

Sullivan Birth Certificate Bill

Private Bill

As reported from the Government
Administration Committee

Commentary

Recommendation

The Government Administration Committee has examined the Sullivan Birth Certificate Bill and recommends that it be passed with the amendments shown.

Introduction

The Sullivan Birth Certificate Bill, a private bill sponsored by Louisa Wall, is promoted by Rowen Helen Louise Sullivan. Rowen Sullivan is seeking to have the name of her late birth mother, Diane Sullivan, included on her New Zealand post-adoptive birth certificate, in addition to that of her adoptive mother, Doreen Margaret Shields.

The bill would direct the Registrar-General of Births, Deaths and Marriages to enter Diane Sullivan's details on Rowen Sullivan's post-adoption birth record, from which a birth certificate could be issued.

Rowen Helen Louise Sullivan was born on 23 February 1993 in England to a same-sex couple, Diane Sullivan, a British citizen, and New Zealander Doreen Margaret Shields. Only Diane Sullivan's name, as the birth parent, was recorded on Rowen Sullivan's birth certificate.

In November 1999 the family moved to New Zealand, and Rowen and Diane Sullivan became permanent residents on family grounds. At that time the law did not allow Diane and Doreen to marry or jointly adopt Rowen.

Diane Sullivan died in 2010, and Rowen was formally adopted by Doreen in January 2013. However, this required the removal of Diane Sullivan's name from Rowen's post-adoption birth record. Therefore, the purpose of the bill is to add Diane Sullivan's details to that record so that both Diane Sullivan and Doreen Shields' names can be included on Rowen Sullivan's New Zealand post-adoption birth certificate.

This commentary covers the main amendments we recommend to the bill; it does not cover minor or technical amendments.

Title of the bill

We recommend that the title of the bill be changed to the "Sullivan Birth Registration Bill". We consider that the title of the bill as introduced, the "Sullivan Birth Certificate Bill", could be misleading as its passage would not directly effect change to Rowen Sullivan's birth certificate. Clause 3 of the bill as introduced would direct the Registrar-General to amend the post-adoptive birth record, from which birth certificates can be issued at any time. We have recommended a new clause 4 (see below) to reflect Rowen Sullivan's understanding that the amended registration record shows her parents are her legal parents for all purposes.

Adoption order to include birth mother's details

We recommend deleting clause 3(1)(b) of the bill as introduced and replacing it with new clause 3(1)(b) to make it clearer that the effect of the Registrar-General adding Diane Sullivan's details to Rowen Sullivan's birth record would be the same as if an adoption order had been made in favour of Diane Sullivan and Doreen Shields, rather than just Doreen Shields.

Parents of Rowen Sullivan

We recommend the insertion of new clause 4 which would provide that Diane Sullivan and Doreen Margaret Shields are, for all pur-

poses, the parents of Rowen Sullivan. This is the legal position under Part 2, section 18 of the Status of Children Act 1969, which applied to Rowen Sullivan before the adoption order was made. The proposed clause reinstates that legal position for all purposes, including the law of succession and parental relationship. Ultimately it would make what is a matter of fact, that Diane Sullivan and Doreen Shields are Rowen Sullivan's parents, a matter of law.

Appendix

Committee process

The Sullivan Birth Certificate Bill was referred to the committee on 7 August 2013. The closing date for submissions was 27 September 2013. We received and considered seven submissions from interested groups and individuals, and heard from three submitters. We received advice from the Department of Internal Affairs.

Committee membership

Hon Ruth Dyson (Chairperson)

Chris Auchinvole

Kanwaljit Singh Bakshi

Hon Trevor Mallard

Mojo Mathers

Eric Roy

Jan Logie replaced Mojo Mathers for this item of business.

Sullivan Birth Certificate Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Louisa Wall

Sullivan Birth Certificate Bill

Private Bill

Contents

	Page
Preamble	1
1 Title	2
2 Commencement	3
2A Interpretation	3
3 Registration of adoption order to include birth mother's details	3
4 Parents of Rowen Helen Louise Sullivan	3

Preamble

- (1) Rowen Helen Louise Sullivan was born on 23 February 1993 in England. Her parents were Diane Sullivan, who was a British citizen, and Doreen Margaret Shields, who was born in New Zealand. As Diane Sullivan was the birth parent only her name was recorded on Rowen Sullivan's birth certificate: 5
- (2) The family moved to New Zealand in November 1999 and both Rowen and Diane Sullivan became permanent residents on family grounds. Diane Sullivan and Doreen Shields were unable to marry under the Marriage Act 1955 following the Court of Appeal decision in *Quilter & Ors v Attorney-General* [1998] 1 NZLR 523: 10
- (3) Diane Sullivan became terminally ill and Diane Sullivan and Doreen Shields investigated the possibility of adoption by

Doreen Shields, but because they were unable to marry they could not be spouses and therefore were unable to jointly adopt pursuant to section 3(3) of the Adoption Act 1955. Any alternative adoption order would have required the removal of Diane Sullivan's name from the birth certificate. Accordingly Doreen Shields applied for and was granted additional guardian status of Rowen Sullivan under section 23 of the Care of Children Act 2004. Doreen Shields's guardianship expired on Rowen Sullivan's 18th birthday on 23 February 2011 pursuant to section 28(1)(a) of the Care of Children Act 2004:

- (4) Diane Sullivan died on 2 August 2010 when Rowen Sullivan was 17 years old:
- (5) Rowen Sullivan became a New Zealand citizen on 30 May 2011. As at that date Doreen Shields was Rowen Sullivan's only living parent but, given the expiration of the guardianship, it was thought that there was no legal recognition of their relationship:
- (6) Accordingly, Doreen Shields and Rowen Sullivan agreed to apply for an adoption order, which was made by the Family Court at Upper Hutt on 15 January 2013 (FAM-2012-078-000261) in the name of Doreen Shields. However the order required the removal of Diane Sullivan's name from Rowen Sullivan's birth certificate:
- (7) Because Diane Sullivan died prior to the passing of the Marriage (Definition of Marriage) Amendment Act 2013, there is no means, other than by a Private Bill, by which Diane Sullivan's name can be added to Rowen Sullivan's birth certificate in order that both parents can be recorded as such under the Births, Deaths, Marriages, and Relationships Registration Act 1995:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Sullivan Birth ~~Certificate~~ Registration Act **2013**.

35

2 Commencement

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

2A Interpretation

In this Act, unless the context otherwise requires,— 5

Registrar-General has the same meaning as in section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995

specified adoption order means the adoption order made in favour of Doreen Margaret Shields by the Family Court at Upper Hutt on 15 January 2013 (FAM-2012-078-000261) in respect of Rowen Helen Louise Sullivan. 10

3 Registration of adoption order to include birth mother's details

The Registrar-General must add, in accordance with section 24 of the Births, Deaths, Marriages, and Relationships Registration Act 1995, the details of Diane Sullivan as birth mother on the registration of the birth of Rowen Helen Louise Sullivan (as well as the details of Doreen Margaret Shields) as if— 15

- (a) a notice under section 23 of the Births, Deaths, Marriages, and Relationships Registration Act 1995 had been received containing that information; and 20
- (b) an adoption order had been made pursuant to an application under section 3(3) of the Adoption Act 1955 by Diane Sullivan and Doreen Margaret Shields in respect of Rowen Sullivan. 25
- (b) the specified adoption order had been made in favour of Diane Sullivan and Doreen Margaret Shields.

(2) ~~In this section, unless the context otherwise requires, Registrar-General has the same meaning as in section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995.~~ 30

4 Parents of Rowen Helen Louise Sullivan

(1) Diane Sullivan and Doreen Margaret Shields are, for all purposes, the parents of Rowen Helen Louise Sullivan. 35

Sullivan Birth Certificate Bill

(2) **Subsection (1)** has effect despite the specified adoption order.

(3) **Subsection (1)** does not affect **section 3**.

Legislative history

5 July 2013
7 August 2013

Introduction (Bill 139–1)
First reading and referral to Government
Administration Committee
