a true account of Ms Oxborough's lineage.

Ms Oxborough's intended outcome, as stated in the preamble of the bill, can only be achieved through a private bill. We are concerned about the need for individuals to resort to using private bills to amend their birth records. We recognise that others who have been adopted through closed adoption in New Zealand may wish to make simi-

lar changes to their birth records but encounter difficulty trying to do this through existing legislation.

We encourage the Government to consider legislative reforms that could prevent the need for using private bills to achieve these outcomes.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. Our amendments result in consequential amendments to the preamble of the bill, which we do not discuss. We also do not discuss minor or technical amendments.

Correct referencing

Clause 4 of the bill would require the Registrar-General to replace the names of Annie Oxborough's adoptive parents, as mother and father, with those of her biological parents. Clause 4 refers specifically to Annie Oxborough's birth certificate.

We do not consider that this is the appropriate word choice. It is the birth record that registers any birth information, including adoption information. A birth certificate is the official document that states the information on the birth record. We recommend replacing "birth certificate" with "birth record". This would make it clear that the names of Annie Oxborough's biological parents would be added to her birth record. It would enable the Registrar-General to issue a new birth certificate based on the updated birth record.

Definition of "birth certificate" and "birth record"

Clause 3 of the bill provides the following definition for "birth certificate":

means the birth certificate in the name of Angela Joy Marshall issued on 16 December 1971 at the Magistrates Court in Auckland.

This definition, being specific to Annie Oxborough, is not consistent with that in the Births, Deaths, Marriages, and Relationships Registration Act 2021. We are concerned that the definition in this bill could cause confusion because it redefines an existing term used in other legislation.

We recommend amending clause 3 to provide definitions for "pre-adoptive birth certificate", "post-adoptive birth certificate", "new birth certificate", and "birth record". This would make it clear that the bill does not propose to re-define existing definitions and would only apply to Ms Oxborough's circumstances.

Mitigating the risk of using the bill for other purposes

We note that, when an adoption is finalised, all rights to succession are extinguished and the birth parents cease to be the legal parents of the adopted person. This means that adopted people do not have any succession rights in relation to their birth parents.

We note that this bill would not have the legal effect of providing Ms Oxborough with succession rights to the estate of her biological parents. This is evident in clause 5 of the bill, which provides that the amendments to be made to Annie Oxborough's birth record do not affect the adoption order in favour of her adoptive parents.

We recommend inserting clause 6 to clarify that a new birth certificate issued in accordance with Ms Oxborough's updated birth record must state that it has been issued in accordance with the Annie Oxborough Birth Parents Registration Act. We consider this would resolve any legal uncertainty.

Appendix

Committee process

The Annie Oxborough Birth Parents Registration Bill was referred to the committee on 10 May 2023.

We did not open submissions to the public on this bill given that its scope is limited to Annie Oxborough's individual situation. We invited five specific individuals to provide a written submission, an oral submission, or both. We heard oral evidence from two submitters at hearings in Wellington.

We received advice on the bill from the Department of Internal Affairs. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Ian McKelvie (Chairperson)

Hon David Bennett

Rachel Boyack

Naisi Chen

Jamie Strange

Chris Penk and Jan Logie also participated in our consideration of this bill.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Chris Penk

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Preamble

- (1) Lisa Clarke, the biological child of Susan Mary Cox (nee Clarke) and Scott Geoffrey Sinel, was born on 21 February 1971. Scott Sinel was not listed on the ~~pre-adoption~~ pre-adoptive birth certificate as his name was not provided at the time of Lisa's birth. 5
- (2) Lisa was subsequently adopted in accordance with the Adoption Act 1955. Her post-adoptive birth certificate was issued on 16 December 1971 at the Magistrate's Court in Auckland in the name of Angela Joy Marshall, being the legal child of an adoptive mother and adoptive father. This post-adoptive birth certificate is the legal source of Annie Oxborough's identity. 10
- (3) Angela's name was subsequently changed to Ann Joy Marshall (known as Annie) by deed poll by her adoptive parents on 5 June 1976.
- (4) Annie Marshall married in 1990 and changed her surname to Oxborough.
- (5) Both of Annie's adoptive parents are deceased.

- (6) As an adult, Annie has made contact with and formed a relationship with her biological parents.
- (7) Annie seeks to replace the names of her adoptive parents ~~on~~ in her birth ~~certificate~~ record with those of her biological parents, so that the record of Annie's birth includes a true account of her lineage. 5
- (8) A Private Bill is the only mechanism by which Annie can achieve this outcome.

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Annie Oxborough Birth Parents Registration Act **2023**. 10

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Interpretation

In this Act, unless the context otherwise requires,— 15

birth record means the part of the registry of births, deaths, and relationships that contains Annie Oxborough's birth information

new birth certificate means the birth certificate issued to Annie Oxborough under **section 6** after the information in her birth record is updated

post-adoptive birth certificate means the birth certificate in the name of Angela Joy Marshall issued on 16 December 1971 at the Magistrates Court in Auckland 20

pre-adoptive birth certificate means the birth certificate containing information from the original birth record before Annie Oxborough's adoption

principal Act means the Births, Deaths, Marriages, and Relationships Registration Act ~~1995~~ 2021 25

Registrar-General has the same meaning as in section 2 of the principal Act.

4 Registration of Annie Oxborough's biological parents ~~on~~ in her birth certificate record

The Registrar-General must replace, as soon as reasonably practicable and in accordance with ~~section 24~~ sections 32 and 35 of the principal Act, the mother and father named ~~on the birth certificate~~ in Annie Oxborough's birth record with the names of Susan Mary Cox as mother and Scott Geoffrey Sinel as father as if the Registrar-General had received notice under ~~section 23~~ 31 of the principal Act containing that information. 30
35

5 Adoption order not affected

Nothing in **section 4** affects the adoption order made in favour of Annie Oxborough's adoptive parents.

6 New birth certificate must be issued and must cite this Act

- (1) As soon as reasonably practicable after replacing the names in Annie Oxborough's birth record in accordance with **section 4**, the Registrar-General must issue a new birth certificate to Annie Oxborough based on the information in the updated birth record. 5
- (2) The new birth certificate, and any other birth certificate that may be issued based on the information in Annie Oxborough's birth record, must state that it is issued in accordance with this Act. 10

Legislative history

6 April 2023
10 May 2023

Introduction (Bill 244–1)
First reading and referral to Governance and Administration
Committee