

AN ACT

To amend sections 3701.46, 3705.01, 3705.09, 3705.15, 3705.20, and 3705.23 of the Revised Code regarding the issuance of certificates recognizing stillborn infants and the provision by certified nurse-midwives of information for birth certificates.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3701.46, 3705.01, 3705.09, 3705.15, 3705.20, and 3705.23 of the Revised Code be amended to read as follows:

Sec. 3701.46. In reporting every birth and fetal death, physicians, certified nurse-midwives, and others required to make the reports shall state on the birth or fetal death certificate, as the case may be, whether approved tests for syphilis and gonorrhea have been made in an approved laboratory upon specimens taken from the woman who bore the child for which the certificate is filed, and the approximate date when the specimens were taken. If the tests were not made, the physician, certified nurse-midwife, or other person shall state the reasons why the tests were not made. In no event shall the results of the tests be stated on the birth or fetal death certificate.

Sec. 3705.01. As used in this chapter:

(A) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception that 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.

(B)(1) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(2) "Stillborn" means that an infant ~~suffered a fetal death~~ of at least twenty weeks of gestation suffered a fetal death.

(C) "Dead body" means a human body or part of a human body from the

condition of which it reasonably may be concluded that death recently occurred.

(D) "Physician" means a person licensed pursuant to Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine and surgery.

(E) "Attending physician" means the physician in charge of the patient's care for the illness or condition that resulted in death.

(F) "Institution" means any establishment, public or private, that provides medical, surgical, or diagnostic care or treatment, or domiciliary care, to two or more unrelated individuals, or to persons committed by law.

(G) "Funeral director" has the meaning given in section 4717.01 of the Revised Code.

(H) "State registrar" means the head of the office of vital statistics in the department of health.

(I) "Medical certification" means completion of the medical certification portion of the certificate of death or fetal death as to the cause of death or fetal death.

(J) "Final disposition" means the interment, cremation, removal from the state, donation, or other authorized disposition of a dead body or a fetal death.

(K) "Interment" means the final disposition of the remains of a dead body by burial or entombment.

(L) "Cremation" means the reduction to ashes of a dead body.

(M) "Donation" means gift of a dead body to a research institution or medical school.

(N) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records, the collection of other reports required by this chapter, and activities related thereto.

(O) "Vital records" means certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, annulment, and data related thereto and other documents maintained as required by statute.

(P) "File" means the presentation of vital records for registration by the office of vital statistics.

(Q) "Registration" means the acceptance by the office of vital statistics and the incorporation of vital records into its official records.

(R) "Birth record" means a birth certificate that has been registered with the office of vital statistics; or, if registered prior to March 16, 1989, with the division of vital statistics; or, if registered prior to the establishment of the division of vital statistics, with the department of health or a local registrar.

(S) "Certification of birth" means a document issued by the director of health or state registrar or a local registrar under division (B) of section 3705.23 of the Revised Code.

(T) "Certified nurse-midwife" has the same meaning as in section 4723.01 of the Revised Code.

Sec. 3705.09. (A) A birth certificate for each live birth in this state shall be filed in the registration district in which it occurs within ten days after such birth and shall be registered if it has been completed and filed in accordance with this section.

(B) When a birth occurs in or en route to an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within ten days with the local registrar of vital statistics. The physician or certified nurse-midwife in attendance shall provide the medical information required by the certificate and certify to the facts of birth within seventy-two hours after the birth.

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

- (1) The physician or certified nurse-midwife in attendance at or immediately after the birth;
- (2) Any other person in attendance at or immediately after the birth;
- (3) The father;
- (4) The mother;
- (5) The person in charge of the premises where the birth occurred.

(D) Either of the parents of the child or other informant shall attest to the accuracy of the personal data entered on the birth certificate in time to permit the filing of the certificate within the ten days prescribed in this section.

(E) When a birth occurs in a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the record shall show the actual place of birth insofar as can be determined.

(F)(1) If the mother of a child was married at the time of either conception or birth or between conception and birth, the child shall be registered in the surname designated by the mother, and the name of the

husband shall be entered on the certificate as the father of the child. The presumption of paternity shall be in accordance with section 3111.03 of the Revised Code.

(2) If the mother was not married at the time of conception or birth or between conception and birth, the child shall be registered by the surname designated by the mother. The name of the father of such child shall also be inserted on the birth certificate if both the mother and the father sign an acknowledgement of paternity affidavit before the birth record has been sent to the local registrar. If the father is not named on the birth certificate pursuant to division (F)(1) or (2) of this section, no other information about the father shall be entered on the record.

(G) When a man is presumed, found, or declared to be the father of a child, according to section 2105.26, sections 3111.01 to 3111.18, former section 3111.21, or sections 3111.38 to 3111.54 of the Revised Code, or the father has acknowledged the child as his child in an acknowledgment of paternity, and the acknowledgment has become final pursuant to section 2151.232, 3111.25, or 3111.821 of the Revised Code, and documentary evidence of such fact is submitted to the department of health in such form as the director may require, a new birth record shall be issued by the department which shall have the same overall appearance as the record which would have been issued under this section if a marriage had occurred before the birth of such child. Where handwriting is required to effect such appearance, the department shall supply it. Upon the issuance of such new birth record, the original birth record shall cease to be a public record. Except as provided in division (C) of section 3705.091 of the Revised Code, the original record and any documentary evidence supporting the new registration of birth shall be placed in an envelope which shall be sealed by the department and shall not be open to inspection or copy unless so ordered by a court of competent jurisdiction.

The department shall then promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred, and such local registrar shall file a copy of such new birth record along with and in the same manner as the other copies of birth records in such local registrar's possession. All copies of the original birth record in the possession of the local registrar or the probate court, as well as any and all index references to it, shall be destroyed. Such new birth record, as well as any certified or exact copy of it, when properly authenticated by a duly authorized person shall be prima-facie evidence in all courts and places of the facts stated in it.

(H) When a woman who is a legal resident of this state has given birth

to a child in a foreign country that does not have a system of registration of vital statistics, a birth record may be filed in the office of vital statistics on evidence satisfactory to the director of health.

(I) Every birth certificate filed under this section on or after July 1, 1990, shall be accompanied by all social security numbers that have been issued to the parents of the child, unless the division of child support in the department of job and family services, acting in accordance with regulations prescribed under the "Family Support Act of 1988," 102 Stat. 2353, 42 U.S.C.A. 405, as amended, finds good cause for not requiring that the numbers be furnished with the certificate. The parents' social security numbers shall not be recorded on the certificate. The local registrar of vital statistics shall transmit the social security numbers to the state office of vital statistics in accordance with section 3705.07 of the Revised Code. No social security number obtained under this division shall be used for any purpose other than child support enforcement.

Sec. 3705.15. Whoever claims to have been born in this state, and whose registration of birth is not recorded, or has been lost or destroyed, or has not been properly and accurately recorded, may file an application for registration of birth or correction of the birth record in the probate court of the county of the person's birth or residence or the county in which the person's mother resided at the time of the person's birth. If the person is a minor the application shall be signed by either parent or the person's guardian.

(A) An application to correct a birth record shall set forth all of the available facts required on a birth record and the reasons for making the application, and shall be verified by the applicant. Upon the filing of the application the court may fix a date for a hearing, which shall not be less than seven days after the filing date. The court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The application shall be supported by the affidavit of the physician or certified nurse-midwife in attendance. If an affidavit is not available, the application shall be supported by the affidavits of at least two persons having knowledge of the facts stated in the application, by documentary evidence, or by other evidence the court deems sufficient.

The probate judge, if satisfied that the facts are as stated, shall make an order correcting the birth record, except that in the case of an application to correct the date of birth, the judge shall make the order only if any date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record is consistent

with the corrected date of birth. If supported by sufficient evidence, the judge may include in an order correcting the date of birth an order correcting the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record.

(B) An application of a person whose registration of birth is not recorded, or has been lost or destroyed, must comply with division (A) of this section. Upon the filing of the application the court may fix a date for a hearing, which shall ~~not~~ be not less than seven days after the filing date. The court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The probate judge, or a special master commissioner, shall personally examine the applicant in open court and shall take sworn testimony on the application which shall include the testimony of at least two credible witnesses, or clear and convincing documentary evidence. The probate court may conduct any necessary investigation, and shall permit the applicant and all witnesses presented to be cross-examined by any interested person, or by the prosecuting attorney of the county. When a witness or the applicant is unable to appear in open court, the court may authorize the taking of the witness's or applicant's deposition. The court may cause a complete record to be taken of the hearing, shall file it with the other papers in the case, and may order the transcript of the testimony to be filed and made a matter of record in the court. Upon being satisfied that notice of the hearing on the application has been given by publication, if required, and that the claim of the applicant is true, the court shall make a finding upon all the facts required on a birth record, and shall order the registration of the birth of the applicant. The court shall forthwith transmit to the director of health a certified summary of its finding and order, on a form prescribed by the director, who shall file it in the records of the central division of vital statistics.

(C) The director may forward a copy of the summary for the registration of a birth in the director's office to the appropriate local registrar of vital statistics.

A certified copy of the birth record corrected or registered by court order as provided in this section shall have the same legal effect for all purposes as an original birth record.

The application, affidavits, findings, and orders of the court, together with a transcript of the testimony if ordered by the court, for the correction of a birth record or for the registration of a birth, shall be recorded in a book kept for that purpose and shall be properly indexed. The book shall become a part of the records of the probate court.

(D)(1) Except as provided in division (D)(2) of this section, whenever a correction is ordered in a birth record under division (A) of this section, the court ordering the correction shall forthwith forward to the department of health a certified copy of the order containing such information as will enable the department to prepare a new birth record. Thereupon, the department shall record a new birth record using the correct information supplied by the court and the new birth record shall have the same overall appearance as the original record which would have been issued under this chapter. Where handwriting is required to effect that appearance, the department shall supply it. Upon the preparation and filing of the new birth record, the original birth record and index references shall cease to be a public record. The original record and all other information pertaining to it shall be placed in an envelope which shall be sealed by the department, and its contents shall not be open to inspection or copy unless so ordered by the probate court of the county that ordered the correction.

The department shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred and the local registrar shall file a copy of the new birth record along with and in the same manner as the other copies of birth records in the local registrar's possession. All copies of the original birth record, as well as any and all other papers, documents, and index references pertaining to it, in the possession of the local registrar shall be destroyed. The probate court shall retain permanently in the file of its proceedings such information as will enable the court to identify both the original birth record and the new birth record.

The new birth record, as well as any certified copies of it when properly authenticated by a duly authorized person, shall be prima-facie evidence in all courts and places of the facts therein stated.

(2) If the correction ordered in the birth record under division (A) of this section involves a change in the date of birth of the applicant and the department of health determines that the corrected date of birth is inconsistent with the date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record, the department shall request that the court reconsider the order and, if appropriate, make a new order in which the dates are consistent. If the court does not make a new order within a reasonable time, instead of issuing a new birth record, the department shall file and record the court's order in the same manner as other birth records and make a cross-reference on the original and on the corrected record.

(E) The probate court shall assess costs of registering a birth or

correcting a birth record under this section against the person who makes application for the registration or correction.

Sec. 3705.20. (A) The fetal death of the product of human conception of at least twenty weeks of gestation shall be registered on a fetal death certificate.

On application of either parent, the fetal death of the product of human conception prior to twenty weeks of gestation shall be registered on a fetal death certificate, except that the fetal death certificate shall not list the cause of death.

The parent shall include with the application a copy of the statement required by division (B)(1) of section 3727.16 or division (B)(1) of section 4731.82 of the Revised Code. If the father submits the application, he shall also include with it a signed and notarized document from the mother attesting that she voluntarily provided the father with a copy of the statement.

A fetal death certificate for the product of human conception prior to twenty weeks gestation is not proof of a live birth for purposes of federal, state, and local taxes.

(B) The product of human conception of at least twenty weeks of gestation that suffers a fetal death ~~of at least twenty weeks of gestation~~ occurring in Ohio shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of by a funeral director or other person until a fetal death certificate or provisional death certificate has been filed with and a burial permit is issued by the local registrar of vital statistics of the registration district in which the fetal death occurs, or the body is found.

A burial permit for the product of human conception that suffers a fetal death prior to twenty weeks of gestation shall be issued by the local registrar of vital statistics of the registration district in which the fetal death occurs if either parent files a fetal death certificate with that registrar.

(C)(1) The department of health and the local registrar shall keep a separate record and index record of fetal death certificates.

(2) The personal or statistical information on the fetal death certificate shall be obtained by the funeral director or other person in charge of interment or cremation from the best qualified persons or sources available.

(D) When a burial permit is issued under division (B) of this section for the product of human conception of at least twenty weeks of gestation that suffers a fetal death, the local registrar shall inform the parent or parents listed on the fetal death certificate or provisional death certificate of the option of applying for a certificate that is issued under division (B)(3) of section 3705.23 of the Revised Code.

Sec. 3705.23. (A)(1) Except as otherwise provided in this section, the director of health, the state registrar, or a local registrar, on receipt of a signed application and the fee specified in section 3705.24 of the Revised Code, shall issue a certified copy of a vital record, or of a part of a vital record, in the director's or registrar's custody to any applicant, unless the vital record has ceased to be a public record pursuant to section 3705.09, 3705.11, 3705.12, or 3705.15 of the Revised Code. The certified copy shall show the date the vital record was registered by the local registrar.

(2) A certified copy of a vital record may be made by a mechanical, electronic, or other reproduction process. It shall be certified as a true copy by the director, state registrar, or local registrar who has custody of the record and shall include the date of issuance, the name of the issuing officer, the signature of the officer or an authorized facsimile of the signature, and the seal of the issuing office.

(3) A certified copy of a vital record or of any part of a vital record, issued in accordance with this section, shall be considered for all purposes the same as the original and shall be prima-facie evidence of the facts stated in it in all courts and places.

(4)(a) Information contained in the "information for medical and health use only" section of a birth record shall not be included as part of a certified copy of the birth record unless the information specifically is requested by the individual to whose birth the record attests, either of the individual's parents or the individual's guardian, a lineal descendant, or an official of the federal or state government or of a political subdivision of the state charged by law with detecting or prosecuting crime.

(b) Except as provided in division (A)(4)(a) of this section, neither the office of vital statistics nor a local registrar shall disclose information contained in the "information for medical and health use only" section of a birth record unless a court, for good cause shown, orders disclosure of the information or the state registrar specifically authorizes release of the information for statistical or research purposes under conditions the state registrar, subject to the approval of the director of health, shall establish by rule.

(B)(1) Unless the applicant specifically requests a certified copy, the director, the state registrar, or a local registrar, on receipt of a signed application for a birth record and the fee specified in section 3705.24 of the Revised Code, may issue a certification of birth, and the certification of birth shall contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and shall attest that the person's birth has been registered. A certification of birth shall be

prima-facie evidence of the facts stated in it in all courts and places.

(2) The director or ~~the~~ state registrar, on ~~the~~ receipt of a signed application for an heirloom certification of birth and the fee specified in section 3705.24 of the Revised Code, may issue an heirloom certification of birth. The director shall prescribe by rule guidelines for the form of an heirloom certification of birth, and the guidelines shall require the heirloom certification of birth to contain at least the name, sex, date of birth, registration date, and place of birth of the person to whose birth the record attests and to attest that the person's birth has been registered. An heirloom certification of birth shall be prima-facie evidence of the facts stated in it in all courts and places.

(3)(a) The director or ~~the~~ state registrar, on ~~the~~ receipt of an application signed by either parent, shall issue a certificate ~~recognizing that recognizes~~ the delivery of a stillborn infant. ~~The director shall prescribe guidelines by rule for the form of the certificate. The guidelines shall require that the certificate contain at least the name, sex, date of delivery, and place of delivery.~~ The director or ~~the~~ state registrar shall not charge ~~no~~ a fee for the certificate. ~~A~~ The certificate recognizing the delivery of a stillborn infant is not proof of a live birth for purposes of federal, state, and local taxes.

The certificate shall contain the infant's name and sex, the date of delivery, and the place of delivery. The certificate shall not contain the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning. The director may prescribe by rule any other standards regarding the form of the certificate.

(b) If, prior to the effective date of this amendment, a parent obtained a certificate that contains the word "stillborn" or "stillbirth" or any other words having the same or a similar meaning, the parent may submit to the director or state registrar a written request for issuance of a certificate that meets the conditions specified in division (B)(3)(a) of this section. On receipt of the request, the director or state registrar shall issue the certificate.

(C) On evidence that a birth certificate was registered through misrepresentation or fraud, the state registrar may withhold the issuance of a certified copy of the birth record or a certification of birth until a court makes a determination that no misrepresentation or fraud occurred.

SECTION 2. That existing sections 3701.46, 3705.01, 3705.09, 3705.15, 3705.20, and 3705.23 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 95

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____