

STATE BOARD OF HEALTH:

Not required to register births  
of children adopted in this state,  
when not born in Missouri.

July 24, 1939

7/25



Honorable Harry F. Parker, M. D.  
State Health Commissioner  
Jefferson City, Missouri

Dear Sir:

We are in receipt of your letter of July 17, 1939, in which you ask that we suggest a means whereby your department of Vital Statistics can furnish a birth certificate to a child born in the State of Illinois, and subsequently adopted in Missouri.

Section 9051 R. S. Mo. 1929 provides:

"All births that occur in the state shall be immediately registered in the districts in which they occur, as hereinafter provided."

The only provision found in our statutes for registering births occurring outside of Missouri, is that in Laws of 1931 at page 230, which is Section 9054a. This section makes provision for the registration of residents of Missouri, who were born outside of this state prior to the taking effect of Article 2, Chapter 52 R. S. Mo. 1929; in other words, prior to the enactment of our law requiring registration of births. This section was enacted evidently to take care of those cases in which there had been no registration in any other state.

An examination of the laws of Illinois discloses a law requiring the registration of births submitted similar to our laws, with a special law relating to the amendment of the original record on the adoption of the child. Chapter 111 $\frac{1}{2}$ , Section 48a, R. S. of Illinois provides as follows:

"Whenever a decree of adoption has been entered declaring a child adopted

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in any court of competent jurisdiction in the State of Illinois, a certificate of the decree may be recorded with the proper department of registration of births and a certificate of birth shall issue upon request, bearing the new name of the child as shown in the decree of adoption, the names of the foster parents, the sex, age and date of birth, but without reference to the adoption of said child."

This was adopted in July 1931.

In 1937 at page 1006 of the Session Laws of that year, an exact form to be used in such an instance was adopted by the legislature.

Section 1, Article 4 of the Constitution of the United States is as follows:

"Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof."

In pursuance of this provision of the Constitution, Congress has enacted Sections 687 and 688, Title 28 of the United States Code of Laws. These set out the manner in which records shall be proved and admitted by the courts and officers of other states.

In the case of Lucas vs. Vulcon Iron Works, 233 Federal 823 and in the case of Whitley vs. Spokane Railway Company, 237 United States 487, as well as in a great number of other cases to the same effect, the courts have uniformly held that every state court must give such credit to the judgments of other states as is given in its own courts.

From this, it is apparent that the proper remedy in the case outlined by you is to compel the State Board of Health of Illinois to accept the decree of adoption rendered in this

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state and to amend its records accordingly.

In the event that your department desires to register this Illinois birth or any other birth in another state, the original certificate filed in the State of birth will be the best evidence in any proceeding; since the certificate in your department would show on its face that the birth occurred without the state.

In the event that the party whom you have in mind is unwilling to go to the expense of a proceeding in Illinois, it is our suggestion that the Illinois Birth Certificate, together with a certified copy of a decree of adoption in this state, would constitute acceptable evidence of the child's parentage under any circumstances that might arise.

Respectfully submitted,

ROBERT L. HYDER  
Assistant Attorney-General

APPROVED:

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COVELL R. HEWITT  
(Acting) Attorney-General

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