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Sixty-fourth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1116

Introduced by

Human Services Committee

(At the request of the State Department of Health)

A BILL for an Act to amend and reenact sections 23-02.1-01, 23-02.1-13, 23-02.1-15, 23-02.1-19, 23-02.1-20, 23-02.1-25, and 23-02.1-27, and subsection 5 of section 23-02.1-30 of the North Dakota Century Code, relating to the Health Statistics Act; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person who has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.
2. "Certified" means a copy of the original record on file with the state department of health that is signed and sealed by the state registrar or deputy state registrar.
3. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.
4. "Electronic birth registration system" means the electronic birth registration system maintained by the state department of health.
5. "Electronic death registration system" means the electronic death registration system maintained by the state department of health.
6. "Facts of death" means the demographic and personal information pertaining to a person's death.
7. "Fetal death" or "birth resulting in stillbirth" means death prior to the complete expulsion or extraction from its mother of a product of human conception, ~~irrespective~~

~~of the duration of pregnancy;~~ the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer for registration by the state registrar.

9. "Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

10. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.

11. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which persons are committed by law.

12. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

13. "Medical certification" means the medical information pertaining to a person's death, including the cause and manner of death.

14. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.

15. "Physician" means a person authorized or licensed to practice medicine or osteopathy pursuant to chapter 43-17.

~~15.~~16. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officer.

~~16.~~17. "Relative" means a person's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.

~~17.~~18. "Subregistrar" means a funeral director or other suitable person from a licensed funeral home who is appointed by the state registrar for the purpose of issuing burial-transit permits.

~~18.~~19. "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.

~~19.~~20. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or the state health officer's designee.

SECTION 2. AMENDMENT. Section 23-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-13. Birth registration.

1. A birth record for each live birth that occurs in this state must be filed with the state registrar.
2. When a birth occurs in an institution, the person in charge of the institution or a designated representative must use the state department of health's electronic birth registration system to report the birth, including all personal and medical facts, to the state registrar within five days after the birth.
3. When a birth occurs outside an institution, the required forms prescribed by the state department of health must be prepared and filed with the state registrar, within thirty days of the birth, by one of the following in the indicated order of priority:
   a. The physician in attendance at or immediately after the birth, or in the absence of such ~~a person~~an individual;
   b. Any other ~~person~~individual in attendance at or immediately after the birth, or in the absence of such ~~a person~~an individual; or
   c. The father, the mother, or in the absence of the father and the inability of the mother, the ~~person~~individual in charge of the premises where the birth occurred.

4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the man must be entered on the record as the father of the child unless ~~the presumption of paternity has been rebutted by a court decree~~:
   a. The presumption of paternity has been rebutted by a court order; or
   b. The child's natural mother and the child's biological father, as determined by medical testing, voluntarily acknowledge the child's paternity on a form prescribed by the state department of health, signed by the child's natural mother and biological father, and filed with the state registrar.
5. If the child is not born during the marriage of the mother, or within three hundred days after a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth record unless:
   a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
      (1) He has acknowledged his paternity of the child in writing filed with the state registrar; or
      (2) He is obligated to support the child under a written voluntary promise or by court order;
   b. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity ~~in a writing~~on a form prescribed by the state department of health, signed by ~~both~~the child's natural mother and biological father, and filed with the state registrar; or
   c. A court or other entity of competent jurisdiction has adjudicated paternity.
6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the birth record, the child's surname must be shown on the birth record as

the current legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is ~~received stating the surname to be that of the father~~filed with the state department of health.

SECTION 3. AMENDMENT. Section 23-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-15. Delayed registration of birth.

1. When the birth of a person born in this state has not been registered, a record may be filed in accordance with the regulations of the state department of health. Such record must be registered subject to such evidentiary requirements as the state department of health shall prescribe to substantiate the alleged facts of birth.
2. Records of birth registered one year or more after the date of occurrence must be marked "delayed" and show on their face the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the record.
4. a. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the record or documentary evidence, the state registrar may not register the delayed record and shall advise the applicant of the reasons for this action. In the event that the deficiencies are not corrected, the state registrar shall advise the applicant of the right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.

   b. The state department of health may by regulation provide for the dismissal of an application which is more than ~~two years~~one year old and is not being actively pursued.
5. A report of live birth may not be registered for a deceased person one year or more after that person's date of birth.

SECTION 4. AMENDMENT. Section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-19. Death registration.

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the state department

of health using the electronic death registration system. All registration and issuing of copies of death records will be completed by the state department of health.

2. The funeral director shall obtain the facts of death from the next of kin or the best qualified person or source available and must file the facts of death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the person responsible for the medical certification.

3. The medical certification must be completed and filed using the electronic death registration system within ~~fifteen~~ten days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.

4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within ~~fifteen~~ten days after taking charge of the case using the electronic death registration system.

5. If the cause of death cannot be determined within ~~fifteen~~ten days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.

6. When a death is presumed to have occurred within this state but the body cannot be located, a death record may be prepared by the state registrar upon receipt of findings of a court of competent jurisdiction, including the facts of death and medical certification required to complete the death record. The death record must be marked "presumptive" and must show on its face the date of registration and must identify the court and the date of the decree.

7. Each death ~~record~~registration must include the social security number of the decedent, if the information is available. A social security number included on a death record is confidential and may be disclosed only to a relative or authorized representative of the individual named on the record, to a person with personal or real property interests that depend upon information contained in the death record, or by an order of a court of competent jurisdiction.

SECTION 5. AMENDMENT. Section 23-02.1-20 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20. Fetal death registration.

1. A fetal death record for each fetal death which occurs in this state after a gestation period of twenty completed weeks or more ~~or of less than twenty completed weeks of gestation when provided by rules of the state department of health~~ must be filed with the state registrar.

2. ~~The funeral director who first assumes custody of a fetus shall file the fetal death record. In the absence of such a person, the physician or other person in attendance at or after delivery shall file the fetal death record. The person filing the fetal death record shall obtain the facts of death from the next of kin or the best qualified person or source available and must file the facts of death information within fifteen days of the occurrence using the electronic death registration system. The person filing the fetal death record shall obtain the medical certification of death from the person responsible for the medical certification~~When a fetal death occurs in an institution, the person in charge of the institution or a designated representative shall use the state department of health's electronic fetal death registration system to report the fetal death, including all personal and medical facts, to the state registrar within ten days after the delivery. If a fetal death occurs outside of an institution, a funeral director or other person in attendance at or after delivery shall file the fetal death record.

3. ~~The medical certification must be completed and filed using the electronic death registration system by the physician, physician assistant, or a nurse practitioner in attendance at the delivery within fifteen days after the delivery except when inquiry is required by the local health officer or coroner.~~

~~4.~~ When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death, and shall obtain medical information about the individual from that individual's medical records or last-known physician or physician assistant and file the medical certification within ~~fifteen~~ten days after taking charge of the case using the electronic death registration system.

~~5.~~4. If the cause of fetal death cannot be determined within ~~fifteen~~ten days after death, the medical certification may be filed after the prescribed period of time in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.

~~6.~~5. The provision for entering the name of the father of the fetus on the fetal death record and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in section 23-02.1-13.

SECTION 6. AMENDMENT. Section 23-02.1-25 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-25. Correction and amendment of vital records.

1. A record registered under this chapter may be amended only in accordance with this chapter and regulations thereunder adopted by the state department of health to protect the integrity and accuracy of vital records.
2. A record that is amended under this section must be marked "amended" except as provided in subsection 4. The date of amendment and a summary description of the evidence submitted in support of the amendment must be endorsed on or made a part of the record. The state department of health shall prescribe by regulation the conditions under which additions or minor corrections may be made to birth records within one year after the date of birth without the record being considered as amended.
3. Upon receipt of a certified copy of a court order ~~changing the name of a person born in this state~~that is amending a birth, death, or fetal death record and upon request of

such person or the person's parent, guardian, or legal representative, the state registrar shall amend the record ~~to reflect the new name~~as directed in the court order, however, if the state registrar has information to believe the facts of the court order are false or inaccurate, the state registrar shall provide the court and any known parties with the correct information.

4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents and upon request, the state registrar shall amend a record of birth to show such paternity if paternity is not shown on the record. Upon request of the parents, the surname of the child must be changed on the appropriate record to ~~that of the father~~the surname designated by the parents on the acknowledgment of paternity. Such record may not be marked as "amended". The provisions of this subsection apply also in their entirety to records of fetal death.

SECTION 7. AMENDMENT. Section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-27. Disclosure of records.

Birth, death, and fetal death records, filings, data, or other information related to birth, death, and fetal death records are confidential and may not be disclosed except as authorized under this chapter. The state registrar shall restrict access to all vital records to protect vital records from loss, mutilation, or destruction and to prevent disclosure of the information contained in these records except as authorized under this chapter.

1. A certified copy of a birth record may be issued to the individual named on the record if that individual is at least sixteen years old, to a parent named on the record, to an authorized representative, or by the order of a court of competent jurisdiction. If the individual named on a birth record is deceased, a certified copy of that record may also be issued to a relative. If the date of birth on any birth record is more than one hundred and twenty-five years old, that record is an open record and a certified copy may be issued to anyone, except that adoption records remain confidential.
2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician for the purposes of researching family medical history, a funeral director reporting the facts of death, or a person with personal or real property interests that depend upon information contained

in the complete death record or by the order of a court of competent jurisdiction and may include the cause of death and the social security number. A certified copy of the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified copy of an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.

3. A certified copy of a fetal death record may be issued to a parent named on the record, an authorized representative, or by the order of a court of competent jurisdiction. A person authorized to receive a certified copy of a fetal death record may request the certified copy be issued in the form of a certification of birth resulting in stillbirth.

4. A noncertified informational copy of a marriage record may be issued to the general public.

5. Any individual authorized to receive a certified copy of any specific record may grant another individual the same authority by completing a written authorization on a form prescribed by the state department of health.

6. The state department of health may grant limited access to birth and death information to divisions and programs of the state department of health, the department of transportation, the protection and advocacy project, and the department of information technology, and to the department of human services necessary for the purpose of completing their respective official duties.

7. The state department of health may issue, through electronic means determined by the state department of health, verifications of information contained on birth or death records filed with the state registrar when such information is provided and a verification is requested by a governmental agency, whether foreign or domestic, in the conduct of the agency's official duties. The state department of health may also issue these electronic verifications for a negotiated and agreed-upon fee to:

   a. Benefit-paying parties, such as annuity companies, pension plans, and life insurance companies, that demonstrate a need for such information to determine

whether the benefits the benefit-paying party are paying should be terminated or distributed to a beneficiary;

b. Physicians licensed to practice in the United States who demonstrate such information is needed to determine whether a patient the physician is treating has been lost to care;

c. Attorneys licensed to practice in the United States who demonstrate that the information is necessary to administer the attorneys' client's estate; or

d. Other entities for fraud prevention as determined by the state registrar.

SECTION 8. AMENDMENT. Subsection 5 of section 23-02.1-30 of the North Dakota Century Code is amended and reenacted as follows:

5. On or before the fifth day of each month, each hospital, institution, funeral director, embalmer, or person acting as such in this state shall report to the state registrar, on forms provided for this purpose, information required by the state registrar regarding each ~~dead body or fetus~~birth, death, or fetal death handled ~~by such person~~ during the preceding calendar month.

SECTION 9. APPLICATION. Under subsection 3 of section 23-02.1-13, the state department of health shall use forms that are substantially similar to the department's North Dakota parent's worksheet and certifier's worksheet for completing the North Dakota birth certificate.