

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1139
(Representatives Satrom, S. Olson, Schauer, Strinden)
(Senators Clemens, Conley, Rust)

AN ACT to amend and reenact sections 23-02.1-01, 23-02.1-13, and 23-02.1-15 of the North Dakota Century Code, relating to required elements of birth records.

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 that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.
2. "Birth record" means a record reporting a live birth.
3. "Certified" means a copy of the original record on file with the department of health and human services which is signed and sealed by the state registrar or deputy state registrar.
- ~~3~~.4. "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~~.5. "Electronic birth registration system" means the electronic birth registration system maintained by the department of health and human services.
- ~~5~~.6. "Electronic death registration system" means the electronic death registration system maintained by the department of health and human services.
- ~~6~~.7. "Facts of death" means the demographic and personal information pertaining to an individual's death.
- ~~7~~.8. "Fetal death" or "birth resulting in stillbirth" means death occurring before the complete expulsion or extraction from its mother of a product of human conception. 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~~.9. "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~~.10. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.
- ~~10~~.11. "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~~.12. "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 individuals are committed by law.

- ~~42-13.~~ "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, ~~irrespective~~regardless 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.
- ~~43-14.~~ "Medical certification" means the medical information pertaining to an individual's death, including the cause and manner of death.
- ~~44-15.~~ "Miscarriage of birth" means the expulsion of a fetus from the womb, spontaneously or as a result of an accident, before twenty weeks gestation.
- ~~45-16.~~ "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.
- ~~46-17.~~ "Physician" means an individual authorized or licensed to practice medicine or osteopathy under chapter 43-17.
- ~~47-18.~~ "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.
- ~~48-19.~~ "Relative" means an individual'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.
- ~~49-20.~~ "Sex" means the biological state of being female or male, based on the individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.
- ~~21.~~ "Subregistrar" means a funeral practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing final disposition-transit permits.
- ~~20-22.~~ "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.
- ~~21-23.~~ "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~~If a birth occurs in an institution, the person in charge of the institution or a designated representative ~~must~~shall use the department of health and human services' 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~~If a birth occurs outside an institution, the required forms prescribed by the department of health and human services 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 an individual;

- b. Any other individual in attendance at or immediately after the birth, or in the absence of such an individual; or
 - c. The father, the mother, or in the absence of the father and the inability of the mother, the 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 birth record as the father of the child unless the presumption of paternity has been rebutted by a court decree.
 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 on a form prescribed by the department of health and human services, signed by 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 filed with the department of health and human services.
 7. A birth record must include the designation of the sex of the child which must be either male or female. An entry of "not yet determined" may not be entered unless the sex cannot be determined based on the child's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.

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~~If the birth of an individual born in this state has not been registered, a birth record may be filed in accordance with the regulations of the department of health and human services. ~~Such~~The birth record must be registered subject to such evidentiary requirements as the department of health and human services shall prescribe to substantiate the alleged facts of birth.

2. ~~Records of~~ A birth record registered one year or more after the date of occurrence must be marked "delayed" and show on the face of the birth record the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the birth record.
4. a. ~~When~~If 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 birth record or documentary evidence, the state registrar may not register the delayed birth record and shall advise the applicant of the reasons for this action. ~~In the event that~~If 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 department of health and human services ~~may~~ by regulation may provide for the dismissal of an application that is more than one year old and is not being actively pursued.
5. A report of live birth may not be registered for a deceased individual one year or more after that individual's date of birth.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1139.

House Vote: Yeas 81 Nays 11 Absent 2

Senate Vote: Yeas 42 Nays 5 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State