

ACT No. 434

2016 Regular Session

HOUSE BILL NO. 449

BY REPRESENTATIVE GREGORY MILLER

(On Recommendation of the Louisiana State Law Institute)

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AN ACT

To amend and reenact Children's Code Articles 1122(F)(2) and (G)(2) and 1142(B) and R.S. 40:34, 46, 46.1, 46.2, and 75(A), to enact R.S. 9:410, R.S. 40:34.1 through 34.13, and 46.3 through 46.13, and to repeal Children's Code Article 1142(C), relative to vital statistics; to provide for the completion of a birth certificate; to provide for the amendment of a birth certificate; to reorganize and recodify laws relative to birth certificates, death certificates, and paternity establishment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Articles 1122(F)(2) and (G)(2) and 1142(B) are hereby amended and reenacted to read as follows:

Art. 1122. Contents of surrender; form

* * *

F. The Act of Surrender for a surrendering mother shall contain the requirements in substantially the following form:

"VOLUNTARY ACT OF SURRENDER FOR ADOPTION
(FOR A SURRENDERING MOTHER OF A CHILD)

STATE OF LOUISIANA
PARISH OF (NAME OF PARISH)

BEFORE ME, the undersigned notary public, and in the presence of the two undersigned competent witnesses who are over the age of eighteen, personally came and appeared:

1 (NAME OF SURRENDERING MOTHER)

2 a female of the age of (AGE), who is (MARITAL STATUS), and domiciled in the
3 Parish of (NAME OF PARISH), who being first duly sworn, did depose and state:

4 * * *

5 (2) She was married at the birth or conception of the child, or has married
6 subsequent to the child's birth and her husband has acknowledged his paternity of the
7 child. The husband's name is (HUSBAND'S NAME) and his last known address
8 was (ADDRESS OR UNKNOWN).

9 OR

10 She was not married at the birth or conception of the child, nor has she, subsequent
11 to the child's birth, married any man who has acknowledged his paternity of the
12 child. To the best of her knowledge, the alleged father has/has not executed a
13 ~~notarial~~ an act of acknowledgment/~~a notarial act of legitimation~~/a registration with
14 the putative father registry ~~which~~ that admitted his paternity of this child. He has/has
15 not informally acknowledged his paternity of this child. His paternity of this child
16 has/has not been established by court judgment.

17 * * *

18 G. The Act of Surrender for a surrendering father shall contain the
19 requirements in substantially the following form:

20 "VOLUNTARY ACT OF SURRENDER FOR ADOPTION

21 (FOR A SURRENDERING FATHER OF A CHILD)

22 STATE OF LOUISIANA

23 PARISH OF (NAME OF PARISH)

24 BEFORE ME, the undersigned notary public, and in the presence of the two
25 undersigned competent witnesses who are over the age of eighteen, personally came
26 and appeared:

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(NAME OF SURRENDERING FATHER)

a male of the age of (AGE), who is (MARITAL STATUS), and domiciled in the Parish of (NAME OF PARISH), who being first duly sworn, did depose and state:

* * *

(2) He was not married to the child's mother at the time of the child's birth or conception nor has he subsequently married this child's mother and acknowledged his paternity of the child.

OR

He was married to the child's mother at the time of the child's birth or conception.

OR

He has married this child's mother subsequent to the child's birth and has acknowledged his paternity of the child.

OR

He was not married to and has not married the mother of this child/expected child. He has/has not executed ~~a notarial act of acknowledgement/a notarial act of legitimation/~~ an act of formal acknowledgment/ a registration with the putative father registry ~~which~~ that admitted his paternity of this child/expected child. He has/has not informally acknowledged his paternity of this child/expected child. His paternity of this child/expected child has/has not been established by court judgment.

* * *

Art. 1142. Order declaring parental rights terminated; motion; certificates

* * *

B. The motion shall be accompanied by a certified copy of the child's birth certificate, a certificate from the putative father registry indicating whether any act of acknowledgment by authentic act has been recorded, and a certificate from the clerk of court in and for the parish in which the child was born indicating whether any acknowledgment by authentic act, ~~legitimation by authentic act,~~ or judgment of filiation has been recorded relative to this child.

* * *

1 Section 2. R.S. 9:410 is hereby enacted to read as follows:

2 §410. Filiation judgment; notice

3 A. Before rendition of any filiation judgment, including a judgment of
 4 disavowal of paternity, contestation and establishment of paternity, filiation, or
 5 paternity, that includes an order to amend a birth certificate, the mover shall send a
 6 copy of the pleadings, if any, and the proposed judgment to the state registrar by
 7 United States mail or electronic means. If the state registrar is of the opinion that the
 8 proposed order to amend the birth certificate is not in conformity with law, he may
 9 object to the order on that basis, provided he does so within thirty days of receipt of
 10 the pleadings and proposed judgment, after which the court shall rule on the merits
 11 of the objection. In the absence of any objection by the state registrar, the court shall
 12 grant the order if the mover is so entitled.

13 B. Nothing in this Section shall prohibit the state registrar from complying
 14 with a judgment ordering the amendment of a birth certificate when the order meets
 15 all legal requirements except the notification required by Subsection A of this
 16 Section.

17 Section 3. R.S. 40:34, 46, 46.1, 46.2, and 75(A) are hereby amended and reenacted
 18 and R.S. 40:34.1 through 34.13 and 46.3 through 46.13 are hereby enacted to read as
 19 follows:

20 §34. Vital records forms

21 A.(1) The certificate forms prescribed by the state registrar shall include, as
 22 a minimum, ~~the items listed below~~ birth certificates, death certificates, paternity
 23 acknowledgment affidavits, and any ~~others~~ other forms recommended by the national
 24 office in charge of gathering vital statistics. Only these forms shall be used in
 25 registering, recording, and preserving the vital information required by this Chapter.
 26 These forms shall be typewritten in black type or written in jet black ink or
 27 transferred by electronic means. Additionally each certificate of a birth occurring
 28 in a licensed hospital shall be typewritten in black type or computer generated.
 29 Whenever a form is changed, the new form shall be furnished to the person charged

1 with preparing it not less than thirty days prior to the date upon which the form shall
2 be required to be used.

3 (2) The Department of Health and Hospitals shall promulgate rules and
4 regulations in accordance with the Administrative Procedure Act to allow electronic
5 registration in lieu of typewritten or written birth, death, fetal death, marriage, and
6 divorce certificates.

7 B. The forms shall be printed and supplied or provided by electronic means
8 by the state registrar, and the required contents are:

9 ~~(1) Contents of birth certificate. The certificate of birth shall contain, as a~~
10 ~~minimum, the following items:~~

11 ~~(a) Full name of child:~~

12 ~~(i) If the child dies without a first name before the certificate is filed, enter~~
13 ~~the words "died unnamed" in this blank.~~

14 ~~(ii) If the living child has not yet been given a first name at the date of filing~~
15 ~~of the certificate, leave blank the space for the first name of the child and supply the~~
16 ~~name later by affidavit.~~

17 ~~(iii) Except as otherwise provided in Items (vi) and (vii) of this~~
18 ~~Subparagraph, the surname of the child shall be the surname of the husband of the~~
19 ~~mother if he was married to the mother of the child at the time of conception and~~
20 ~~birth of the child or had not been legally divorced from the mother of the child for~~
21 ~~more than three hundred days prior to the birth of the child, or, if both the husband~~
22 ~~and the mother agree, the surname of the child may be the maiden name of the~~
23 ~~mother or a combination of the surname of the husband and the maiden name of the~~
24 ~~mother.~~

25 ~~(iv) If the child is born outside of marriage, the surname of the child shall be~~
26 ~~the mother's maiden name. If the father is known and if both the mother and the~~
27 ~~father agree, the surname of the child may be that of the father or a combination of~~
28 ~~the surname of the father and the maiden name of the mother. For purposes of this~~
29 ~~Item, "father" means a father who has acknowledged his child or who has been~~
30 ~~judicially declared the father in a filiation or paternity proceeding.~~

1 (v) Any change in the surname of a child from that required herein or to that
2 allowed herein shall be by court order as provided for in R.S. 13:4751 through 4755
3 or as otherwise provided in this Chapter or by rules promulgated thereunder.

4 (vi) ~~Notwithstanding the provisions of Item (B)(1)(a)(iii), and except as~~
5 ~~otherwise provided in Item (B)(1)(a)(vii), if the father of the child is not the husband~~
6 ~~of the mother, the surname of the child may be the maiden name of the mother, or,~~
7 ~~if the mother, husband, and father agree, the surname of the child may be that of the~~
8 ~~father or a combination of the surname of the father and the maiden name of the~~
9 ~~mother. The Department of Health and Hospitals, office of public health, shall~~
10 ~~develop a form for the purposes of implementing this Item. However, the provisions~~
11 ~~of this Item shall be limited to cases wherein the husband and mother have lived~~
12 ~~separate and apart continuously for a minimum of one hundred eighty days prior to~~
13 ~~the time of conception of the child and have not reconciled since the beginning of the~~
14 ~~one hundred eighty-day period, as evidenced by an affidavit of the parties submitted~~
15 ~~to the registrar.~~

16 (vii) ~~In the case of a child born of the marriage, which includes cases where~~
17 ~~both a person, presumed to be the father pursuant to the Civil Code, and a biological~~
18 ~~father exist, the surname of the child's biological father who has been judicially~~
19 ~~declared to be the father of the child in a filiation or paternity proceeding, either prior~~
20 ~~or subsequent to the birth of the child, shall be the surname of the child, if the~~
21 ~~biological father has sole or joint custody of the child and the presumed father, if~~
22 ~~any, is no longer married to the mother. If the biological father and the mother~~
23 ~~agree, the surname of the child shall be the maiden name of the mother or a~~
24 ~~combination of the surname of the biological father and the maiden name of the~~
25 ~~mother. The child's mother, the husband of the mother, and the biological father~~
26 ~~shall be indispensable parties in a filiation or paternity proceeding brought under this~~
27 ~~Item, except when parental rights have been terminated or the person is deceased.~~

28 (viii) ~~In the case of a child born of a surrogate birth parent who is related by~~
29 ~~blood or affinity to a biological parent, the surname of the child's biological parents~~
30 ~~shall be the surname of the child.~~

- 1 ~~(b) Sex.~~
- 2 ~~(c) Time of birth.~~
- 3 ~~(d) Date of birth, including the year, the month, and the day.~~
- 4 ~~(e) Place of birth, including the street, and house number; if in a hospital or~~
5 ~~other institution, its name, instead of the street and house number.~~
- 6 ~~(f) Whether a plural birth. A separate certificate is required for each child~~
7 ~~in a plural birth.~~
- 8 ~~(g) If a plural birth, the number of each child in order of birth.~~
- 9 ~~(h)(i) Full name of father if the father was the husband of the mother of the~~
10 ~~child at the time of conception and or birth of the child or had not been legally~~
11 ~~divorced from the mother of the child for more than three hundred days prior to the~~
12 ~~birth of the child. If the husband of the mother was not the biological father of the~~
13 ~~child, the full name of the biological father may be recorded in accordance with the~~
14 ~~provisions of Item (vi) or (vii) of Subparagraph (a). A subsequent successful~~
15 ~~disavowal action by the husband of the mother or his heirs or a subsequent successful~~
16 ~~contestation action by the mother may later affect this entry and the child's surname.~~
17 ~~Otherwise, the full name of the father may be recorded as provided by Item (iv) of~~
18 ~~Subparagraph (a).~~
- 19 ~~(ii) If a child is born outside of marriage, the full name of the father shall be~~
20 ~~included on the record of birth of the child only if the father and mother have signed~~
21 ~~a voluntary acknowledgment of paternity or a court of competent jurisdiction has~~
22 ~~issued an adjudication of paternity.~~
- 23 ~~(iii) In all other cases, the name of the father and other information~~
24 ~~pertaining to the father shall not appear on the birth certificate and the surname of~~
25 ~~the child shall be recorded as the maiden name of the mother.~~
- 26 ~~(iv) Nothing in this Subparagraph shall preclude the Department of Children~~
27 ~~and Family Services, office of children and family services, child support~~
28 ~~enforcement section from obtaining an admission of paternity from the biological~~
29 ~~father for submission in a judicial proceeding, or prohibit the issuance of an order in~~
30 ~~a judicial proceeding which bases a legal finding of paternity on an admission of~~

1 paternity by the biological father and any other additional showing required by state
2 law:

3 ~~(v) In the case of a child born of a surrogate birth parent who is related by~~
4 ~~blood or affinity to a biological parent, the full name of the biological parent who is~~
5 ~~proven to be the father by DNA testing shall be listed as the father.~~

6 ~~(i) Maiden name of mother; however, if the child was born of a surrogate~~
7 ~~birth parent who is related by blood or affinity to a biological parent, the maiden~~
8 ~~name of the biological parent who is proven to be the mother by DNA testing shall~~
9 ~~be listed as the mother and the name of the surrogate birth parent is not required.~~

10 ~~(j) In the case of a child born of a surrogate birth parent who is related by~~
11 ~~blood or affinity to a biological parent, the biological parents proven to be the mother~~
12 ~~and father by DNA testing shall be considered the parents of the child.~~

13 ~~(k) Respective age of parents on their last birthday, in years.~~

14 ~~(l) Race or races of parents as reported by the parents.~~

15 ~~(m) Residence of father and of mother.~~

16 ~~(n) Birthplace of parents; at least the state or foreign country, if known.~~

17 ~~(o) Number of children born to this mother, including present birth.~~

18 ~~(p) Number of children born to this mother living.~~

19 ~~(q) The certification of the attending physician, midwife, or other person in~~
20 ~~attendance, including a statement of the year, month, day, and hour of birth and~~
21 ~~whether the child was born alive or stillborn. This certification shall be signed by~~
22 ~~the physician, or midwife, or other person in attendance with the address and date of~~
23 ~~signature.~~

24 ~~(r) The exact date of filing in the office of the local registrar, attested by his~~
25 ~~official signature.~~

26 ~~(s) The social security account numbers issued to the mother and the father,~~
27 ~~if obtainable; however, these numbers shall not be printed on the child's birth~~
28 ~~certificate, but only as a part of vital records.~~

29 ~~(2) Contents of death certificate. The certificate of death shall contain, as~~
30 ~~a minimum, the following items:~~

- 1 ~~(a)(i) Full name of the decedent.~~
- 2 ~~(ii) The social security number issued to the decedent, unless a social~~
- 3 ~~security number cannot be obtained.~~
- 4 ~~(b) Sex.~~
- 5 ~~(c) Race.~~
- 6 ~~(d) Conjugal status; single, married, widowed, or divorced. If married, name~~
- 7 ~~of husband or wife.~~
- 8 ~~(e) Age, in years, months, and days. If less than one day, in hours or~~
- 9 ~~minutes.~~
- 10 ~~(f) Occupation, including any remunerative employment; the trade,~~
- 11 ~~profession, or particular kind of work; the general nature of the industry, business,~~
- 12 ~~or establishment in which employed.~~
- 13 ~~(g) Residence number.~~
- 14 ~~(h) Place of residence, including city or town and state; if of foreign birth,~~
- 15 ~~how long in the United States.~~
- 16 ~~(i) Date of birth, including year, month, and day.~~
- 17 ~~(j) Place of birth.~~
- 18 ~~(k) Name and birthplace of father.~~
- 19 ~~(l) Maiden name and birthplace of mother.~~
- 20 ~~(m) Place of death, including street and house number; if in an industrial~~
- 21 ~~camp, its name.~~
- 22 ~~(n) Name and address of the informant of the above items. The informant~~
- 23 ~~may be any competent person acquainted with the facts, attesting to the accuracy of~~
- 24 ~~the above items.~~
- 25 ~~(o) Official signature of the local registrar, with the date when the certificate~~
- 26 ~~containing the above items was filed and the registered number of the certificate.~~
- 27 ~~(p) Date and place of burial, cremation, or removal.~~
- 28 ~~(q) Signature and address of undertaker, or person acting as such, on the~~
- 29 ~~statement of facts called for in Subparagraph (p).~~

1 ~~(r) The medical certification of the physician, if any, last attending to the~~
 2 ~~deceased, which certificate shall be made and signed by the physician within twenty-~~
 3 ~~four hours of death with his name and address. In the absence of a physician, the~~
 4 ~~parish coroner shall sign the certificate. In either event, the certification shall contain~~
 5 ~~the following items:~~

6 ~~(i) The fact and date of death, including year, month, day, and the time of the~~
 7 ~~day.~~

8 ~~(ii) Time in attendance.~~

9 ~~(iii) Time he last saw the deceased alive.~~

10 ~~(iv) Cause of death, showing the course of the disease or the sequence of~~
 11 ~~causes resulting in the death, and contributory or secondary causes, the duration of~~
 12 ~~each, and whether any primary or secondary causes of death are attributed to~~
 13 ~~dangerous or insanitary conditions of employment. If the cause of death was violent,~~
 14 ~~the certificate shall show the coroner's determination as to whether the death was~~
 15 ~~probably accidental, suicidal, or homicidal.~~

16 ~~(3) Contents of paternity acknowledgment affidavit. The state registrar shall~~
 17 ~~develop an affidavit for the voluntary acknowledgment of paternity which includes~~
 18 ~~the minimum requirements of the affidavit specified by the secretary of the~~
 19 ~~Department of Health and Human Services under 42 U.S.C. 652(a)(7).~~

20 ~~C. Upon request, the state registrar shall provide the information required in~~
 21 ~~R.S. 40:34(B)(1)(r) and (2)(a) to the agency charged with implementing a program~~
 22 ~~of family support in accordance with R.S. 46:236.1.1 et seq.~~

23 ~~D. The state registrar of vital records is hereby authorized to amend an~~
 24 ~~original birth certificate in accordance with Louisiana laws or a final court order~~
 25 ~~which specifically orders the amendments, provided the court's order complies with~~
 26 ~~existing Louisiana laws.~~

27 ~~E.(1) If the child is a child born outside of marriage and the father is known~~
 28 ~~to the mother, she shall complete and sign a paternity information form issued by the~~
 29 ~~Vital Records Registry which shall include the name and date of birth of the child,~~
 30 ~~full name of the father, his mailing address, his street address or the location where~~

1 he can be found, his date of birth, and the name of his parent or guardian if he is a
2 minor, his state and city of birth, his social security number, and his place of
3 employment, if known. Within fifteen days after the date of admission, the hospital
4 or birthing facility shall forward the form to the child support enforcement section,
5 office of children and family services, Department of Children and Family Services,
6 with such information as the mother has provided. If the birth occurred at a location
7 other than a licensed hospital or birthing facility, the form shall be completed at the
8 time the home birth is recorded by the Vital Records Registry and submitted to
9 support enforcement services within fifteen days thereafter. If the natural father has
10 not executed an acknowledgment of paternity, the mother shall sign as the informant
11 unless she is medically unable or mentally incompetent in which case her guardian
12 or legal representative shall sign.

13 (2) ~~The department shall serve notice on the alleged father that he has been~~
14 ~~named as the father of the child. If the alleged father is a minor, service shall be~~
15 ~~made upon his parent or guardian. The notice shall be served by certified mail,~~
16 ~~return receipt requested. The notice shall include the name of the child and the name~~
17 ~~of the mother of the child and shall advise the alleged father how the allegation of~~
18 ~~paternity can be contested. The notice shall also advise the alleged father that he can~~
19 ~~request that blood tests be conducted, and that the alleged father can sign an~~
20 ~~acknowledgment of paternity.~~

21 (3) ~~Upon receiving the notice, the alleged father shall have ninety days to~~
22 ~~contest the allegation that he is the father. He shall do so by advising the department~~
23 ~~in writing that he is not the father. If the alleged father fails to contest the allegation~~
24 ~~in writing within ninety days, he shall be presumed to be the father of the child, for~~
25 ~~support purposes only, and the agency or the custodial parent can use this~~
26 ~~presumption in an action to seek a support order.~~

27 (4) ~~If the alleged father contests paternity at the hearing for support, the court~~
28 ~~may order blood tests.~~

29 (5) ~~If the results of the blood test indicate by a probability of 99.9% or higher~~
30 ~~that the alleged father is in fact the father of the child, or if the alleged parent fails~~

1 to appear for the court-ordered blood tests, the court shall rule that he is the father
 2 of the child, for purposes of support only, and shall issue an order for support in
 3 accordance with state law.

4 ~~(6) Nothing in this Subsection shall be deemed, construed, or interpreted to~~
 5 ~~create any presumption of legal paternity for any purpose other than support as set~~
 6 ~~forth in this Subsection.~~

7 ~~(7) In the event the alleged father is found not to be the father, all costs of~~
 8 ~~the hearing, medical costs, expert witnesses costs, and costs incurred by the alleged~~
 9 ~~father defending himself shall be paid by the party who made the allegations against~~
 10 ~~the alleged father.~~

11 ~~F. All acknowledgments of paternity properly executed in Louisiana and~~
 12 ~~adjudications of paternity adjudged in Louisiana shall be filed with the state registrar,~~
 13 ~~office of vital records, in a central repository pursuant to 42 U.S.C. 666(a)(5)(M).~~

14 §34.1. Original birth certificate; required contents

15 An original birth certificate shall contain, as a minimum, the items provided
 16 in R.S. 40:34.2 through 34.9.

17 §34.2. Original birth certificate; required contents; name of child

18 The name of the child shall be entered on the original birth certificate in
 19 accordance with the following provisions:

20 (1) First name.

21 (a) If the child dies without a first name before the certificate is filed, enter
 22 the words "died unnamed" in this blank.

23 (b) If the living child has not yet been given a first name at the date of filing
 24 of the certificate, leave blank the space for the first name of the child and enter the
 25 name later when supplied by affidavit.

26 (2) Surname.

27 (a) Except as otherwise provided in Subparagraph (c) of this Paragraph, if
 28 the child is born to a mother who either is married or was married within three
 29 hundred days prior to the birth of the child, the surname of the child shall be
 30 recorded in accordance with the following requirements:

1 (i) If the mother is married at the time of the birth of the child, and if the
2 mother was not married to another man within three hundred days prior to the birth
3 of the child, the surname of the child shall be the surname of the current husband of
4 the mother.

5 (ii) If the mother, though married to one man at the time of the birth of the
6 child, was married to another man within three hundred days prior to the birth of the
7 child, the surname of the child shall be the surname of the former husband of the
8 mother.

9 (iii) If the mother, though unmarried at the time of the birth of the child, was
10 married to a man within three hundred days prior to the birth of the child, the
11 surname of the child shall be the surname of the former husband of the mother.

12 (iv) In any of these cases, if both the man whose surname should be given
13 to the child and the mother agree, the surname of the child may be the maiden name
14 or surname of the mother or a combination of the surname of the man and the maiden
15 name or surname of the mother.

16 (b) If the child is born to a mother who neither is married nor was married
17 within three hundred days prior to the birth of the child, the surname of the child
18 shall be the maiden name or surname of the mother, at her discretion. If the father
19 has acknowledged his child by authentic act and if both the mother and the father
20 agree, the surname of the child may be the maiden name or surname of the mother,
21 the surname of the father, or a combination of the surname of the father and the
22 maiden name or surname of the mother.

23 (c) In the case of a child born to a mother who either is married or was
24 married within three hundred days prior to the birth of the child, including cases in
25 which both a person presumed to be the father pursuant to the Civil Code and a
26 biological father exist, the surname of the biological father who has been judicially
27 declared to be the father of the child in a filiation or paternity proceeding shall be the
28 surname of the child. If the biological father and the mother agree, the surname of
29 the child shall be the maiden name or surname of the mother or a combination of the
30 surname of the biological father and the maiden name or surname of the mother.

1 §34.3. Original birth certificate; required contents; sex of child

2 The sex of the child shall be entered on the original birth certificate.

3 §34.4. Original birth certificate; required contents; circumstances of birth

4 The circumstances of the birth of the child shall be entered on the original
5 birth certificate. These circumstances shall include all of the following:

6 (1) Time of birth.

7 (2) Date of birth, including the year, the month, and the day.

8 (3) Place of birth, address, including city or town and state; if in a hospital
9 or other institution, its name.

10 (4) Whether a plural birth. A separate certificate is required for each child
11 in a plural birth.

12 (5) If a plural birth, the number of each child in order of birth.

13 §34.5. Original birth certificate; required contents; name of father

14 A. If the child is born to a mother who either is married or was married
15 within three hundred days prior to the birth of the child, the full name of the father
16 shall be recorded in the same manner provided for the recordation of the surname of
17 the child in R.S. 40:34.2(2)(a) and (c).

18 B. If the child is born to a mother who neither is married nor was married
19 within three hundred days prior to the birth of the child, the full name of the father
20 who has acknowledged his child by authentic act shall be included on the birth
21 record of the child, but only if the father and mother agree.

22 C. In all other cases, the name of the father and other information pertaining
23 to the father shall not appear on the birth certificate and the surname of the child
24 shall be recorded as the maiden name or surname of the mother, at her discretion.

25 D. Nothing in this Section shall preclude the Department of Children and
26 Family Services, office of children and family services, child support enforcement
27 section from obtaining an admission of paternity from the biological father for
28 submission in a judicial proceeding, or prohibit the issuance of an order in a judicial
29 proceeding which bases a legal finding of paternity on an admission of paternity by
30 the biological father and on any other additional showing required by state law.

1 §34.6. Original birth certificate; required contents; name of mother

2 The full name of the mother of the child, including her maiden name and
 3 current surname, shall be entered on the original birth certificate.

4 §34.7. Original birth certificate; required contents; other information regarding the
 5 parents

6 The following information regarding the parents shall also be entered on the
 7 original birth certificate:

- 8 (1) Respective ages of parents on their last birthday, in years.
- 9 (2) Races of parents as reported by the parents.
- 10 (3) Ethnicities of parents as reported by the parents.
- 11 (4) Residences of parents.
- 12 (5) Birthplaces of parents, at least the state or foreign country, if known.
- 13 (6) Number of children born to this mother.
- 14 (7) Number of children born to this mother living.
- 15 (8) Social security account numbers issued to the parents, if obtainable;

16 however, these numbers shall not be printed on the birth certificate of the child, but
 17 shall be entered only as a part of vital records.

18 §34.8. Original birth certificate; required contents; certification of attendant

19 The certification of the attending physician, midwife, or other person in
 20 attendance, including a statement of the year, month, day, and hour of birth, shall be
 21 entered on the original birth certificate. This certification shall be signed by the
 22 physician, midwife, or other person in attendance, with the address and date of
 23 signature.

24 §34.9. Original birth certificate; required contents; attestation of local filing

25 The exact date of filing in the office of the local registrar, attested by his
 26 official signature, shall be entered on the original birth certificate.

27 §34.10. Death certificate; required contents

28 The certificate of death shall contain, as a minimum, the following items:

- 29 (1) Full name of the decedent.

1 (2) The social security number issued to the decedent, unless a social
 2 security number cannot be obtained.

3 (3) Sex.

4 (4) Race.

5 (5) Ethnicity.

6 (6) Conjugal status; single, married, widowed, or divorced. If married, name
 7 of spouse.

8 (7) Age, in years, months, and days. If less than one day, in hours or
 9 minutes.

10 (8) Occupation, including any remunerative employment; the trade,
 11 profession, or particular kind of work; the general nature of the industry, business,
 12 or establishment in which employed.

13 (9) Place of residence, address, including city or town and state.

14 (10) Date of birth, including year, month, and day.

15 (11) Place of birth; if of foreign birth, how long in the United States.

16 (12) Name and birthplace of father.

17 (13) Maiden name and birthplace of mother.

18 (14) Place of death, address, including city or town and state.

19 (15) Name and address of the informant of the above items. The informant
 20 may be any competent person acquainted with the facts, attesting to the accuracy of
 21 the above information.

22 (16) Official signature of the local registrar, with the date when the
 23 certificate containing the above items was filed and the registered number of the
 24 certificate.

25 (17) Date and place of burial, cremation, or removal.

26 (18) Signature and address of undertaker, or person acting as such, on the
 27 statement of facts required in Paragraph (17) of this Section.

28 (19) The medical certification of the physician, if any, last attending to the
 29 deceased, which certificate shall be made and signed by the physician within
 30 twenty-four hours after death with his name and address. In the absence of a

1 physician, the parish coroner shall sign the certificate. In either event, the
2 certification shall contain the following items:

3 (a) The fact and date of death, including year, month, day, and the time of
4 the day.

5 (b) Time in attendance.

6 (c) Time he last saw the deceased alive.

7 (d) Cause of death, showing the course of the disease or the sequence of
8 causes resulting in the death; and contributory or secondary causes, the duration of
9 each, and whether any primary or secondary causes of death are attributed to
10 dangerous or insanitary conditions of employment. If the cause of death was violent,
11 the certificate shall show the determination of the coroner as to whether the death
12 was probably accidental, suicidal, or homicidal.

13 §34.11. Paternity acknowledgement affidavit; required contents

14 The state registrar shall develop an affidavit for the voluntary
15 acknowledgment of paternity which includes the minimum requirements of the
16 affidavit specified by the secretary of the United States Department of Health and
17 Human Services under 42 U.S.C. 652(a)(7).

18 §34.12. Provision of information to aid implementation of program of family
19 support

20 Upon request, the state registrar shall provide the information required in R.S.
21 40:34.9 and 34.10(1) and (2) to the agency charged with implementing a program of
22 family support in accordance with R.S. 46:236.1.1 et seq.

23 §34.13. Registration of acknowledgements and adjudications of paternity

24 All acknowledgments of paternity properly executed in accordance with
25 Louisiana law and adjudications of paternity by a Louisiana court shall be filed with
26 the state registrar, office of vital records, in a central repository pursuant to 42 U.S.C.
27 666(a)(5)(M).

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Revision Comment - 2016

The filing of an acknowledgment or adjudication of paternity in accordance with this Section shall be in conformity with Children's Code Article 1106.

* * *

§46. New Amendments to certificate of birth when judgment of filiation is obtained

~~A. Upon request of a child who has obtained a judgment of filiation pursuant to Civil Code Article 197, the state registrar, upon receipt of a copy of the judgment, shall prepare a new certificate of birth in the new name of the child wherein the child's surname shall be that of the father recognized in the judgment or a combination of the surname of the father recognized in the judgment and the maiden name of the mother. The state registrar of vital records is authorized to amend an original birth certificate in accordance with Louisiana law.~~

~~B. If at the time of legitimation the child shall have reached the age of majority, the state registrar shall require an affidavit to be obtained from the district attorney of the place of residence and domicile of the said major child, wherein the district attorney shall state any objections, if any exist, to the name change aspects, prior to the preparation of a new certificate of birth. If there be no objection by the district attorney, the state registrar shall issue a new certificate to the major child. If there be an objection, the state registrar may not proceed to prepare a new certificate until the district attorney's objection, if any, has been resolved. Any change in the surname of a child from that required or allowed in R.S. 40:34.2 shall be made by court order as provided in R.S. 13:4751 through 4755 or as otherwise provided in this Chapter or by rules promulgated thereunder.~~

~~C. The new certificate of birth shall be signed by the child's father prior to its recordation in the vital records registry and only after such signing and recordation may certified copies or short form birth certification cards be issued as in the case of all other birth records.~~

~~D. The child's original birth certificate and the evidence upon which the new certificate was made shall be sealed in a package or envelope and filed in the archives of the vital records registry of the division of vital records. This sealed~~

1 package or envelope may be opened only pursuant to an order of the civil district
 2 court for good cause.

3 ~~E. Upon presentation of any other form of legitimation or acknowledgment~~
 4 ~~permitted by the laws of this state, together with a request for an alteration of an~~
 5 ~~original certificate of birth, the matter will be processed in accordance with rules and~~
 6 ~~regulations of the vital records registry promulgated pursuant to R.S. 40:33(C).~~

7 §46.1. Amended birth certificates; change of biological filiation; general principle

8 If the biological filiation of a child changes after a birth certificate has been
 9 prepared for the child, the state registrar shall amend the birth certificate to reflect
 10 this change, in accordance with R.S. 40:46.2 through 46.11.

11 Revision Comments - 2016

12 (a) This Section and those that follow are new. They are intended to provide
 13 a comprehensive framework for executing amendments to a birth certificate that are
 14 made necessary by changes in the filiative situation of the child. The foundational
 15 principle underlying all of the Sections is that once the filiative situation of the child
 16 has changed, his birth certificate should be modified to reflect the new situation. To
 17 that end, these Sections call for the "striketrough" (by means of lining out) of old
 18 information that, in light of the new situation, is no longer accurate and the
 19 "addition" (by writing above) of new information that reflects the new situation. The
 20 birth certificate, as amended, should read precisely as it would have read had the new
 21 filiative situation been known at the start.

22 (b) This Section and those that follow constitute a mixture of old and new.
 23 Some of the Sections merely reproduce comparable provisions of former R.S. 40:34
 24 or of the administrative regulations of the Office of Vital Statistics. Other Sections,
 25 by contrast, are entirely new and, in fact, are designed to fill lacunae that existed in
 26 the rather incomplete framework that previously existed for amending birth
 27 certificates in light of changes in filiation.

28 §46.2. Change of maternal filiation; child with unidentified mother

29 A. Following a final and definitive judgment of maternal filiation, rendered
 30 pursuant to Civil Code Article 184, the effect of which is to recognize maternal
 31 filiation between a woman and a child whose birth certificate did not identify the
 32 mother of the child, the state registrar, upon receipt of a certified copy of that
 33 judgment, shall amend the birth certificate as follows:

34 (1) For the surname of the child:

35 (a) If the adjudged mother was married to a man at the time of the birth of
 36 the child, but was not married to another man within three hundred days prior to the
 37 birth of the child, enter the surname of her husband.

1 (b) If the adjudged mother was not married to a man at the time of the birth
2 of the child, but was married to a man within three hundred days prior to the birth of
3 the child, enter the surname of her former husband.

4 (c) If the adjudged mother was married to one man at the time of the birth
5 of the child, but was married to another man within three hundred days prior to the
6 birth of the child, enter the surname of the latter.

7 (d) If the adjudged mother was married neither at nor within three hundred
8 days prior to the birth of the child, enter her maiden name or surname, at her
9 discretion.

10 (2) For the name of the mother of the child, her date of birth, race, ethnicity,
11 residence, birthplace, and social security number, the number of children born to her,
12 and the number of children born to her living, enter those of the adjudged mother.

13 (3) For the name of the father of the child, his age, race, ethnicity, and
14 residence, birthplace, and social security number:

15 (a) If the adjudged mother was married to a man at the time of the birth of
16 the child, but was not married to another man within three hundred days prior to the
17 birth of the child, enter those of her husband.

18 (b) If the adjudged mother, though unmarried at the time of the birth of the
19 child, was married to a man within three hundred days prior to the birth of the child,
20 enter those of her former husband.

21 (c) If the adjudged mother was married to one man at the time of the birth
22 of the child, but was married to another man within three hundred days prior to the
23 birth of the child, enter those of the latter.

24 B. In any case to which the provisions of Paragraph (A)(1) of this Section
25 apply, if the man whose surname should be given to the child and the adjudged
26 mother agree that the surname of the child should be either the maiden name or
27 surname of the mother or a combination of his surname and her maiden name or
28 surname, the state registrar shall enter the surname upon which they have agreed.

29 C. Upon the petition of the mother of the child, a court may, for good cause
30 shown, order the state registrar to enter, as the surname of the child, the maiden name

1 or surname of the mother or a combination of the surname of the man whose
 2 surname should otherwise be given to the child under Paragraph (A)(1) of this
 3 Section and the maiden name or surname of the mother, whichever she may choose,
 4 even if that man does not concur.

5 Revision Comment - 2016

6 (a) The term "latter", as used in Subparagraphs (A)(1)(c) and (3)(c) of this
 7 Section, is to be taken in the grammatical, as opposed to the temporal, sense of that
 8 word. Thus, it refers to the second of the two men mentioned therein in the order in
 9 which they are mentioned, namely, the man who was married to the mother of the
 10 child at the time the child was conceived. The objective of this provision is the same
 11 as that of all of the other provisions of this revision that pertain to the identification
 12 of the "father of the child" on the child's birth certificate, namely, that the man listed
 13 as the father be the man to whom the child is filiated by law.

14 (b) Under Subsection B of this Section, the mother of the child may not,
 15 without the concurrence of the man whose surname should be given to the child
 16 under Paragraph 1 of Subsection A, compel the state registrar to enter any other
 17 name than his surname as the surname of the child. Subsection C of this Section
 18 carves out an exception to this general rule. On the petition of the mother, a court
 19 may dispense with this man's concurrence if she can show good cause for doing so.
 20 An example of a case in which there may be good cause is that in which the father,
 21 as of the time of the petition by the mother, is by his own choice not involved in the
 22 child's life, that is, is not contributing to the child's support and is not regularly
 23 visiting with or at least communicating with the child, and has no intention of
 24 becoming so involved.

25 (c) The action provided in Subsection C of this Section is not a filiation
 26 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
 27 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
 28 the surname of the child should be recorded on the child's birth certificate and has
 29 no impact on the filiation of the child.

30 §46.3. Change of maternal filiation; child with identified mother

31 A. Following a final and definitive judgment of maternal filiation, rendered
 32 pursuant to Civil Code Article 184, the effect of which is to recognize maternal
 33 filiation between a child and a woman other than the woman identified in the birth
 34 certificate as the mother of the child, the state registrar, upon receipt of a certified
 35 copy of that judgment, shall amend the birth certificate as follows:

36 (1) Strikethroughs:

37 (a) Strike through the surname of the child, the name of the mother of the
 38 child, and all other information pertaining to the mother, in particular, her date of
 39 birth, race, ethnicity, residence, birthplace, and social security number, the number
 40 of children born to her, and the number of children born to her living.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (b) If the name of the father of the child or other information pertaining to
2 him, in particular, his age, race, ethnicity, residence, birthplace, and social security
3 number, as it was previously entered on the birth certificate, was that of the man
4 who, by virtue of his marriage to the woman previously identified in the birth
5 certificate as the mother of the child, was presumed to be the father of the child
6 under Civil Code Article 185 or 186, the state registrar shall strike through his name
7 and his other information.

8 (2) Additions:

9 (a) For the surname of the child:

10 (i) If the adjudged mother was married to a man at the time of the birth of
11 the child, but was not married to another man within three hundred days prior to the
12 birth of the child, enter the surname of her husband.

13 (ii) If the adjudged mother, though unmarried at the time of the birth of the
14 child, was married to a man within three hundred days prior to the birth of the child,
15 enter the surname of her former husband.

16 (iii) If the adjudged mother was married to one man at the time of the birth
17 of the child, but was married to another man within three hundred days prior to the
18 birth of the child, enter the surname of the latter.

19 (iv) If the adjudged mother was married neither at nor within three hundred
20 days prior to the birth of the child, enter her maiden name or surname, at her
21 discretion.

22 (b) For the name of the mother of the child, her date of birth, race, ethnicity,
23 residence, birthplace, and social security number, the number of children born to her,
24 and the number of children born to her living, enter those of the adjudged mother.

25 (c) For the name of the father of the child, his age, race, ethnicity, residence,
26 birthplace, and social security number:

27 (i) If the adjudged mother was married to a man at the time of the birth of
28 the child, but was not married to another man within three hundred days prior to the
29 birth of the child, enter those of her husband.

1 (ii) If the adjudged mother, though unmarried at the time of the birth of the
2 child, was married to a man within three hundred days prior to the birth of the child,
3 enter those of her former husband.

4 (iii) If the adjudged mother was married to one man at the time of the birth
5 of the child, but was married to another man within three hundred days prior to the
6 birth of the child, enter those of the latter.

7 B. In any case to which the provisions of Paragraph (A)(2) of this Section
8 apply, if the man whose surname should be given to the child and the adjudged
9 mother agree that the surname of the child should be either the maiden name or
10 surname of the mother, the surname of the man, or a combination of his surname and
11 her maiden name or surname, the state registrar shall enter the surname upon which
12 they have agreed.

13 C. Upon the petition of the mother of the child, a court may, for good cause
14 shown, order the state registrar to enter, as the surname of the child, the maiden name
15 or surname of the mother or a combination of the surname of the man whose
16 surname should otherwise be given to the child under Paragraph (A)(2) of this
17 Section and the maiden name or surname of the mother, whichever she may choose,
18 even if that man does not concur.

19 Revision Comments - 2016

20 (a) This Section provides that information pertaining to the father of the
21 child shall, under some circumstances, be deleted from the birth certificate following
22 a final and definitive judgment of maternity the effect of which is to recognize
23 maternal filiation between a child and woman other than the woman previously
24 identified in the birth certificate as the mother. These circumstances include those
25 in which the name of and other information pertaining to the father, as originally
26 entered on the birth certificate, was that of a man who, by virtue of this relationship
27 to the woman who was originally identified as the mother, was presumed to be the
28 father under Civil Code Article 185 or 186.

29 (b) Several of the provisions of this Section permit the surname of the child,
30 as listed in the birth certificate, to be changed, but only on the condition that the
31 "new" mother and father or the "old" mother and the "new" father, as the case may
32 be, agree. These provisions draw no distinction between a case in which, at the time
33 of the proposed change, the child is still a minor and a case in which, at the time of
34 the proposed change, the child has become a major. As applied to a minor child, this
35 "parental consent" requirement could not possibly give rise to any objection. But as
36 applied to a major child, it might. Still, following the foundational principle of the
37 entirety of the Section - that the birth certificate should be modified to conform to
38 how it would have appeared had the new filiative situation been known from the start
39 - the parental consent requirement applies even to cases involving major children.

1 If the major child does not approve of the change, he is entirely free to initiate a
 2 "change of name" petition, pursuant to R.S. 13:4751, to alter his surname, yet again,
 3 as he may deem appropriate.

4 (c) The term "latter", as used in Items (A)(2)(a)(iii) and (c)(iii) of this
 5 Section, is to be taken in the grammatical, as opposed to the temporal, sense of that
 6 word. Thus, it refers to the second of the two men mentioned therein in the order in
 7 which they are mentioned, namely, the man who was married to the mother of the
 8 child at the time the child was conceived. The objective of this provision is the same
 9 as that of all of the other provisions of this revision that pertain to the identification
 10 of the "father of the child" on the child's birth certificate, namely, that the man listed
 11 as the father be the man to whom the child is filiated by law.

12 (d) Under Subsection B of this Section, the mother of the child may not,
 13 without the concurrence of the man whose surname should be given to the child
 14 under Subsection (A)(2), compel the state registrar to enter any other name than his
 15 surname as the surname of the child. Subsection C of this Section carves out an
 16 exception to this general rule. See the Official Revision Comments to R.S. 40:46.2.

17 (e) The action provided in Subsection C of this Section is not a filiation
 18 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
 19 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
 20 the surname of the child should be recorded on the child's birth certificate and has
 21 no impact on the filiation of the child.

22 §46.4. Change of paternal filiation; disavowal of paternity

23 A. If the surname of the child, the name of the father of the child, or other
 24 information pertaining to the father as it was entered on the birth certificate was that
 25 of the man who was presumed to be the father of the child under Civil Code Article
 26 185, 186, or 195 and if the man or his successor, after the birth certificate was
 27 prepared, obtains a final and definitive judgment disavowing paternity of the child,
 28 the state registrar, upon receipt of a certified copy of that judgment, shall amend the
 29 birth certificate as follows:

30 (1) Strikethroughs: Strike through the surname of the child, the name of the
 31 father of the child, and all other information pertaining to him, in particular, his age,
 32 race, ethnicity, residence, birthplace, and social security number.

33 (2) Additions:

34 (a) If the judgment of disavowal does not trigger the presumption of
 35 paternity established in the first sentence of the second paragraph of Civil Code
 36 Article 186, the state registrar shall amend the birth certificate as follows: for the
 37 surname of the child, enter the maiden name or surname of the mother of the child,
 38 at her discretion.

1 (b) If the disavowal action triggers the presumption of paternity established
2 in the first sentence of the second paragraph of Civil Code Article 186, the state
3 registrar shall amend the birth certificate as follows:

4 (i) For the surname of the child, enter either that of the second husband of
5 the mother of the child or, if both he and the mother agree, her maiden name or
6 surname or a combination of his surname and her maiden name or surname.

7 (ii) For the name of the father of the child, his age, race, ethnicity, residence,
8 birthplace, and social security number, enter those of the second husband of the
9 mother.

10 B. Upon the petition of the mother of the child, a court may, for good cause
11 shown, order the state registrar to enter, as the surname of the child, the maiden name
12 or surname of the mother or a combination of the surname of the man whose
13 surname should otherwise be given to the child under Subparagraph (A)(2)(b) of this
14 Section and the maiden name or surname of the mother, whichever she may choose,
15 even if that man does not concur.

16 Revision Comment - 2016

17 (a) Under Subparagraph (A)(2)(b) of this Section, the mother of the child
18 may not, without the concurrence of the man whose surname should be given to the
19 child, compel the state registrar to enter any other name than his surname as the
20 surname of the child. Subsection B of this Section carves out an exception to this
21 general rule. See the Official Revision Comments to R.S. 40:46.2.

22 (b) The action provided in Subsection B of this Section is not a filiation
23 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
24 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
25 the surname of the child should be recorded on the child's birth certificate and has
26 no impact on the filiation of the child.

27 §46.5. Change of paternal filiation; contestation and establishment of paternity

28 If the surname of the child, the name of the father of the child, or other
29 information pertaining to the father as it was entered on the birth certificate was that
30 of the man who was presumed to be the father of the child under Civil Code Article
31 185 or 186 and if the mother of the child, after the birth certificate was prepared,
32 obtains a final and definitive judgment contesting and establishing paternity of the
33 child, the state registrar, upon receipt of a certified copy of that final and definitive
34 judgment, shall amend the birth certificate as follows:

1 (1) Strikethroughs: Strike through the surname of the child, the name of the
 2 father of the child, and the other information pertaining to the father, in particular,
 3 his age, race, ethnicity, residence, birthplace, and social security number.

4 (2) Additions:

5 (a) For the surname of the child, enter either that of the present husband of
 6 the mother or, if both agree, her maiden name or surname or a combination of his
 7 surname and her maiden name or surname.

8 (b) For the name of the father and his age, race, ethnicity, residence,
 9 birthplace, and social security number, enter those of the present husband of the
 10 mother.

11 (c) Upon the petition of the mother of the child, a court may, for good cause
 12 shown, order the state registrar to enter, as the surname of the child, the maiden name
 13 or surname of the mother or a combination of the surname of the man whose
 14 surname should otherwise be given to the child under Subparagraph (a) of this
 15 Paragraph and the maiden name or surname of the mother, whichever she may
 16 choose, even if that man does not concur.

17 Revision Comment - 2016

18 Under Subparagraph (2)(a) of this Section, the mother of the child may not,
 19 without the concurrence of the man whose surname should be given to the child
 20 under that Subparagraph, compel the state registrar to enter any other name than his
 21 surname as the surname of the child. Subparagraph (2)(c) of this Section carves out
 22 an exception to this general rule. See the Official Revision Comments to R.S.
 23 40:46.2.

24 §46.6. Change of paternal filiation; marriage and formal acknowledgment

25 Following the birth of a child, if Civil Code Article 195 applies, the state
 26 registrar, upon receipt of (i) a certified copy of the certificate of the marriage of the
 27 mother of the child, (ii) a certified copy of the act in which her husband formally
 28 acknowledged the child, and (iii) if the mother did not sign the act of
 29 acknowledgment, her affidavit that she concurs in this formal acknowledgment, shall
 30 amend the birth certificate as follows:

31 (1) Strikethroughs: If the mother and her husband have agreed that the
 32 surname of the child should be changed and, in addition, have agreed that the new

1 surname should be either the maiden name or surname of the mother, the surname
 2 of her husband, or a combination of his surname and her maiden name or surname,
 3 strike through the surname of the child.

4 (2) Additions:

5 (a) If the mother and her husband have agreed that the surname of the child
 6 should be changed and, in addition, have agreed that the new surname should be
 7 either the maiden name or surname of the mother, the surname of her husband, or a
 8 combination of his surname and her maiden name or surname, enter the surname
 9 upon which they have agreed.

10 (b) For the name of the father, his age, race, ethnicity, residence, birthplace,
 11 and social security number, enter those of the husband of the mother.

12 §46.7. Change of paternal filiation; formal acknowledgment alone

13 A. In a case to which Civil Code Article 196 applies, the state registrar, upon
 14 receipt of (i) a certified copy of the act of formal acknowledgment and (ii) if the
 15 mother did not sign the act of acknowledgment, her affidavit that she concurs in this
 16 formal acknowledgment, shall amend the birth certificate as follows:

17 (1) Strikethroughs: If the mother and the man who made the
 18 acknowledgment have agreed that the surname of the child should be changed and,
 19 in addition, have agreed that the new surname should be either the maiden name or
 20 surname of the mother, the surname of the man who made the acknowledgment, or
 21 a combination of his surname and her maiden name or surname, strike through the
 22 surname of the child.

23 (2) Additions:

24 (a) If the mother and the man who made the acknowledgment have agreed
 25 that the surname of the child should be changed and, in addition, have agreed that the
 26 new surname should be either the maiden name or surname of the mother, the
 27 surname of the man who made the acknowledgment, or a combination of his
 28 surname and her maiden name or surname, enter the surname upon which they have
 29 agreed.

1 **(b) For the name of the father and his age, race, ethnicity, residence,**
2 **birthplace, and social security number, enter those of the man who made the**
3 **acknowledgment.**

4 **B. If, after a birth certificate has been amended pursuant to Subsection A of**
5 **this Section, the man who made the formal acknowledgment should revoke or annul**
6 **it, the state registrar, upon receipt of the form described in R.S. 9:406(A)(1)(a) or a**
7 **final and definitive judgment recognizing that a revocation or annulment has been**
8 **accomplished, shall amend the birth certificate as follows: strike through any**
9 **information that was added to the birth certificate and restore any information that**
10 **was struck through when it was amended.**

11 **§46.8. Change of paternal filiation; judgment of paternity**

12 **A. Following a final and definitive judgment of paternal filiation, rendered**
13 **pursuant to Civil Code Article 197 or 198, the effect of which is to establish paternal**
14 **filiation between a man and a child whose birth certificate did not identify the father**
15 **of the child, the state registrar, upon receipt of a certified copy of that judgment,**
16 **shall amend the birth certificate as follows:**

17 **(1) Strikethroughs: If the mother of the child and the adjudged father have**
18 **agreed that the surname of the child should be changed and, in addition, have agreed**
19 **that the new surname should be either the maiden name or surname of the mother,**
20 **the surname of the adjudged father, or a combination of his surname and her maiden**
21 **name or surname, strike through the surname of the child.**

22 **(2) Additions:**

23 **(a) If the mother of the child and the adjudged father have agreed that the**
24 **surname of the child should be changed and, in addition, have agreed that the new**
25 **surname should be either the maiden name or surname of the mother, the surname**
26 **of the adjudged father, or a combination of his surname and her maiden name or**
27 **surname, enter the surname upon which they have agreed.**

28 **(b) For the name of the father and his age, race, ethnicity, residence,**
29 **birthplace, and social security number, enter those of the adjudged father.**

1 B. Following a final and definitive judgment of paternal filiation, rendered
 2 pursuant to Civil Code Article 197 or 198, the effect of which is to establish paternal
 3 filiation between a child and a man other than the man identified in the birth
 4 certificate as the father of the child, the state registrar, upon receipt of a certified
 5 copy of the judgment, shall amend the birth certificate as follows:

6 (1) Strikethroughs: If the mother of the child and the adjudged father have
 7 agreed that the surname of the child should be changed and, in addition, have agreed
 8 that the new surname should be either the maiden name or surname of the mother,
 9 the surname of the adjudged father, or a combination of his surname and her maiden
 10 name or surname, and if the man whom the birth certificate identified as the father
 11 of the child does not object, strike through the surname of the child.

12 (2) Additions:

13 (a) If the mother of the child and the adjudged father have agreed that the
 14 surname of the child should be changed and, in addition, have agreed that the new
 15 surname should be either the maiden name or surname of the mother, the surname
 16 of the adjudged father, or a combination of his surname and her maiden name or
 17 surname, and if the man whom the birth certificate identified as the father of the
 18 child does not object, enter the surname upon which they have agreed.

19 (b) For the name of the father and his age, race, ethnicity, residence,
 20 birthplace, and social security number, enter above the existing entries those of the
 21 adjudged father.

22 (3) Upon the petition of the mother or the adjudged father of the child, a
 23 court may, for good cause shown, order that the surname of the child as it appears
 24 on the birth certificate be changed in conformity with this Section despite the
 25 objection of the man whom the birth certificate identified as the father of the child.

26 Revision Comment - 2016

27 (a) Under Subsection B of this Section, which addresses cases in which a
 28 judgment of paternal filiation under Civil Code Article 197 or 198 results in dual
 29 paternity, the surname of the child as it appears on the birth certificate ordinarily
 30 cannot be changed without the concurrence of "the man whom the birth certificate
 31 identified as the father", in other words, the child's "first" father (the presumed
 32 father). Nevertheless, there may be rare instances in which permitting the first father
 33 to "veto" a change of the child's surname to which the mother and the "second" father

1 (the adjudged father) have agreed would be unjust. Subsection (B)(3) addresses this
 2 unusual contingency. A court may, in effect, dispense with the first father's
 3 concurrence if the mother and the second father can show good cause for doing so.
 4 One instance of good cause is that in which the first father, as of the time of the
 5 petition by the mother and the second father, is by his own choice no longer involved
 6 in the child's life, that is, is not contributing to the child's support and is not regularly
 7 visiting with or at least communicating with the child.

8 (b) The action provided in Subsection (B)(3) of this Section is not a filiation
 9 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
 10 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
 11 the surname of the child should be recorded on the child's birth certificate and has
 12 no impact on the filiation of the child.

13 §46.9. Married mother physically separated from husband prior to and at time of
 14 birth

15 A. If, following the birth of a child to a married woman, a birth certificate
 16 was prepared for the child in accordance with R.S. 40:34.2(B), if the husband and the
 17 mother of the child lived separate and apart continuously for one hundred eighty
 18 days prior to the time of conception of the child and did not reconcile since the
 19 beginning of the one hundred eighty-day period, and if the biological father of the
 20 child is a man other than the husband of the mother, then the birth certificate of the
 21 child may be amended so that the surname of the child is the maiden name of the
 22 mother, or, if the mother, her husband, and the biological father of the child agree,
 23 the surname of the child may be that of the biological father or a combination of the
 24 surname of the biological father and the maiden name of the mother. The
 25 Department of Health and Hospitals, office of public health, shall develop a form for
 26 the purposes of implementing this Section.

27 B. Upon the petition of the mother of the child, a court may, for good cause
 28 shown, order the state registrar to enter, as the surname of the child, the maiden name
 29 or surname of the mother or a combination of the surname of the biological father
 30 and the maiden name or surname of the mother, whichever she may choose, even if
 31 that man does not concur.

32 Revision Comment - 2016

33 Under Subsection A of this Section, the mother of the child may not, without
 34 the concurrence of the man whose surname should be given to the child, compel the
 35 state registrar to enter any other name than his surname as the surname of the child.
 36 Subsection B of this Section carves out an exception to this general rule. On the
 37 petition of the mother, a court may effectively dispense with this man's concurrence

1 if she can show good cause for doing so. An example of a case in which there may
2 be good cause is that in which the father, as of the time of the petition by the mother,
3 is by his own choice not involved in the child's life, that is, is not contributing to the
4 child's support and is not regularly visiting with or at least communicating with the
5 child, and has no intention of becoming so involved.

6 §46.10. Child born as a result of a surrogacy agreement

7 A. In the case of a child born of a surrogate birth parent who is related by
8 blood or affinity to a biological parent, the biological parents, proven to be so by
9 DNA testing, shall be considered the parents of the child.

10 B. In the case of a child born of a surrogate birth parent who is related by
11 blood or affinity to a biological parent, the surname of the biological parents of the
12 child shall be the surname of the child.

13 C. In the case of a child born of a surrogate birth parent who is related by
14 blood or affinity to a biological parent, the birth certificate of the child shall be
15 amended so that the full name of the biological parent who is proven to be the father
16 by DNA testing shall be listed as the father.

17 D. In the case of a child born of a surrogate birth parent who is related by
18 blood or affinity to a biological parent, the birth certificate of the child shall be
19 amended so that the full name, including the maiden name and other surname, of the
20 biological parent who is proved to be the mother by DNA testing shall be listed as
21 the mother, and the name of the surrogate birth parent shall be struck through.

22 §46.11. Review by district attorney

23 At the time at which the child requests the amendment of the existing birth
24 certificate under R.S. 40:46 et seq., the state registrar shall require an affidavit to be
25 obtained from the district attorney of the parish in which the child resides or is
26 domiciled stating any objection to the name change. If the district attorney does not
27 object, the state registrar shall prepare a new birth certificate for the major child. If
28 there is an objection, the state registrar may not proceed to prepare a new birth
29 certificate until the district attorney's objection has been resolved.

1 §46.12. Hospital-based paternity program

2 A. Any hospital in the state which provides birthing services shall have a
3 program that allows for the voluntary acknowledgment of paternity during the period
4 immediately before or after the birth of a child.

5 B. During the period immediately before or after the birth of a child to an
6 unmarried woman, a hospital-based program established in accordance with this
7 Section shall, at a minimum:

8 (1) Provide to both the mother and alleged father, if he is present in the
9 hospital:

10 (a) Written materials about paternity establishment.

11 (b) The forms necessary to voluntarily acknowledge paternity.

12 (c) A written description of the rights, responsibilities, and alternatives as
13 provided in R.S. 9:392(A) which are involved in acknowledging paternity.

14 (d) The opportunity to speak with hospital personnel, either by telephone or
15 in person, who are trained to clarify information and answer questions about
16 paternity establishment.

17 (2) Provide the mother and alleged father, if he is present, the opportunity
18 to voluntarily acknowledge paternity in the hospital in accordance with the Civil
19 Code and R.S. 9:392.

20 (3) Afford due process safeguards.

21 (4) Forward completed acknowledgments to the state registrar.

22 C. Hospital support personnel that provide birthing services shall possess
23 notarial powers to administer oaths to and authenticate signatures of any persons in
24 connection with execution of a formal acknowledgment of paternity in accordance
25 with this Section. Any oaths administered or signatures authenticated pursuant to
26 this Section shall have the same force and effect as if taken or signed before a duly
27 commissioned notary public.

28 D. Hospital personnel shall forward an acknowledgment of paternity to the
29 state registrar who shall forward copies of same to the Department of Children and
30 Family Services, office of children and family services, child support enforcement

1 section. A statewide database shall be maintained by the Department of Children
2 and Family Services in accordance with federal regulations.

3 E. A voluntary acknowledgment executed in accordance with this Section
4 shall be signed by both parents and the parents' signatures shall be authenticated by
5 a person possessing notarial powers in accordance with state laws.

6 F. The Department of Children and Family Services, office of children and
7 family services, child support enforcement section shall provide to all birthing
8 hospitals in the state:

9 (1) Written materials about paternity establishment.

10 (2) Forms necessary to voluntarily acknowledge paternity.

11 (3) Copies of a written description of the rights, responsibilities, and
12 alternatives as provided in R.S. 9:392(A) which are involved in acknowledging
13 paternity.

14 (4) Training, guidance, and written instructions relative to voluntary
15 acknowledgment of paternity, as necessary to operate the hospital-based program.

16 (5) An assessment of each birthing hospital's program on at least an annual
17 basis.

18 G. Except in the case of intentional misconduct, no hospital or any agent or
19 employee thereof shall be held civilly or criminally liable for any action or omission
20 arising out of the performance of, attempted performance of, or failure or inability
21 to perform the duties imposed herein.

22 ~~§46.2.~~ §46.13. Paternity establishment services

23 The state registrar shall provide voluntary paternity establishment services
24 in accordance with regulations prescribed by the secretary of the United States
25 Department of Health and Human Services. The state registrar may designate
26 specific employees in the offices of the vital records registry who shall possess
27 notarial powers to administer an oath to any person in connection with any document
28 required in the course of establishing paternity.

29 * * *

1 §75. ~~Notarial acts of~~ Adult adoption; name changes

2 A. ~~Adoptions effected by notarial acts pursuant to R.S. 9:461~~ Adult

3 adoptions and name changes resulting from the adoptions pursuant to ~~R.S. 9:462~~

4 R.S. 9:465 shall have no effect on ~~original~~ birth certificates maintained by the Vital

5 Records Registry, except that when a name change is effected pursuant to ~~R.S. 9:462~~

6 R.S. 9:465 and an affidavit is presented from the district attorney of the parish or

7 place of residence of the requesting party indicating that there is no objection of the

8 district attorney to the adoptee's name change along with a certified copy of the

9 notarial act of adoption and the appropriate fee, the registrar of vital records shall

10 ~~issue~~ prepare a new birth certificate to reflect the new name. If there is an objection

11 from the district attorney, the registrar of vital records shall not seal the adopted

12 person's ~~original~~ birth certificate nor ~~issue~~ a new certificate ~~in the new name~~ until the

13 grounds for the objection have been removed and confirmed by a supplemental

14 affidavit from the district attorney.

15 * * *

16 Section 4. Children's Code Article 1142(C) is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____