

An Act

ENROLLED SENATE
BILL NO. 208

By: Garvin of the Senate

and

Moore of the House

An Act relating to vital statistics; amending 63 O.S. 2011, Section 1-311, which relates to birth certificates; modifying certain conditions; amending 63 O.S. 2011, Section 1-311.2, which relates to provision of documentation to the Department of Human Services; modifying requirements related to provision of certain documents and information; prohibiting certain release of information, data or records and requiring certain protection; directing certain data sharing agreement; amending 63 O.S. 2011, Section 1-321, as amended by Section 1, Chapter 96, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-321), which relates to amendment of certificate or record; requiring certain amendments under certain conditions; amending 63 O.S. 2011, Section 1-323, as last amended by Section 1, Chapter 108, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-323), which relates to confidentiality of vital statistics records; adding exception; updating and clarifying terms; and providing an effective date.

SUBJECT: Vital statistics

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-311, is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the State Registrar, within seven (7) days after the birth.

B. When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, and secure the signatures required by the certificate. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence or inability of the father or mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of ~~conception and birth~~, or married at any time during the three hundred (300) calendar days before the birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction or a husband's denial of paternity form has been filed along with an affidavit acknowledging paternity, in which case the name of the father as determined by the court or affidavit acknowledging paternity shall be entered.

2. If the mother was not married at the time of ~~conception and birth~~, nor married at any time during the three hundred (300) calendar days before the birth, the name of the father shall be entered on the certificate of birth only if:

- a. a determination of paternity has been made by an administrative action through the Department of Human

Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or

- b. the mother and father have signed an ~~affidavit acknowledging~~ acknowledgement of paternity pursuant to Section 1-311.3 of this title, or substantially similar affidavit from another state and filed it with the State Registrar of Vital Statistics.

E. Either of the parents of the child shall sign the certificate of live birth worksheet to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

F. If the live birth results from a process in which the delivering mother was carrying the child of another woman by way of a prearranged legal contract, the original birth certificate shall be filed with the personal information of the woman who delivered the child. A new birth certificate will be placed on file once the State Registrar receives both a court order and a completed form prescribed by the State Registrar which identifies the various parties and documents the personal information of the intended parents necessary to complete the new birth certificate.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-311.2, is amended to read as follows:

~~Section 1-311.2. The State Registrar of Vital Statistics shall provide to the Department of Human Services the verifications of birth certificates, affidavits acknowledging paternity and such other documents or information necessary to comply with this act~~

The State Commissioner of Health shall authorize the secure electronic transmission of any birth, death, paternity or adoption data and such other documents or information necessary to comply with the Uniform Parentage Act or for the purpose of assisting with programs administered by the Department of Human Services. The Department of Human Services shall not release information, data or records received from the State Department of Health for these purposes in response to an Open Records Act request and shall protect the integrity of the vital records data to the extent required of the State Department of Health by Section 1-323 of this

title. The State Department of Health and the Department of Human Services shall enter into a data sharing agreement for the purpose of implementing the provisions of this section.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-321, as amended by Section 1, Chapter 96, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-321), is amended to read as follows:

Section 1-321. ~~(a)~~ A. A certificate or record registered under this article may be amended only in accordance with this article and regulations thereunder adopted by the State ~~Board~~ Commissioner of Health to protect the integrity and accuracy of vital statistics records.

~~(b)~~ B. A certificate that is amended under this section shall be marked "amended", except as provided in subsection (d) of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The ~~Board~~ Commissioner shall prescribe by regulation the conditions under which additions or minor corrections shall be made to birth certificates within one (1) year after the date of birth without the certificate being considered as amended.

~~(c)~~ C. Upon receipt of a certified copy of a court order, from a court of competent jurisdiction, changing the name of a person born in this state and upon request of such person or his parent, guardian, or legal representative, the State Commissioner of Health shall amend the certificate of birth to reflect the new name.

~~(d)~~ D. When a child is born out of wedlock, the Commissioner shall amend a certificate of birth to show paternity, if paternity is not currently shown on the birth certificate, in the following situations:

~~(1)~~ 1. Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents; ~~or~~

~~(2)~~ 2. Upon receipt of a certified copy of a court order establishing adjudicating paternity; or

3. Upon receipt of an electronic record from the Department of Human Services indicating that an acknowledgement of paternity has been signed by both parents or a court order adjudicating paternity.

~~(e)~~ E. For a child born out of wedlock, the Commissioner shall also change the surname of the child on the certificate:

~~(1)~~ 1. To the specified surname upon receipt of acknowledgment of paternity signed by both parents ~~or~~, upon receipt of a certified copy of a court order directing such name be changed or upon receipt of an electronic record from the Department of Human Services indicating that an acknowledgement of paternity has been signed by both parents or a court order directs such name change. Such certificate amended pursuant to this subsection shall not be marked "amended"; or

~~(2)~~ 2. To the surname of the mother on the birth certificate in the event the acknowledgment of paternity is rescinded.

~~(f)~~ F. The ~~State Board of Health~~ Commissioner shall have the power and duty to promulgate rules for situations in which the State Registrar of Vital Statistics receives false information regarding the identity of a parent.

~~(g)~~ G. If within sixty (60) days of the initial issuance of a certificate of death, a funeral director, or a person acting as such, requests a correction to any portion of the death record except the information relating to the medical certification portion, due to a scrivener's error, misspelling or other correction of information, the Commissioner of Health, through the State Registrar of Vital Statistics, shall amend the record, provided said request is made in writing or through an electronic system and is accompanied by documentation disclosing the correct information or by a sworn statement of the funeral director. The funeral director, or person acting as such, shall be responsible for any and all amendment fees that may be imposed by the Commissioner of Health for said correction. Up to ten certified copies containing the erroneous original information may be exchanged for certified copies containing the corrected information at no additional cost.

SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-323, as last amended by Section 1, Chapter 108, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-323), is amended to read as follows:

Section 1-323. A. To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital statistics records, or to copy or issue a copy of all or part of any such record except to:

1. The person who is the subject of the record;
2. A parent named on the record or a person acting with the parent's permission unless that parent is currently incarcerated;
3. Someone acting with permission of the person who is the subject of the record;
4. Someone acting as a legal representative of the estate of the person who is the subject of the record;
5. Someone acting as a legal representative of a person involved in a probate of the estate of the person who is the subject of the record, as demonstrated by affidavit;
6. An attorney licensed to practice in the United States who demonstrates by affidavit that the record is necessary in order to administer a client's estate;
7. Someone in receipt of a court order from a court of competent jurisdiction ordering access to the record;
8. The Attorney General or to any district attorney upon request in the course of a criminal investigation;
9. Only in the case of a death certificate, a funeral director;
10. A representative of the Department of Corrections, when the subject of the record is under supervision of the Department of Corrections; ~~or~~

11. A representative of the Department of Human Services acting in accordance with Section 1-311.2 of this title; or

12. Any other person working in the best interest of the subject of the record, as determined by regulations of the State ~~Board~~ Commissioner of Health.

Provided, that death certificates shall be considered publicly available records fifty (50) years after the death and birth certificates shall be considered publicly available records one hundred twenty-five (125) years after the birth.

B. The State Department of Health shall, by July 1, 2017, make available an online public index that includes, as is applicable, the name, gender, date of birth, date of death, county of birth, and county of death of all persons in its records. Birth data shall not be added to the index until twenty (20) years after the birth. Death data shall not be added to the index until five (5) years after the death. The index shall be made available online at no cost to users.

Private entities may request assistance from the Department in receiving digital files including all or part of the index described in this subsection. Such private entities may be assessed a fee that shall not exceed the cost of creating and transmitting the digital file. The ~~Board~~ Commissioner may promulgate rules regarding access to such digital files and applicable fees.

C. The Department may grant applications for electronic verification of the existence of birth and death certificates for legal and administrative purposes at any time following the birth or death when such applications are made by:

1. A government agency in conduct of its official business;

2. A benefit-paying party, including but not limited to an annuity company, pension plan or life insurance company in order to determine benefit status;

3. A physician licensed to practice in the United States to determine if a patient has been lost to care; or

4. Other entities for fraud protection, subject to verification of the entity's purpose by the Department.

The recipient of a record verification as provided for in this subsection may not disclose to a party not involved in the issue for which the verification was sought.

The Department ~~of Health~~ may charge up to Four Dollars (\$4.00) for each electronic birth or death verification, although such fee may be waived when such request is received by an Oklahoma state or local government agency. The recipient of a record verification as provided for in this subsection may also be subject to fees levied by a contractor retained by the ~~Board~~ Commissioner to provide such service.

The ~~Board~~ Commissioner may promulgate rules necessary to implement the provisions of this subsection.

D. The State Commissioner of Health may authorize the disclosure of data contained in vital statistics records for public health surveillance or research purposes.

E. The State Department of Health shall transmit to the Department of Public Safety:

1. At the end of each quarter year, a list of all registered deaths which have occurred during such period of time. Upon receipt of such list the Department of Public Safety shall use such list solely to update Department of Public Safety records and to cancel the driver license for those deceased individuals with a valid Oklahoma driver license at the time of death;

2. At the end of each month, a report of all registered deaths that resulted from a motor vehicle collision which have occurred during such period of time. The report shall be used by the Department solely for the purpose of statistical analysis and reporting; and

3. Upon written request from the Department, a death certificate. The certificate shall be used solely by the Fatality Analysis Reporting System (FARS) Analyst of the Oklahoma Highway Safety Office to populate the federal FARS database.

F. Each month, the Commissioner shall authorize the transmission to the Oklahoma Health Care Authority of a certified list of all registered deaths of residents of this state that have occurred within the state for the immediately preceding month. The Oklahoma Health Care Authority shall use the transmitted list to ascertain the names of those individuals participating in the state Medicaid program who are deceased, and shall thereafter terminate such deceased person's enrollment in the state Medicaid program.

G. For the purpose of assisting in the location and recovery of missing children, information pertaining to birth certificates and requests for copies of birth certificates shall be provided to the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 1-323.1 of this title and Section 150.12A of Title 74 of the Oklahoma Statutes.

H. The Commissioner shall authorize the transmission of death certificates to the Department of Labor for the purpose of the Department of Labor conducting a census of total occupational injuries and illnesses. The Department shall transmit to the Department of Labor statistics of fatal occupational injuries that shall include the following:

1. Name of the deceased;
2. Date of death;
3. Sex;
4. Race;
5. Age;
6. Birth date;
7. Social Security number;
8. Whether an autopsy was conducted;
9. Month of the accident; and

10. Whether decedent was of Hispanic origin.

I. The Department of Labor shall be required to protect the integrity of the vital statistics records to the same extent required of the Department pursuant to this section.

SECTION 5. This act shall become effective November 1, 2021.

Passed the Senate the 1st day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____