

LEGISLATIVE BILL 42

Approved by the Governor February 21, 1985

Introduced by Miller, 37

AN ACT relating to vital statistics; to amend sections 23-394, 71-604, 71-605, 71-606, 71-611, 71-636, and 71-644, Reissue Revised Statutes of Nebraska, 1943, and section 71-612, Revised Statutes Supplement, 1984; to change provisions relating to birth certificates, death certificates, transit permits, and disinterment permits; to harmonize provisions; to provide for cremation permits; to modify powers and duties of the Department of Health; to provide an exemption from filing requirements; to authorize a petty cash fund; to adopt the Delayed Birth Registration Act; to eliminate provisions relating to local registrars; to repeal the Delayed Birth Registration Law; to provide operative dates; and to repeal the original sections, and also sections 71-602, 71-603, 71-605.03, 71-608, 71-617 to 71-622, 71-624, and 71-625, Reissue Revised Statutes of Nebraska, 1943, and section 71-623, Revised Statutes Supplement, 1984.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-394, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-394. The identification card with color photograph affixed shall be issued by the county treasurer after the person requesting such card (1) files an application, (2) files a certified copy of such person's birth certificate or any Class A or Class B evidence as defined under section 71-617 independent supporting records referred to in section 13 of this act, and (3) pays a fee of three dollars and fifty cents to the county treasurer.

Sec. 2. That section 71-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-604. A birth certificate in the form prescribed by the Department of Health, and conforming to all of the requirements of the United States Public Health Service, shall be filled out by the physician in attendance, and signed in his own handwriting. If there is no physician in attendance, then such certificate shall be completed and signed by the parent or other person present. Such certificate shall be filed with the local registrar within five days after any birth. (1) A certificate for

each live birth which occurs in the State of Nebraska shall be filed on a standard Nebraska certificate form which shall conform to the minimum requirements of the United States Public Health Service. Such certificate shall be filed with the Bureau of Vital Statistics within five business days after the birth.

(2) When a birth occurs in or en route to a hospital or other institution, the certificate of birth shall be prepared in the facility and shall be signed by the person certifying the birth in his or her own handwriting. The physician or other person in attendance shall provide the medical information required for the certificate and certify the facts of birth within seventy-two hours after the birth.

(3) When a birth occurs outside an institution, the certificate of birth shall be prepared and filed by one of the following:

(a) The physician in attendance at or immediately after the birth;

(b) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred; or

(c) Any other person in attendance at or immediately after the birth.

Sec. 3. That section 71-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-605. (1) The funeral director, in charge of the funeral of any person dying in the State of Nebraska, shall cause a certificate of death to be filled out with all the particulars contained in the standard blank adopted by the Department of Health, ~~and conforming to all of which shall conform to the minimum requirements of the United States Public Health Service.~~ Such standard blank shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician, who last attended the deceased. Death and fetal death certificates ~~are to~~ shall be completed by the funeral directors and physicians only for the purpose of filing with the Bureau of Vital Statistics.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death ~~where~~ when no person licensed as a physician was in attendance, the funeral director shall refer the case to the county attorney for a death certificate. ~~7 except that no~~

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years unless an autopsy is performed at county expense by a qualified pathologist,

unless the parent or guardian signs a written waiver of the right to autopsy. The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. ~~The Such~~ county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the registrar of the county in which the death occurred before the body is interred, deposited in a vault, or otherwise disposed of Bureau of Vital Statistics within five business days after the date of death. If it is impossible to complete the certificate of death within the period of time prescribed above five business days, the funeral director shall notify the coroner and registrar in the county where death occurred and obtain their written approval before any disposal of the remains can be made bureau of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the Bureau of Vital Statistics.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Bureau of Vital Statistics to a licensed funeral director upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section 71-1339, or a county

attorney on a form furnished by the bureau. The application shall be signed by the funeral director who will be directly supervising the disinterment. When the disinterment occurs, the funeral director shall sign the permit giving the date of disinterment and file the permit with the Bureau of Vital Statistics within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the Bureau of Vital Statistics prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. Except as otherwise provided, the county registrar shall, upon receipt of a death certificate properly and completely filled out, issue a burial or transit permit. No sexton or other person in charge of a cemetery shall allow the interment of a body without first receiving such burial permit nor allow the disinterment of a body without first receiving from the Bureau of Vital Statistics, Department of Health, a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director having charge of the body in Nebraska, except that when the death is subject to investigation the transit permit shall not be issued by the funeral director without authorization of the county attorney of the county in which the death occurred. No agent of any railroad or other transportation company shall allow the shipment of any body without the county registrar's transit permit. All burial permits shall be countersigned and dated by the sexton or other person in charge of cemeteries properly completed transit permit prepared in duplicate. All transit permits shall be countersigned and dated by the agent of the transportation company when received. Each transit permit shall be returned within ten days to the county registrar by whom it was issued.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director, except that hospital disposition may be made of the dead human body of a stillborn infant with due respect for the same and in accordance with existing law when requested by the parents or legal guardian.

(9) ~~(5)~~ All burial or transit permits, issued in accordance with the law of the place where the death occurred, may be accepted by the county registrar of the county where the body is to be interred or otherwise

disposed of, as a basis upon which he shall issue a burial permit in a state other than Nebraska shall be signed by the funeral director in charge of burial and forwarded to the Bureau of Vital Statistics within five business days after the interment takes place.

(6) Space for certification of veteran status and period of service in the armed forces of the United States shall be provided on all burial or transit permits referred to in this section. In the event death certificates, burial or transit permits of other states do not bear such information when they are forwarded to this state, such information shall be noted insofar as it is readily available in the margins or other available space on such certificate or permit.

Sec. 4. That section 71-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-606. A child born dead shall be registered as a fetal death on a certificate form furnished by the Department of Health Bureau of Vital Statistics which shall conform to the minimum requirements of the United States Public Health Service. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the bureau by the funeral director in charge of the funeral, and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-605, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital or its administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

Sec. 5. That section 71-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-611. The Department of Health shall supply all necessary blanks, forms, and instructions pertaining to the recording of births and deaths to the local registrars, physicians, hospitals, and funeral directors. It shall certify to the county board of each county, quarterly, the number of certificates of birth and death received from each local registrar in the county. For each certificate and for each report showing no birth or no death, the local registrar shall be entitled to the sum of fifty cents to be paid by the county for which the certificate or report is made.

Sec. 6. Persons in any county containing a city of the metropolitan or primary class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established birth and death registration system shall be exempt from the requirements of direct filing of birth and

death certificates required by sections 71-604, 71-605, and 71-606. The certificates for the births and deaths occurring in any such county shall be filed with the vital statistics office of the city-county or county health department within five business days of the date of the birth or death. The city-county or county health department shall forward the certificates to the Bureau of Vital Statistics within ten business days of the date of the birth or death.

Sec. 7. That section 71-612, Revised Statutes Supplement, 1984, be amended to read as follows:

71-612. (1) The Director of Health, as the State Registrar, through the Department of Health shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by regulations of the department, a certified copy of the record of any birth, death, marriage, or divorce registered. Except as provided in subsection subsections (2), (3), and (5) of this section, the department shall be entitled to charge and collect in advance a fee of five dollars, to be paid by the applicant, for each certified copy supplied to the applicant or for any search made at the applicant's request; for any such record; whether or not the record is found on file with the department. ~~PROVIDED, the~~

(2) The department shall, free of charge, make search for and furnish a certified copy of any record on file with the department; upon the request of (a) the United States Veterans' Administration, or any lawful service organization empowered to represent veterans, if such the copy of such the record is to be issued for the welfare of any member or veteran of the armed forces of the United States, or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation; or upon request of (b) the military department of the State of Nebraska. ~~AND PROVIDED FURTHER, the~~

(3) The department may, free of charge, make search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors survivors', or disability benefits under the Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds shall be paid to the state treasury and by the State Treasurer credited to the Bureau of Vital Statistics Fund, which is hereby created. The fund shall be used for the purpose of administering the laws relating to vital statistics. The fund may be used to create, under section 81-104.01, a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply

for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) (2) The Department of Health shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any in-hospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that such fee shall not exceed two dollars per individual search or copy requested.

Sec. 8. Sections 8 to 22 of this act shall be known and may be cited as the Delayed Birth Registration Act.

Sec. 9. A notarized application may be filed with the Bureau of Vital Statistics for a delayed registration of birth of any person born in the State of Nebraska whose birth is not registered within one year after the date of birth. If the birth occurred in the State of Nebraska at any time since the commencement in 1905 of mandatory registration under the laws of Nebraska, the applicant shall pay the statutory file search fee prescribed by section 71-612 to determine that such birth is not recorded. The certificate shall be registered based upon documentary evidence furnished to substantiate the alleged facts of birth. As used in the Delayed Birth Registration Act, unless the context otherwise requires, documentary evidence shall mean independent records each of which was created for a different purpose.

Sec. 10. Any birth certificate filed one year or more after the date of birth shall be marked Delayed and shall show on the face of the certificate the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be listed on the certificate.

Sec. 11. In order to request the issuance of a certificate of delayed birth registration, the applicant shall be at least eighteen years of age. If the applicant is not yet eighteen years of age, application may be made only by the applicant's father, mother, guardian, or attendant at birth.

Sec. 12. Each application for a certificate of delayed birth registration shall be accompanied by the application fee required by section 22 of this act and three independent supporting records as provided in section 13 of this act, only one of which may be an affidavit of personal recollection from a person at least five years older than the applicant and having a personal knowledge of the facts at the time of birth. Any evidence used shall relate to the date and place of birth and at

least one item of documentary evidence shall correctly establish parentage.

Sec. 13. Independent supporting records shall include, but not be limited to, original records or certified or notarized copies of:

(1) A recorded certificate of baptism performed under age four;

(2) An insurance policy application personal history sheet;

(3) A federal census record;

(4) A school census record;

(5) A military service record;

(6) A family Bible record when proved beyond a reasonable doubt that the record was made before the child reached age four;

(7) Other evidence on file in the Bureau of Vital Statistics taken from other registrations;

(8) A record at least five years old or established within seven years of the date of birth such as a physician's certificate or an affidavit taken from physician, hospital, nursing, or clinic records;

(9) An affidavit from a parent or longtime acquaintance;

(10) A printed notice of birth;

(11) A record from a birthday or baby book;

(12) A school record; or

(13) A church record.

An affidavit shall include the full name of the person whose birth is being registered as well as the date and place of birth and the basis of the affiant's knowledge of these facts.

Sec. 14. If an applicant for a certificate of delayed birth registration fails to submit the minimum documentation required for the delayed registration or if the Bureau of Vital Statistics has reasonable cause to question the validity or adequacy of either the applicant's sworn statement or the documentary evidence due to conflicting evidence submitted and if the deficiencies are not corrected, the bureau shall not issue and register a delayed certificate of birth and shall advise the applicant of the reasons for such action. The bureau shall further advise the applicant of his or her right of appeal to the Director of Health and then, if not satisfied, to the county court as provided in section 15 of this act.

Sec. 15. (1) If a delayed certificate of birth is denied by the Bureau of Vital Statistics and the Director of Health, a petition signed and sworn to by the petitioner may be filed with the county court of Lancaster County, of the county of the petitioner's residence, or of the county in which the birth is claimed to have occurred.

(2) The petition shall be made on a form prescribed and furnished by the Bureau of Vital Statistics

and shall allege:

(a) That the person for whom a delayed certificate of birth is sought was born in this state;

(b) That no certificate of birth of such person can be found in the files or records of the Bureau of Vital Statistics;

(c) That diligent efforts by the petitioner have failed to obtain evidence required by sections 12 and 13 of this act that is considered acceptable by the Bureau of Vital Statistics;

(d) That the Bureau of Vital Statistics has refused to register a delayed certificate of birth; and

(e) Such other allegations as may be required.

Sec. 16. A statement of the director of the Bureau of Vital Statistics and the Director of Health indicating why a delayed certificate of birth was not issued and registered and all documentary evidence which was submitted to the bureau in support of such registration shall accompany a petition filed under section 15 of this act.

Sec. 17. The court shall fix a time and place for a hearing upon a petition filed under section 15 of this act and shall give the Bureau of Vital Statistics ten calendar days' notice of such hearing. The director of the bureau, the Director of Health, or one of their authorized representatives may appear and testify in the proceeding.

Sec. 18. If the court finds from the evidence presented that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as the case may require and shall issue an order on a form prescribed and furnished by the Bureau of Vital Statistics to establish a certificate of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

Sec. 19. The clerk of the court shall forward any order made under section 18 of this act to the Bureau of Vital Statistics not later than the tenth day of the calendar month following the month in which it was entered. The order shall be registered by the bureau and shall constitute the certificate of birth.

Sec. 20. The Bureau of Vital Statistics shall certify on a delayed registration of birth that no other record of the birth is on file with the bureau.

Sec. 21. The Bureau of Vital Statistics may dismiss an application which has not been actively pursued by the applicant within one year after receipt and filing of the application by the bureau. The application fee required by section 22 of this act shall be returned by the bureau to the applicant in such instance. After the passage of one year of inaction on the part of an applicant, submission of a new application shall be

required, accompanied by the application fee required by section 22 of this act.

Sec. 22. The Department of Health shall charge and collect a fee of five dollars for each delayed birth certificate application when submitted. Upon request and payment of the fee required by section 71-612, a certified copy of such a certificate shall be furnished by the Director of Health through the Bureau of Vital Statistics. All fees so collected shall be paid into the state treasury and by the State Treasurer credited to the Bureau of Vital Statistics Fund.

Sec. 23. That section 71-636, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-636. Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on birth certificates may be made by the Bureau of Vital Statistics within the first year after the date of the birth, either upon its own observation, upon query, or upon request of a person with a direct and tangible interest in the certificate. Such amendments shall be made in red ink. When such additions or minor amendments are made by the Bureau of Vital Statistics, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change, shall be made on the reverse side of the certificate in such a way as not to become a part of the certificate. The certificate shall not be marked amended.

Sec. 24. That section 71-644, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-644. When a certificate is amended, the Bureau of Vital Statistics shall (1) complete the item in any case where the item was left blank on the existing certificate, or (2) draw a single line through the item to be amended and insert the correct data immediately above or to the side thereof. The line drawn through the original entry must not obliterate such entry. Such corrections or additions shall be made in red ink.

Sec. 25. Sections 2 to 6 and 26 of this act shall become operative on October 1, 1985. The remaining sections shall become operative on their effective date.

Sec. 26. That original sections 71-604, 71-605, 71-606, and 71-611, Reissue Revised Statutes of Nebraska, 1943, and also sections 71-602, 71-603, 71-605.03, and 71-608, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 27. That original sections 23-394, 71-636, and 71-644, Reissue Revised Statutes of Nebraska, 1943, and section 71-612, Revised Statutes Supplement, 1984, and also sections 71-617 to 71-622, 71-624, and 71-625, Reissue Revised Statutes of Nebraska, 1943, and section 71-623, Revised Statutes Supplement, 1984, are repealed.