

30 November 2022

Memorandum for: Rena Bitter, Assistant Secretary of State for Consular Affairs

Re: Form DS-3053 Statement of Consent; Consular Reports of Birth Abroad (CRBA)

To whom it may concern,

We are grateful for the opportunity to offer public comment on the Bureau of Consular Affairs's proposed changes to 22 CFR §51.23(a) regarding Form DS-3053 and CRBAs for use in passport applications for minors. As postgraduate students of public administration, we have a vested interest in appraising current administrative rulemaking, and this proposed rule change provides an excellent case study.

We would like to highlight a few points concerning the proposed changes to 22 CFR §51.23(a), identified after further research:

1. The changes appear extremely limited in scope, to the point that they may not have a significant effect on the difficulty some applicants face.
2. Removal of the CRBA as proof of sole custody is both overdue in a legal sense and unhelpful to affected applicants, as it reduces parents' options to prove sole custody of minors under 16.
3. Offering free certification of Form DS-3053 at passport agencies and centers for non-applying parents may be detrimental to notaries public in a financial sense.
4. The addition of a cost-free option for certification of Form DS-3053 may be beneficial to applicants from a financial perspective; these benefits could be maximized with expanded options.

In general, we find no reason to object to or criticize the proposed rule change itself. However, we believe that the change is too limited to have any real effect, and we struggle to see the immediate utility of such a narrowly-applicable amendment.

Respectfully submitted,

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The proposed changes to 22 CFR §51.23(a) are well-intentioned; in justifying the amendments, the Bureau of Consular Affairs (CA) identifies feedback from non-applying parents about the cost of notarization of Form DS-3053. The opening of passport agencies/centers to non-applying parents as a cost-free alternative appears to be in direct response to this concern. However, the fact that there are only 26 public passport centers throughout the country makes this change extremely limited in utility. Millions of Americans live hundreds of miles from the nearest passport center - including many residents of major metro areas. Contrasted with this are the estimated 4.4 million notaries in the US, who are limited to a fee of \$5 per act on average. The change increases applicants' options by less than one one-thousandth of a percent. Considering that CA does not anticipate either an increase or decrease in respondent burden (20 minutes to complete Form DS-3053) as a result of this change, the pocket-change savings provided by opening up passport agencies for this purpose seems heavily outweighed by the headache of scheduling an appointment and traveling to a center. Rather, it seems that the aforementioned proposed rule would in fact be detrimental to notary offices, as the alternative presented by the passport agencies would generate a loss in annual revenue. Far better would be the extension of this option to any passport acceptance facility, of which there are over 7,400 nationwide. Further limiting the impact of this proposed change is the already microscopic segment of the population to which it applies. CA itself estimates over 416,000 individuals will be affected by the rule, but we assess that that figure represents merely the pool of *possible* respondents who *could* be affected, not a realistic figure of those who actually *will*. In any case, the CA-quoted figure represents a tiny fraction of the overall passport-applying population, and one is therefore given to hoping that considerable administrative time and effort were not spent deliberating this rather narrow amendment.

The proposed rule also aims to remove the Consular Report of Births Abroad (CRBA) as a viable option of sole representation of a child under 16. While 6 other options authenticating sole custody of a child are available, the removal of CRBAs as an acceptable document limits the options available to the applying parent. While doing so would not be of concern for a substantial number of applicants, the flexibility of documents is then limited in scope.

Though this proposed rule will surely bring ease to some parents/guardians applying for a passport on behalf of a minor, its general impact is somewhat limited. The rule applies to a small population (minors, minors who are native US citizens born abroad, separated parents or guardians, or parents with sole custody) and would not benefit, or even pertain to, a majority of the US population. Despite its narrow appeal, we feel that, overall, the proposed rule is a pragmatic course of action.

The current rule stands that parents or guardians applying for a passport on behalf of a minor must sign their statement of consent in front of a notary; however, the newly proposed rule amends that it is acceptable to obtain a signature before a notary or a passport specialist at a passport office. This would shorten the passport application

process for non-applying parents or guardians for whom it's more convenient to go straight to a passport specialist, while also maintaining the option for those to still go to a notary if they wish to do so. Furthermore, amending the necessity for notaries means that parents or guardians would no longer have to pay a cost for notary services. This cost is low, from \$1 to \$15; however, any reduction in costs, no matter how small, can surely be seen as a positive development.

This is the limited extent of the benefits of the proposed rule. It's important to note that the rule will have little impact on the public and the benefits incurred will be minor, if any. There is a slim population, however, that will value the benefits of the proposed changes. Overall, it seems that most stakeholders somewhat benefit (or at least are not significantly affected by the rule), in which a lack of notable consequences resulting from the amendments seems a small success in itself.