

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

NOELL and CRYSTAL ALLEN, a married couple )  
and JACKIE and LISA PHILLIPS-STACKMAN, )  
a married couple and L.J.P-S, by parent )  
and next friend Lisa Phillips-Stackman )

Plaintiffs, )

-vs- )

No. 1:15-cv-01929-RLY-MJD

DR. JEROME M. ADAMS, in his official capacity as )  
Indiana State Health Commissioner; )  
DR. VIRGINIA A. CAINE, in her official capacity )  
as Director and Health Officer of the )  
Marion County Health Department; )  
DARREN KLINGLER, Administrator, Vital Records, )  
Marion County Health Department; )  
DR. JAMES MINER, GREGORY S. FEHRIBACH, )  
LACY M. JOHNSON, CHARLES S. EBERHARDT II, )  
DEBORAH J. DANIELS, DR. DAVID F. CANAL, and )  
JOYCE Q. ROGERS, all in their official capacities )  
as Trustees, Health & Hospital Corporation )  
of Marion County )

**MEMORANDUM IN SUPPORT OF**  
**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65, plaintiffs, Noell and Crystal Allen, a married couple and Jackie and Lisa Phillips-Stackman, a married couple and L.J.P-S, by parent and next friend Lisa Phillips-Stackman, by counsel, respectfully request that this Court preliminarily enjoin defendants from refusing to issue birth certificates listing Noell Allen and Jackie Phillips-Stackman as parents and to otherwise accord them all rights accorded parents identified on a birth certificate. Further, plaintiffs ask that the Court enjoin

the defendants from declining to recognize that L.J.P-S is a child born in wedlock.

### **STATEMENT OF FACTS**

On November 21, 2015, Ashton David Allen and Alivea Deon Allen were born to Noell and Crystal Allen. (Ex. A, Allen Aff., ¶ 6). The children were conceived with the assistance of artificial insemination and a third-party sperm donor. (Ex. A, Allen Aff., ¶ 5). Sadly, the twins died on the same day they were born. (Ex. A, Allen Aff., ¶ 6). On November 22, 2015, hospital personnel informed the grieving couple that Noell, an administrative law judge with the Indiana Civil Rights Commission, would not be listed on the birth certificate as a parent to the twins.<sup>1</sup> (Ex. A, Allen Aff., ¶ 7). Because the twins are dead, Noell cannot adopt the children. While Noell is not listed on the birth certificate, she is listed on the death certificate. (Ex. A, Allen Aff., ¶ 9, Attach. 1). "My children were taken from me twice - once when they passed and the second time when the State of Indiana said I could not be recognized as mother to my babies," said Noell. (Ex. A, Allen Aff., ¶ 11). "I will continue to feel that pain every day until I am recognized on their birth certificates." *Id.*

On October 21, 2015, L.J.P-S was born to Jackie and Lisa Phillips-Stackman. (Ex. B, Phillips-Stackman Aff., ¶ 5). Due to health problems, Jackie had to undergo a hysterectomy so she had her eggs frozen. (Ex. B, Phillips-Stackman Aff., ¶ 4). With the assistance of in vitro fertilization,

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<sup>1</sup> The hospital gathers the information using the State's form, *see*, Ex. C, and then forwards it to the Marion County Health Department which then forwards it onto the Indiana State Department of Health. Ex. D, outline of procedure provided by the Marion County Health Department.

Jackie's egg was fertilized by the sperm of a third party sperm donor and then placed in Lisa. (Ex. B, Phillips-Stackman Aff., ¶ 5). Even though Jackie is biologically related to L.J.P-S and was married to Lisa at the time she gave birth to L.J.P-S, defendants refused to name Jackie on the birth certificate as a parent to L.J.P-S.

L.J.P-S was born with a genetic defect and hydrocephaly. (Ex. B, Phillips-Stackman Aff., ¶ 7). She was hospitalized for nearly a month after her birth due to her condition. *Id.* She is being seen and followed by various specialists who at this time do not yet know how seriously L.J.P-S will be affected by the genetic defect. *Id.* Currently, Lisa is a stay at home mom, caring for L.J.P-S full-time. Jackie is a detective with the Violent Crimes Unit of the Indianapolis Metropolitan Police Department. (Ex. B, Phillips-Stackman Aff., ¶ 3). L.J.P-S is carried on Jackie's insurance. (Ex. B, Phillips-Stackman Aff., ¶12). Because Jackie is not legally recognized as a parent to L.J.P-S on the child's birth certificate, if Jackie dies while on active duty or is killed in the line of duty, then L.J.P-S would not receive the monthly benefit paid through the pension fund to children of police officers. *See*, <http://www.in.gov/inprs/77fundmbrhandbooksurvivorbenefits.htm> (Last visited Dec. 10, 2015). Not only would L.J.P-S not receive the monthly benefit but she would also not receive college tuition and fee assistance if Jackie were to be killed in the line of duty. I.C. 21-14-6 *et seq.* If Lisa were to die, then her relationship with Jackie would terminate and as Jackie's relationship with L.J.P-S is that of stepparent/stepchild, Jackie is concerned as to whether the

expensive medical care required by L.J.P-S would continue to paid by her health insurance. (Ex. B, Phillips-Stackman Aff., ¶12).

**ARGUMENT**

When a child, conceived with the aid of a third party sperm donor, is born, the defendants list the male husband of the birth mother on the birth certificate as the parent of the baby, even though the father is not biologically related to the child. The defendants presume parenthood to the male spouse, even though the mother, the doctor, the hospital and others know that the husband is not biologically related to the child. See, Ex. C, Birth Certificate Work Sheet, p. 7 (expressly inquiring if the child is born with the assistance of artificial means). The defendants are refusing to extend this same presumption of parenthood to the same-sex spouses of the birth mothers.

Defendants rely on I.C. §§ 31-14-7-1(1)<sup>2</sup>, 31-9-2-15<sup>3</sup>, 31-9-2-16<sup>4</sup>

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<sup>2</sup> Sec. 1. A man is presumed to be a child's biological father if:  
    (1) the:  
        (A) man and the child's biological mother are or have been married to each other; and  
        (B) child is born during the marriage or not later than three hundred (300) days after the marriage is terminated by death, annulment, or dissolution

<sup>3</sup> "Child born in wedlock", for purposes of IC 31-19-9, means a child born to:  
    (1) a woman; and  
    (2) a man who is presumed to be the child's father under IC 31-14-7- 1(1) or IC 31-14-7-1(2) unless the presumption is rebutted.

<sup>4</sup> "Child born out of wedlock", for purposes of IC 31-19-3, IC 31-19-4-4, and IC 31-19-9, means a child who is born to:  
    (1) a woman; and  
    (2) a man who is not presumed to be the child's father

(hereinafter "Parenthood Statutes") which apply the presumption of parenthood to the husband of a birth mother who has conceived with the aid of sperm from a third party sperm donor and which define children born in- and out-of-wedlock.

The Defendants' refusal to apply the same presumption of parenthood to Noell and Jackie as would apply to the husband of a mother who conceives by artificial insemination violates the Equal Protection and Due Process clauses of the U.S. Constitution. Because of the dire circumstances of the Plaintiffs in this matter, they cannot wait for final judgment in this case. Therefore, they ask this Court to grant their preliminary injunction prohibiting Defendants from refusing to apply the presumption of parenthood to Noell and Jackie in the same manner as is applied to male spouses of birth mothers. By listing them on the birth certificates as parents, it would also mean the children are considered to be born in wedlock.

**I PLAINTIFFS SATISFY THE REQUIREMENTS FOR A PRELIMINARY INJUNCTION**

A preliminary injunction may be granted upon a showing that the moving party (1) has "some likelihood of succeeding on the merits"; (2) has "no adequate remedy at law"; and (3) "will suffer irreparable harm if preliminary relief is denied." *Abbott Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 11 (7th Cir. 1992) (citations omitted). As regards the first element, "It is enough that the plaintiff's chances are better than negligible." *Brunswick Corp. v. Jones*, 784

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under IC 31-14-7-1(1) or IC 31-14-7-1(2).

F.2d 271, 275 (7th Cir. 1986) (citations omitted). If the moving party meets these elements, the court then considers "the irreparable harm the non-moving party will suffer if preliminary relief is denied; and . . . the public interest, meaning the consequences of granting or denying the injunction to non-parties." *Abbot Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 11-12 (7th Cir. 1992).

In considering if the moving party has met their burden, the Seventh Circuit uses a "sliding scale approach . . . the more likely it is the plaintiff will succeed on the merits, the less the balance of irreparable harms need weigh towards its side; the less likely it is the plaintiff will succeed, the more the balance need weigh towards its side." *Kraft Foods Grp. Brands LLC v. Cracker Barrel Old Country Store, Inc.*, 735 F.3d 735, 740 (7th Cir. 2013)(internal quotations omitted). The most important factor to consider is the irreparable harm the moving parties will suffer without such injunctive relief. *Reinders Bros., Inc. v. Rain Bird E. Sales Corp.*, 627 F.2d 44, 52-53 (7th Cir. 1980).

**A. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS**

Plaintiffs are likely to succeed on the merits of their claim as Defendants' refusal to apply the presumption of parenthood to Noell and Jackie violates the Equal Protection and Due Process Clauses of the U.S. Constitution. Other courts have recently held in light of the fact that same-sex marriage is now legal nationwide, similar laws regarding parenthood must apply equally to same-sex spouses. *See, e.g., Roe v. Patton*, 2:15-cv-00253-DB, Dkt. No. 18 C.D. Utah October 20, 2015 (state enjoined to include same-sex spouses of birth

mothers as parents on birth certificates)

**1. DEFENDANTS' APPLICATION OF THE PARENTHOOD STATUTES DENIES PLAINTIFFS EQUAL PROTECTION**

**a. Standard of Review**

The Fourteenth Amendment to the United States Constitution provides that a state shall not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, §1. Because the plain language of Indiana's presumption of parenthood statute is a gender-exclusive classification which affords a right and benefit that is available only to males but not to females, this Court is required to apply an elevated level of scrutiny known as intermediate scrutiny. *Hayden v. Greensburg Cmty. Sch. Corp.*, 743 F.3d 569, 577 (7th Cir. 2014) ("Gender is a quasi-suspect class that triggers intermediate scrutiny in the equal protection context"); *see also Morales-Santana v. Lynch*, 792 F.3d 256, 263-64 (2d Cir. 2015) ("We apply intermediate, "heightened" scrutiny to laws that discriminate on the basis of gender"). Additionally, the Seventh, Second and Ninth Circuits have applied intermediate scrutiny to a statute, which on its face denies equal protection on the basis of sexual orientation. *Baskin*, 766 F.3d at 671; *Windsor v. United States*, 699 F.3d 169, 181-82 (2d Cir. 2012); *SmithKline Beecham Corp. v. Abbott Labs.*, 740 F.3d 471, 481 (9th Cir. 2014). Further, heightened scrutiny is applied where, as here, a child is cast as illegitimate by a governmental actor. *See, Matthews v. Lucas*, 427 U.S. 495, 505 (1976) ("visiting condemnation upon the child to express society's disapproval of the parents' liaisons 'is illogical and

unjust” and triggers heightened scrutiny); *Pickett v. Brown*, 462 U.S. 1, 7-8 (1983) (“we have subjected statutory classifications based on illegitimacy to a heightened level of scrutiny”).

Under the heightened standard of review, a challenged statute can survive intermediate scrutiny only if the Defendants can show that it “serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives.” *Baskin*, 766 F.3d at 656 (citing *United States v. Virginia*, *supra*, 518 U.S. 515, 524 (1996), quoting *Mississippi University for Women v. Hogan*, 458 U.S. 718, 724 (1982)). These justifications must be genuine, not hypothesized or invented *post hoc* in response to litigation, *U.S. v. Virginia*, 518 U.S. 515, 533 (1996), and they must be “exceedingly persuasive.” *Varner v. Illinois State Univ.*, 226 F.3d 927, 934 (7th Cir. 2000) (quoting *U.S. v. Virginia*, 518 U.S. at 531).

In the present case, the parenthood Statues fail under an intermediate scrutiny because 1) the discrimination imposed by the statutes do not serve an important government purpose and 2) the discrimination is not substantially related to the achievement of any important governmental objectives.

**b. The Discriminatory Application Of The Challenged Statutes Does Not Serve Any Important Governmental Purpose**

The State's long-articulated interest is in doing what is in the best interests of the child and given that the Indiana legislature has stated the purpose of Title 31 is to protect, promote, and preserve Indiana families, there is no important governmental objective in denying the presumption of

parenthood to the female spouse of a birth mother. Title 31 expressly states its purpose is to:

- (1) recognize the importance of family and children in our society;
- (2) recognize the responsibility of the state to enhance the viability of children and family in our society;
- (3) acknowledge the responsibility each person owes to the other;
- (4) strengthen family life by assisting parents to fulfill their parental obligations . . .

I.C. § 31-10-2-1(1)-(4). *See also, In re K.S.P.*, 804 N.E.2d at 1257 (court upheld adoption of child by same-sex partner, citing Indiana's policy to "recognize the importance of family and children in our society" and "strengthen family life by assisting parents to fulfill their parental obligations").

It has, therefore, been settled law for the last two decades that a child born through artificial insemination to a married couple who had knowledge and consented to the process is a child born to that marriage. *Levin v. Levin*, 645 N.E.2d 601, 605 (Ind. 1994); *Engelking v. Engelking*, 982 N.E.2d 326, 328 (Ind. Ct. App. 2013) (where husband knew wife was artificially inseminated both presumed to be legal parents with obligation to support particularly as "Child" under the Dissolution Act is defined "as 'a child or children of both parties to the marriage and includes children born out of wedlock to the parties as well as children born or adopted during the marriage of the parties'"). This makes good sense because it is a crime to disclose the identity of a sperm donor if the donor chooses to be unidentified, I.C. 16-41-14-15; therefore, if

the donor is anonymous and the presumption did not apply to the birth mother's spouse, the child would be unable to identify a second parent. Furthermore, without the presumption for the non-birth spouse, if the birth mother were to die, the child would be left an orphan. This inherently goes against Indiana's public policy of recognizing the importance of family, enhancing the viability of children, and assisting parents in their parental obligations. I.C. § 31-10-2-1.

However, despite this public policy and the settled law that a child born by artificial insemination is born of the marriage, if the birth mother is married to a woman at the time the child is born, Defendants refuse to apply the same presumption that the same-sex spouse is the parent of the newborn. Instead, as the Plaintiffs learned, even though the married same-sex couples jointly decided to have a child together and even though the same-sex spouse was married to the birth mother at the time the child was born, the State of Indiana requires the same-sex spouse to adopt her child before the same-sex spouse will have any recognized legal parental rights or responsibilities. In essence this creates a contradiction because while at the time of birth, the female spouse to a birth mother is denied the rights and responsibilities of a parent, in the event of a divorce, this same spouse could be awarded custody and/or be ordered to pay child support in the event of a divorce. *See Levin v. Levin*, 645 N.E.2d 601 (Ind. 1994); *Engelking v. Engelking*, 982 N.E.2d 326 (Ind. Ct. App. 2013). Further, the Marion County Health Department also sends the mothers of children born to same sex marriages a notice that tells them they

need to either have been married to a man or have a court order before the child is considered to be born in wedlock. (Ex. B, Phillips-Stackman Aff., \_\_\_, ¶\_\_\_). This again contradicts the court's holding in *Levin*.

In addition to promoting and protecting families, Indiana law recognizes that “the guiding principle of statutes governing the parent-child relationship is the best interests of the child.” *In re K.S.P.*, 804 N.E.2d at 1257. Striving to do what is in the best interests of the child has led Indiana courts to conclude that the adoption of children by two persons of the same-sex “derives from the state’s interest in protecting and promoting the welfare of children by expediting their entry into a suitable, stable family unit.” *Id.* Furthermore, “To deny legal protection of their relationship, as a matter of law, is inconsistent with the children’s best interests and therefore with the public policy of this state, as expressed in our statutes affecting children. *Id.* 1259-60 (citation omitted); *See also, In re A.C.*, 1 N.E.3d at 692 (where child was artificially conceived while same-sex couple lived in committed relationship, “partner who did not give birth to child has standing to seek visitation with the child”). Thus, Indiana's interest that has long been recognized by the courts and expressly articulated by the legislature is always to do what is in the best interests of the child and to preserve and promote families.

Denial of the presumption of parenthood to Noell and Jackie does not serve the best interests of their Children nor does it serve to promote, protect, and preserve the Plaintiffs' families. On this basis, as there is no substantial governmental interest in treating Noell and Jackie differently than they would

be treated if they were males, or the children differently if they were born to opposite-sex rather than same-sex parents, the statutes violate the Equal Protection clause.

**2. DEFENDANTS' APPLICATION OF THE PARENTHOOD STATUTES VIOLATES SUBSTANTIVE DUE PROCESS**

The Fourteenth Amendment to the United States Constitution precludes any state from "depriving any person of life, liberty or property, without the due process of law." U.S. Const. amend. XIV, § 1. When a fundamental right is burdened, the court must apply strict scrutiny. *Zablocki v. Redhail*, 434 U.S. 374, 388 (1978). Under strict scrutiny, "when a statutory classification significantly interferes with the exercise of a fundamental right, it cannot be upheld unless it is supported by sufficiently important state interests and is closely tailored to effectuate only those interests." *Id.* Because the Parenthood Statutes interfere with a fundamental right, strict scrutiny applies.

**a. Defendants' Application Of The Presumption Of Parenthood Statutes Implicates Fundamental Rights**

Fundamental rights, although generally limited, have long been deemed to include "matters relating to marriage, family, procreation, and the right to bodily integrity," *Albright v. Oliver*, 510 U.S. 266, 272 (1994), and what has been described as "perhaps the oldest of the fundamental liberty interests recognized," a parents' liberty interest in the "care, custody, and control of their children." *Troxel v. Granville*, 530 U.S. at 65. *See also, Stanley v. Illinois*, 405 U.S. 645 (1972) (unwed father who acted as parent to his children and lived

with mother for many years holds liberty interest in parental control); *Moore v. City of East Cleveland*, 431 U.S. 494, 499 (1977) (“[F]reedom of personal choices in matters of marriage and family life is one of the liberties protected by the Due Process Clause of the Fourteenth Amendment”; *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) (recognizing constitutional protection of personal decisions regarding marriage, procreation, contraception, family relationships, child rearing, and education); *Santosky v. Kramer*, 455 U.S. at 753 (there is “a fundamental liberty interest of natural parents in the care, custody, and management of their child.”).

**b. The Parenthood Statutes Are Not Narrowly Tailored To Serve A Compelling State Interest**

Under a strict scrutiny analysis, any interference with the exercise of fundamental rights must be supported by a compelling state interest and the statutes must be narrowly tailored to effectuate that interest. As discussed *supra*, the State’s interest in discriminating against Plaintiffs is not compelling and is not narrowly tailored to serve any state interest.

**B. PLAINTIFFS HAVE NO ADEQUATE REMEDY AT LAW AND WILL SUFFER IRREPARABLE HARM IF INJUNCTIVE RELIEF IS DENIED**

The deprivation of the Plaintiffs' equal protection and due process rights in and of itself is an irreparable injury. *See e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976) (preliminary injunction granted as "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."); *Preston v. Thompson*, 589 F.2d 300, 303 (7th Cir. 1978)

("The existence of a continuing constitutional violation constitutes proof of an irreparable harm"); *Heckler v. Mathews*, 465 U.S. 728, 739-40 (1984); "[D]iscrimination itself, by perpetuating archaic and stereotypic notions or by stigmatizing members of the disfavored group . . . can cause serious non-economic injuries to those persons who are personally denied equal treatment solely because of their membership in a disfavored group"); *accord Windsor*, 133 S. Ct. at 2694 (noting that "[t]he differentiation demeans the couple"); *Young v. Ballis*, 762 F.Supp. 823, 827 (S.D. Ind. 1990) ("Threat of continued violation of one's constitutional rights is proof of irreparable harm").

All the plaintiffs are suffering immediate, irreparable harm for which there is no adequate remedy at law. The law in the present case has effectively declared that Jackie and Noell are strangers to their own children. There is no amount of money that can compensate them for the defendants' denial of them as the parents of their children. There is no amount of money that can compensate them for the defendants' classification of these children as illegitimate.

The Phillips-Stackmans are living in a legal limbo every day. L.J.P-S is in the unstable position of only having parent. Every time a new medical situation arises, Jackie has to worry about what might happen if Lisa is unavailable to tell the new provider that Jackie is authorized to make health care decisions. If anything should happen to Lisa, then L.J.P-S may ultimately not be covered by Jackie's health insurance and the necessary medical treatment needed by L.J.P-S would have to somehow be paid. Jackie does not have that kind of

money. Further, as discussed *supra*, for children of police officers who are killed in the line of duty or while on active duty, there are important benefits. If the child of an officer killed in the line of duty is also disabled, the benefit is increased. <http://www.in.gov/inprs/77fundmbrhandbooksurvivorbenefits.htm> (Last visited Dec. 9, 2015). Currently, Jackie must live every day with the worry that if something happens to her while working for the Violent Crimes Unit (the name of the unit describes the kind of danger she faces daily), her child who may need special care will not even receive the standard benefits given to the children of fellow male officers.

The Allens are placed in an untenable position. The grief of losing a child is inconsolable but for Noell and Crystal, every day the pain begins anew because it is another day the defendants refuse to legally recognize Noell as a mother to her dead children. The connection with her children on their birth certificate is one of the few connections available to Noell following the passing of the twins. The only way that the pain can be stopped is for Noell to be named on the birth certificate. The Allens have buried their children but this does not mean that the daily denial of Noell's position as parent and as a family in any way lessens the pain caused by the defendants' actions.

Being defined as a child born out-of-wedlock and denied the stability of two legal parents simply because you have two mothers is demeaning to L.J.P-S. See, *U.S. v. Windsor*, 133 S.Ct. 2675, 2694 (2013). Every day that the State refuses to list Jackie as a parent on the birth certificate of L.J.P-S is another day that she is denied her identity.

Birth certificates are a legal document that set forth a person's name, date of birth, sex and the name of his/her parents. Identification on the child's birth certificate is the basic currency by which parents can freely exercise these protected parental rights and responsibilities. It is also the only common governmentally conferred, uniformly recognized, readily accepted record that establishes identity, parentage, and citizenship, and it is required in an array of legal contexts. Obtaining a birth certificate that accurately identifies both parents of a child born using anonymous donor insemination or adopted by those parents is vitally important for multiple purposes. The birth certificate can be critical to registering the child in school; determining the parents' (and child's) right to make medical decisions at critical moments; obtaining a social security card for the child; obtaining social security survivor benefits for the child in the event of a parent's death; establishing a legal parent child relationship for inheritance purposes in the event of a parent's death; claiming the child as a dependent on the parent's insurance plan; claiming the child as a dependent for purposes of federal income taxes; and obtaining a passport for the child and traveling internationally. The inability to obtain an accurate birth certificate saddles the child with the life-long disability of a government identity document that does not reflect the child's parentage and burdens the ability of the child's parents to exercise their parental rights and responsibilities.

*Henry v. Himes*, 14 F.Supp. 3d 1036, 1050 (S.D. Oh. 2014), *rev'd sub nom.*  
*Deboer v. Snyder*, 772 F.3d 388 (6th Cir. 2014), *rev'd sub nom. Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

## **II GRANTING THE INJUNCTIVE RELIEF WILL NOT HARM THE DEFENDANTS AND PUBLIC INTEREST WEIGHS IN FAVOR OF GRANTING SUCH RELIEF**

Defendants will not suffer any harm if they are required to apply the parenthood presumption to these plaintiffs. *See, Joelner v. Vill. of Washington Park*, 378 F.3d 613, 620 (7th Cir. 2004) ("There can be no irreparable harm to a municipality when it is prevented from enforcing an unconstitutional statute").

Furthermore, the requested relief would only require the Defendants apply the same presumption of parenthood already applied to male spouses of birth mothers to two female spouses of birth mothers. Compared to the severe irreparable harms the Plaintiffs will suffer without such relief, Defendants' minor administrative burden in amending the birth certificates is negligible and self-inflicted.

Finally, public interest weighs heavily in favor of granting the requested injunctive relief. As discussed *supra*, if Jackie is named as the parent on the birth certificate of L.J.P-S then if anything happens to Lisa, there will be health insurance to cover the medical expenses of the baby, otherwise, the burden will fall upon taxpayers. The public interest in protecting and preserving Hoosier families would also be served because legal recognition would be given to the families. The public interest in ensuring that the best interests of the child are protected would also be served, as L.J.P-S would have the love and resources of two parents legally obligated to care for her. And certainly the public interest in encouraging couples to marry and commit to each other would be promoted by recognizing that the twins and L.J.P-S were indeed children born to a marriage and born in wedlock. Furthermore, upholding constitutional rights serves the public interest. *See, Tanford v. Brand*, 883 F.Supp. 1231, 1237 (S.D. Ind. 1995) ("governmental compliance with the Constitution always serves the common good.").

**CONCLUSION**

WHEREFORE, Plaintiffs respectfully request that this Court enjoin Defendants as follows:

- a) Order defendants to Issue birth certificates for Ashton David Allen and Alivea Deon Allen, which include Noell Allen as parent;
- b) Order defendants to Issue a birth certificate for L.J.P-S to include Jackie Phillips-Stackman as parent;
- c) Order defendants to consider Ashton David Allen, Alivea Deon Allen, and L.J.P-S to be children born in wedlock; and,
- d) Award all further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on December 14, 2015, a copy of the foregoing *Motion for Preliminary Injunction* was filed electronically and a copy of the foregoing has been served via first class mail, postage prepaid upon:

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/s/ Karen Celestino-Horseman  
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INDIANA STATE - CERTIFICATE OF FETAL DEATH

FOR CREMATION PURPOSES ONLY

State Form : 11410(R5/01-08)

Local No: 257047

THE RECORDS IN THIS SERIES ARE CONFIDENTIAL PER IC 16-37-1-10

1 NAME OF FETUS (optional if the description of the parents) ASHTON DAVID ALLEN		2 TIME OF DELIVERY 15:22 PM (24hr)	3 SEX (M/F/Unk) MALE	4 DATE OF DELIVERY (Mo/Day/Yr) 11/21/2015
5a. CITY/TOWN/OR LOCATION OF DELIVERY INDIANAPOLIS	7. PLACE WHERE DELIVERY OCCURRED (Check One) <input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Free-standing birthing center Home Delivery, Planned to deliver at home? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Clinic/Doctor's Office <input type="checkbox"/> Other (Specify)		9 FACILITY NAME (If not institution, give street and number) COMMUNITY HOSPITAL NORTH	
5b. ZIP CODE OF DELIVERY	8 COUNTY OF DELIVERY MARION		9 FACILITY I.D. (NPI)	
10a. MOTHER'S CURRENT LEGAL NAME (First, Middle, Last, Suffix) CRYSTAL D. ALLEN		10b. DATE OF BIRTH (Mo/Day/Yr) 09/18/1980		
10c. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last, Suffix) Crystal D. Allen		10d. BIRTH PLACE (State, Territory, or Foreign Country) FLORIDA		
11a. RESIDENCE OF MOTHER - STATE INDIANA	11b. COUNTY HANCOCK	11c. CITY, TOWN, OR LOCATION MCCORDSVILLE		
11d. STREET AND NUMBER 6419 WEST CLEARVIEW DRIVE	11e. APT#	11f. ZIP CODE 46055	11g. INSIDE CITY LIMITS? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
12a. FATHER'S CURRENT LEGAL NAME NOELL ALLEN		12b. DATE OF BIRTH (Mo/Day/Yr) 12/21/1980	12c. BIRTH PLACE (State, Territory or Foreign Country) PENNSYLVANIA	
13 METHOD OF DISPOSITION <input type="checkbox"/> Donation <input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Hospital Disposition <input type="checkbox"/> Removed From State <input type="checkbox"/> Other (Specify)		14 ATTENDENT'S NAME AND NPI SARAH KERLIN		14e. TITLE <input checked="" type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> CNM/OM <input type="checkbox"/> OTHER MIDWIFE <input type="checkbox"/> OTHER (Specify)
15 NAME OF FUNERAL HOME FEENEY-HORNAX KEYSTONE MORTUARIES		15a. PLACE OF DISPOSITION THE COLUMBUS CREMATORY, COLUMBUS, INDIANA		
15d. SIGNATURE OF INDIANA FUNERAL SERVICE LICENSEE WILLIAM C. MINGES by electronic signature		15c. LICENSE NUMBER (OF LICENSEE) FD20200015		
16 SIGNATURE OF LOCAL HEALTH OFFICER VIRGINIA A. GAINES via electronic signature		15b. FILE DATE 12/04/2015		
17. CAUSE/CONDITIONS CONTRIBUTING TO FETAL DEATH				
17a. INITIATING CAUSE/CONDITION Among the choices below, please select the one that most likely began the sequence of events resulting in the death of the fetus, and check one box for the Manner of Death in item 17c. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes <input checked="" type="checkbox"/> Rupture of membranes prior to onset of labor <input type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Conditions/Disorders (Specify): <input type="checkbox"/> Unknown		17b. OTHER SIGNIFICANT CAUSES OR CONDITIONS Select Or Specify All other Conditions Contributing To Death from 17a. Maternal Condition/Disease (Specify): Complications of Placenta, Cord, or Membranes <input type="checkbox"/> Rupture of membranes prior to onset of labor <input checked="" type="checkbox"/> Chorioamnionitis <input type="checkbox"/> Abruptio Placenta <input type="checkbox"/> Placental Insufficiency <input type="checkbox"/> Prolapsed Cord <input type="checkbox"/> Other (Specify): Other Obstetrical or Pregnancy Complications (Specify): Fetal Anomaly (Specify): Fetal Injury (Specify): Fetal Infection (Specify): Other Fetal Conditions/Disorders (Specify): <input type="checkbox"/> Unknown		
17c. MANNER OF DEATH <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accidental <input type="checkbox"/> Homicide check one box <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined	17d. DATE OF INJURY (Mo/Day/Yr)	17e. TIME OF INJURY	17f. DESCRIBE HOW INJURY OCCURED	
17g. PLACE OF INJURY - at home, farm, street, factory, etc. Specify		17h. LOCATION (Street & Number or Rural Route Number, City or Town, State)		
17i. DATE PRONOUNCED DEAD (Mo/Day/Yr) 11/21/2015	17j. MOTOR VEHICLE ACCIDENT? <input type="checkbox"/> Yes <input type="checkbox"/> No		17k. IF YES, SPECIFY DRIVER, PASSENGER, PEDESTRIAN, ETC.	
17l. WEIGHT OF FETUS (grams preferred, specify unit) 251 <input checked="" type="checkbox"/> grams <input type="checkbox"/> lb/oz	17m. ESTIMATED TIME OF FETAL DEATH <input type="checkbox"/> Dead at time of first assessment, no labor ongoing <input type="checkbox"/> Dead at time of first assessment, labor ongoing <input type="checkbox"/> Died during labor, after assessment <input checked="" type="checkbox"/> Unknown time of fetal death		17n. WAS AN AUTOPSY PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned	
17o. OBSTETRIC ESTIMATE OF GESTATION AT DELIVERY 19 (completed weeks)	17p. WERE AUTOPSY OR HISTOLOGICAL PLACENTAL EXAMINATION RESULTS USED IN DETERMINING THE CAUSE OF FETAL DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No		17q. WAS A HISTOLOGICAL PLACENTAL EXAMINATION PERFORMED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Planned	
18 SIGNATURE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN by electronic signature		18a. LICENSE NUMBER 01059500A		
18b. NAME, ADDRESS AND ZIP CODE OF PERSON CERTIFYING CAUSE OF DEATH SARAH F. KERLIN 7150 CLEARVISTA PARKWAY INDIANAPOLIS, INDIANA 46256		18c. DATE CERTIFIED (Mo/Day/Yr)		

FOR CREMATION PURPOSES ONLY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

NOELL and CRYSTAL ALLEN, *et al*, )  
 )  
 Plaintiffs, )  
 )  
 -vs- )  
 )  
 DR. JEROME M. ADAMS, in his official capacity as )  
 Indiana State Health Commissioner, *et al*, )  
 )  
 Defendants. )

**AFFIDAVIT OF  
JACQUELINE & LISA PHILLIPS-STACKMAN**

Jacqueline "Jackie" Phillips-Stackman and Lisa Phillips-Stackman, being of lawful age and being duly sworn state as follows:

1. We are over the age of eighteen, competent to testify in these proceedings and have personal knowledge of the facts and matters contained within this affidavit.
2. We were lawfully married on October 4th, 2015 in Marion County, Indiana and have been together since 2014.
3. Jackie is a Detective with the Indianapolis Metropolitan Police Department and Lisa is a hair stylist. Lisa's hair salon is in their home so she is also a stay-at-home mom.
4. Jackie has always had dreams of being a mother. Due to medical issues Jackie had to have an emergency hysterectomy in 2009. In 2012 she harvested eggs and with the assistance of a physician and a known donor who

Affidavit of Jackie & Lisa Phillips-Stackman

signed away his paternal rights, created two viable embryos. Until Jackie met Lisa she had planned to hire a gestational carrier to birth her biological child.

5. Jackie met Lisa at a fundraiser event in February of 2014 and about a year into their relationship the couple decided to have a child which Lisa would carry, using Jackie's egg. October 4th, 2015 Jackie and Lisa were married and on October 21st, 2015 their child was born.

6. The process to just harvest the eggs cost upwards of \$20,000. The medical process for Lisa to conceive L.J.P-S cost the couple an additional \$15,000. The process in its entirety was not easy for either Jackie or Lisa and was very expensive. They pooled together all financial resources to build an addition onto to their home and pay the costs associated with conception. Their baby was born on October 21st, 2015.

7. While in utero it was discovered that the baby was suffering from hydrocephaly and had a rare chromosome deletion known as 6q terminal deletion syndrome. Within 24 hours of life, L.J.P-S had to have a shunt placed to relieve the pressure building on her brain. She was hospitalized for nearly a month following her birth. While L.J.P-Sis doing well it is unknown what developmental delays if any L.J.P-Swill have to battle in the future. Medical costs for the baby continue to grow.

8. While at the hospital, the birth certificate representative completed the Electronic Birth Certificate Worksheet and listed Lisa as the parent. The

hospital representative very apologetically explained that her hands were tied and that she could not put Jackie on the birth certificate without a court order.

9. Jackie will not be listed on the birth certificate. A true and accurate copy of the birth confirmation letter is attached hereto as Attach. 1.

10. Jackie and Lisa love each other immensely and wanted to bring a child into the world together so they could complete their family. "While our family may not have been made 'traditionally', the advancements of science did in fact allow us as two women to bring life into this world together. [L.J.P-S] was in fact born into an awesome village of love and we are so grateful to be her mothers. We simply want to protect our daughter in every way possible and part of doing that is by ensuring that we are both named as her legal mothers."

11. The couple knew they would be married when the baby was born, and had hoped that both of them would be able to be listed as parents on the birth certificate. Sadly, Jackie was not included on the birth certificate but Jackie and Lisa are determined to fight for their family and see that the state of Indiana makes this right.

12. Their daughter is currently covered by Jackie's health insurance. Typically, the insurer does not continue to cover stepchildren if the insured's relationship with the mother of the children terminates due to death or divorce. This means that if Lisa was to die unexpectedly, it is uncertain whether her insurer would continue to insure her "stepchild", particularly if the child is receiving expensive medical care.

Affidavit of Jackie & Lisa Phillips-Stackman

12. "Fighting to be legally recognized as a couple was frustrating enough, fighting to be recognized as a mother to my biological child is infuriating and senseless," said Jackie. The reason why they are fighting is for the future of their child and if something happens to Lisa, they want to make certain that their child will go with Jackie and no one else.

13. "Lisa and I both went through so much physically, emotionally, and financially to have our baby," said Jackie, who added, "The day we were told legally I was merely a stepparent to my biological child and that we would have to go through a stepparent adoption process was absolutely heart wrenching and its just plain wrong."

14. Jackie and Lisa received a birth confirmation letter which simply listed Lisa as the sole parent to their baby. See, Attach. 1. Accompanying the birth confirmation letter was also a notice was a letter that allowed Lisa to correct information except she could not add the name of the father to the birth certificate. A true and accurate copy of the letter is attached hereto as Attach. 2. Instead, the letter referenced a notice which advised Lisa that to add a second parent onto the birth certificate would require a court order among other things for children born out-of-wedlock. A true and accurate copy of the notice is attached hereto as Attach. 3. Lisa, who was married to Jackie at the time the child was born is upset that government officials consider her child to be a child born out-of-wedlock.

15. "We followed all the rules Indiana said we must follow to conceive a child as a married couple," said Lisa. "We were legally married and I delivered a child who is biologically related to Jackie yet the state refuses to name Jackie as a legal parent on our child's birth certificate, a right that is extended to heterosexual married couples. Not only are we suffering and having to fight for legal rights to our daughter but our daughter is having to suffer as well and this is unacceptable, " continued Lisa.

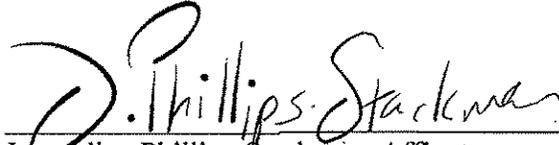
16. After birth Jackie and Lisa's child was in the neonatal intensive care unit for over 28 days. Prior to their child being born Lisa was admitted to the hospital due to preclampsia related health problems and had to undergo not only a c-section but an emergency hysterectomy as well. Lisa was in the hospital another two weeks after L.J.P-S was born. As Jackie observes:

Experiencing my wife and my daughter fighting for their lives at the same time is something I wouldn't wish on my worst enemy. Frightening doesn't even begin to describe the string of events I witnessed on October 21st, 2015. I don't know what I would have done if I would have lost both Lisa and [L.J.P-S]. Having no legal right to my daughter if something should have happened to my wife was absolutely horrifying. It is a fear I continue to live with every day. Every day I am also being denied legally recognized parental rights and relationship with my child. We are simply requesting the state of Indiana grant us the same rights to our family that are afforded to families headed by a man and a woman."

*(Continued on Next Page)*

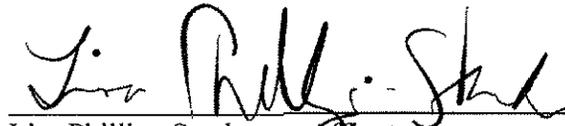
I declare under penalty of perjury that the foregoing is true and correct. Executed on

December 9, 2015.

  
\_\_\_\_\_  
Jacqueline Phillips-Stackman, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on

December 9, 2015.

  
\_\_\_\_\_  
Lisa Phillips-Stackman, Affiant



8111 Township Line Road  
Indianapolis, IN 46260  
stvincent.org/womens

Date 10/22/2015

TO WHOM IT MAY CONCERN:

**BIRTH CONFIRMATION LETTER**

This is to confirm that the following child was born at the ST. VINCENT WOMEN'S HOSPITAL in INDIANAPOLIS, Indiana.

You have given permission for a Social Security Number to be applied for through the Social Security Administration.

Infant's Gender: [REDACTED]

---

Infant's Name: [REDACTED]

---

Date of Birth: 10/21/2015

---

Time of Birth: 06:51 PM

---

Mother's Name: LISA MURRAY PHILLIPS-STACKMAN

---

Father's Name: \_\_\_\_\_

---

Signature: Spuchardson

---

Title: Birth Registrar

---

Date: 10-22-15

MARION COUNTY HEALTH DEPARTMENT  
VITAL RECORDS  
3838 NORTH RURAL ST  
INDIANAPOLIS, IN 46205



10/28/2015

LISA MURRAY PHILLIPS-STACKMAN

Dear Ms. PHILLIPS-STACKMAN

This is the birth information as reported by the hospital. If there are errors, print the correct information on the lines provided.

- Last names cannot be changed.
- Mother must sign the form.
- The father's name CANNOT be added on this form, please see pink insert.
- Corrections received more than 20 days after the date above require a \$15.00 correction fee. No correction fee is charged if it is received within 20 days.
- There is a \$15.00 fee for each certified copy of the birth.

**Do not return this form if all items are correct.**

CERTIFICATE NUMBER: [REDACTED]      DATE OF BIRTH: 10/21/2015      FILE DATE: 10/28/2015

CHILD'S NAME: [REDACTED]      CHILD'S GENDER: [REDACTED]

CORRECTION: \_\_\_\_\_

MOTHER'S NAME: LISA MURRAY PHILLIPS-STACKMAN      MAIDEN NAME: PHILLIPS

CORRECTION: \_\_\_\_\_      CORRECTION: \_\_\_\_\_

MOTHER'S STATE OF BIRTH: NEW YORK      MOTHER'S DATE OF BIRTH: [REDACTED]

CORRECTION: \_\_\_\_\_      CORRECTION: \_\_\_\_\_

MOTHER'S SIGNATURE: \_\_\_\_\_



**MARION COUNTY  
PUBLIC  
HEALTH  
DEPARTMENT**

**Prevent. Promote. Protect.**

**INDIANA LAW REQUIRES THAT A CHILD BORN OUT-OF-WEDLOCK BE RECORDED UNDER THE NAME OF THE MOTHER (IC 16-37-2-13).**

**THE FATHER'S NAME MAY BE ADDED TO THE RECORD IN ONE OF THREE WAYS:**

- 1) **THROUGH AN ORDER OF THE COURT.** *Contact the child support office and request an appointment to establish paternity. Call 317-327-4709 or 317-327-4010.*
- 2) **BY MARRIAGE TO THE NATURAL FATHER.** *Contact Vital Records at the Marion County Public Health Department and request an appointment for a legitimation. Call 317-221-2397.*
- 3) **BY VOLUNTARY PATERNITY.** *Established at the Marion County Public Health Department. Call 317-221-2397 for an appointment.*

Mother's Name _____ Mother's Medical Record # _____
--

## CERTIFICATE OF LIVE BIRTH WORKSHEET

The information you provide below will be used to create your child's birth certificate. The birth certificate is a document that will be used for legal purposes to prove your child's age, citizenship and parentage. This document will be used by your child throughout his/her life. State laws provide protection against the unauthorized release of identifying information from the birth certificates to ensure the confidentiality of the parents and their child.

It is very important that you provide complete and accurate information to all of the questions. In addition to information used for legal purposes, other information from the birth certificate is used by health and medical researchers to study and improve the health of mothers and newborn infants. Items such as parent's education, race, and smoking will be used for studies but will not appear on copies of the birth certificate issued to you or your child.

### TYPE OF BIRTH - PICK ONE:

- Born at Facility                     
  Born En-Route to Facility                     
  Born at Non Participating Facility  
 Born En-Route to Non Participating Facility                     
  Home Birth                     
  Foundling

**1. Facility name:\*** \_\_\_\_\_

(If not institution, give street and number)

**2. City, Town or Location of birth:** \_\_\_\_\_

**3. County of birth:** \_\_\_\_\_

### 4. Place of birth:

- Hospital     Freestanding birthing center ( freestanding birthing center is one that has no direct physical connection to a hospital)  
 Home birth                      Planned to deliver at home?     Yes                       No  
 Clinic/Doctor's Office     Other (specify, e.g., taxi cab, train, plane \_\_\_\_\_)

\*Facilities may wish to have pre-set responses (hard-copy and/or electronic) to questions 1-5 for births which occur at their institutions.

**5. Time of birth:** \_\_\_\_\_

- AM                       PM                       NOON                       MIDNIGHT

**6. Date of birth:** \_\_\_\_/\_\_\_\_/\_\_\_\_ M M D D Y Y Y Y

**7. Plurality** (Specify SINGLE, TWIN, TRIPLET, QUADRUPLET, QUINTUPLET, SEXTUPLET, SEPTUPLET, or OCTUPLET for 8 or more. (Include all live births and fetal losses resulting from this pregnancy.): \_\_\_\_\_

**8. If not single birth** (Order delivered in the pregnancy, specify 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, etc.) (Include all live births and fetal losses resulting from this pregnancy): \_\_\_\_\_

**9. If not single birth, specify number of infants in this delivery born alive:** \_\_\_\_\_



**19. Do you want a Social Security Number issued for your baby?**

- Yes (Please sign request below)  No (Continue)

I request that the Social Security Administration assign a Social Security number to the child named on this form and authorize the State to provide the Social Security Administration with the information from this form which is needed to assign a number. (Either parent, or the legal guardian, may sign.)

Signature of infant's mother or father \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ M M D D Y Y Y Y

**20. Will infant be placed for Adoption?**

- Yes  No

**21. MOTHER: What is the highest level of schooling that you will have completed at the time of delivery? (Check the box that best describes your education. If you are currently enrolled, check the box that indicates the previous grade or highest degree received).**

- |  |  |
|--|--|
| <input type="checkbox"/> 8th grade or less   | <input type="checkbox"/> 9th - 12th grade, no diploma        |
| <input type="checkbox"/> High school graduate or GED completed   | <input type="checkbox"/> Some college credit but no degree   |
| <input type="checkbox"/> Associate degree (e.g. AA, AS)  | <input type="checkbox"/> Bachelor's degree (e.g. BA, AB, BS) |
| <input type="checkbox"/> Master's degree (e.g. MA, MS, MEng, MEd, MSW, MBA)                            |  |
| <input type="checkbox"/> Doctorate (e.g. PhD, EdD) or Professional degree (e.g. MD, DDS, DVM, LLB, JD) |  |

**22. MOTHER: What is your usual occupation or industry in which you work? Please fill in below. For example your occupation is Teacher, CPA, Waitress, Clerk, etc., and the industry in which you work is Department Store, Law Firm, Hospital, Factory, etc.**

Usual Occupation: \_\_\_\_\_

Usual Industry: \_\_\_\_\_

- Unemployed  Unknown

**23. MOTHER: Are you Spanish/Hispanic/Latina? If not Spanish/Hispanic/Latina, check the "No" box. If Spanish/Hispanic/Latina, check the appropriate box.**

- No, not Spanish/Hispanic/Latina
- Yes, Mexican, Mexican American, Chicana
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latina (e.g. Spaniard, Salvadoran, Dominican, Columbian)  
(specify) \_\_\_\_\_

**24. MOTHER: What is your race? (Please check all that apply).**

- |  |  |                                     |
|--|--|-------------------------------------|
| <input type="checkbox"/> White   | <input type="checkbox"/> Black or African American |                                     |
| <input type="checkbox"/> American Indian or Alaska Native (name of enrolled or principal tribe(s)) _____ |  |                                     |
| <input type="checkbox"/> Asian Indian  | <input type="checkbox"/> Chinese                   | <input type="checkbox"/> Filipino   |
| <input type="checkbox"/> Japanese  | <input type="checkbox"/> Korean                    | <input type="checkbox"/> Vietnamese |
| <input type="checkbox"/> Other Asian (specify) _____   |  |                                     |
| <input type="checkbox"/> Native Hawaiian   | <input type="checkbox"/> Guamanian or Chamorro     | <input type="checkbox"/> Samoan     |
| <input type="checkbox"/> Other Pacific Islander (specify) _____  |  |                                     |
| <input type="checkbox"/> Other (specify) _____   |  |                                     |

**MOTHER: Additional Information To Be Filled In IF A PATERNITY AFFIDAVIT IS TO BE FILED FOR THIS BIRTH If Not Filing Paternity Affidavit skip to question 30.**

**25. What is Your Phone Number? Required** \_\_\_\_\_



**38. If not married, has a Paternity Affidavit been completed for this child?**

- Yes, a paternity affidavit has been completed  
If Yes Date Affidavit was signed: \_\_\_\_/\_\_\_\_/\_\_\_\_
- No, a paternity affidavit has not been completed  
**If No please go to question 53**

**39. FATHER'S CURRENT LEGAL NAME**

\_\_\_\_\_  
First Middle Last Suffix(Jr., III, etc.)

**40. FATHER: What is the father's date of birth? (Example: 03-04-1977)**

\_\_\_\_/\_\_\_\_/\_\_\_\_ M M D D Y Y Y Y AGE: \_\_\_\_\_

**41. FATHER: In what State, U.S. territory, or foreign country was he born? Please specify one of the following:**

State \_\_\_\_\_ County \_\_\_\_\_ City \_\_\_\_\_  
OR U.S. territory, i.e., Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Marianas  
\_\_\_\_\_ OR Foreign country \_\_\_\_\_

**FATHER: If the father was born in the U.S. please answer the next two questions as well.**

**In What County was he born?** \_\_\_\_\_

**In What City was he born?** \_\_\_\_\_

- UNKNOWN

**42. What is the father's Social Security Number? If you are not married, or if a paternity acknowledgment has not been completed, leave this item blank.**

\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_

**43. What is the highest level of schooling that the FATHER will have completed at the time of delivery? (Check the box that best describes his education. If he is currently enrolled, check the box that indicates the previous grade or highest degree received).**

- 8th grade or less
- High school graduate or GED completed
- Associate degree (e.g. AA, AS)
- Master's degree (e.g. MA, MS, MEng, MEd, MSW, MBA)
- Doctorate (e.g. PhD, EdD) or Professional degree (e.g. MD, DDS, DVM, LLB, JD)
- 9th - 12th grade, no diploma
- Some college credit but no degree
- Bachelor's degree (e.g. BA, AB, BS)

**44. What is the father's usual occupation or industry. Please fill in below. For example his occupation is Photographer, Farmer, Nurse, etc., and the industry in which he works is Factory, Skating Rink, Army, etc.**

**Usual Occupation:** \_\_\_\_\_

**Usual Industry:** \_\_\_\_\_

- Unemployed
- Unknown

**45. Is the father Spanish/Hispanic/Latino? If not Spanish/Hispanic/Latino, check the "No" box. If Spanish/Hispanic/Latino, check all that apply.**

- No, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican American, Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino (e.g. Spaniard, Salvadoran, Dominican, Columbian)  
(specify) \_\_\_\_\_

**46. What is the father's race? Please check one or more races to indicate what he considers himself to be.**

- White
- Black or African American
- American Indian or Alaska Native (name of enrolled or principal tribe)  
\_\_\_\_\_
- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian (specify) \_\_\_\_\_
- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other Pacific Islander (specify) \_\_\_\_\_
- Other (specify) \_\_\_\_\_

**FATHER Additional Information To Be Filled In If A PATERNITY AFFIDAVIT IS TO BE FILED FOR THIS BIRTH If Not Filing Paternity Affidavit skip to question 53**

**47. What is Your Phone Number? Information is required** \_\_\_\_\_

**48. What is Your Current Address Number, Street, City, State and Zip Information is required**  
\_\_\_\_\_

**49. What is the name of your Employer (Company name)? Information is optional**  
\_\_\_\_\_

**50. What is your Employer's address? Information is optional**  
\_\_\_\_\_

**51. What is the name of your Medical Insurance Company? Information is optional**  
\_\_\_\_\_

**52. FATHER What is your Medical Insurance Policy Number Information is optional**  
\_\_\_\_\_

**53. DID MOTHER RECEIVE PRENATAL CARE?**

- YES
- NO
- UNKNOWN

54. Date of first prenatal care visit (prenatal care begins when a Physician or other health professional first examines and/or counsels the pregnant woman as part of an ongoing program of care for the pregnancy) \_\_\_\_\_  
\_\_\_\_\_ M M D D Y Y Y Y

55. Date of last prenatal care visit (Enter the date of the last visit recorded in the mother's prenatal records)  
\_\_\_\_\_ M M D D Y Y Y Y

56. Source of pre-natal care?

- MD       DO       Clinic       Other, Specify: \_\_\_\_\_

57. Total number of prenatal care visits for this pregnancy (Count only those visits recorded in the record. If none enter "0"): \_\_\_\_\_

58. Date last normal menses began: \_\_\_\_\_ M M D D Y Y Y Y

59. Number of previous live births now living (Do not include this child. For multiple deliveries, do not include the 1st born in the set if completing this worksheet for that child): Enter number or 0 for none.  
\_\_\_\_\_

60. Number of previous live births now dead (Do not include this child. For multiple deliveries, do not include the 1st born in the set if completing this worksheet for that child):  
Enter number or 0 for none. \_\_\_\_\_

61. Date of last live birth \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ M M Y Y Y Y

62. Total number of other pregnancy outcomes (Include fetal losses of any gestational age-spontaneous losses, induced losses, and/or ectopic pregnancies. If this was a multiple delivery, include all fetal losses delivered before this infant in the pregnancy) .)  
Enter number or 0 for none.: \_\_\_\_\_

63. Date of last other pregnancy outcome (Date when last pregnancy which did not result in a live birth ended):  
\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ M M Y Y Y Y

64. Risk factors in this pregnancy (Check all that apply):

- None
- Diabetes - (Glucose intolerance requiring treatment)**
  - Prepregnancy - (Diagnosis prior to this pregnancy)
  - Gestational - (Diagnosis in this pregnancy)
- Hypertension - (Elevation of blood pressure above normal for age, gender, and physiological condition.)**
  - Prepregnancy - (Chronic) (Elevation of blood pressure above normal for age, gender, and physiological condition) (Diagnosed prior to the onset of this pregnancy)
  - Gestational - (PIH, preeclampsia,) (Elevation of blood pressure above normal for age, gender, and physiological condition) (Diagnosed during this pregnancy) May include proteinuria (protein in the urine) without seizures or coma and pathologic edema (generalized swelling, including swelling of the hands, legs and face)
  - Eclampsia (Pregnancy induced hypertension with proteinuria with generalized seizures or coma. May include pathologic edema)
- Previous preterm births – (History of pregnancy(ies) terminating in a live birth less than 37 completed weeks of gestation)
- Other previous poor pregnancy outcome (Includes perinatal death, small for gestational age/intrauterine growth restricted birth) (History of pregnancies continuing into the 20<sup>th</sup> week of gestation and resulting in any of the listed outcomes. Perinatal death includes fetal and neonatal deaths)
- Pregnancy resulted from infertility treatment – Any assisted reproduction technique used to initiate the pregnancy. Includes fertility-enhancing drugs(e.g. Clomid, Pergonal) artificial insemination, or intrauterine insemination and assisted reproduction technology (ART) procedures(e.g. IVF, GIFT and ZIFT)
  - Fertility enhancing drugs, artificial insemination, intrauterine insemination (Any fertility-enhancing drugs(e.g. Clomid, Pergonal) artificial insemination, or intrauterine insemination used to initiate the pregnancy.

Assisted reproductive technology – Any assisted reproduction technology (ART) technical procedures (e.g. in vitro fertilization (IVF), gamete intrafallopian transfer (GIFT), ZIFT) used to initiate the pregnancy.

Mother had a previous cesarean delivery (Previous operative delivery by extraction of the fetus, placenta and membranes through an incision in the maternal abdominal and uterine walls)

If Yes, how many \_\_\_\_\_

Antiretrovirals administered during pregnancy or at delivery

Group B Strep

**65. Infections present and/or treated during this pregnancy - (Present at start of pregnancy or confirmed diagnosis during pregnancy with or without documentation of treatment.) (Check all that apply):**

None

Gonorrhea - (a diagnosis of or positive test for *Neisseria gonorrhoeae*)

Syphilis - (also called lues - a diagnosis of or positive test for *Treponema pallidum*)

Chlamydia - (a diagnosis of or positive test for *Chlamydia trachomatis*)

Hepatitis B - (HBV, serum hepatitis - a diagnosis of or positive test for the hepatitis B virus)

Hepatitis C - (non A, non B hepatitis, HCV - a diagnosis of or positive test for the hepatitis C virus)

**66. Was a Standard Licensed Diagnostic test for HIV performed for the Mother?**

YES If Yes give the date the specimen was taken: \_\_\_\_\_ (MMDDYYYY)

If Yes when was the test performed?  During pregnancy  Time of Delivery

NO If No give reason (check one below)

Mother's Refusal  HIV Status Known  Insurance would not pay

Other (specify): \_\_\_\_\_

Unknown (Reason why there was no test is unknown)

Unknown (Unknown whether or not the test was performed.)

**67. Obstetric procedures - (Medical treatment or invasive/manipulative procedure performed during this pregnancy specifically in the treatment of the pregnancy, management of labor and/or delivery.) (Check all that apply):**

None

Cervical cerclage (Circumferential banding or structure of the cervix to prevent or treat passive dilatation. Includes MacDonald's suture, Shirodkar procedure, abdominal cerclage via laparotomy)

Tocolysis – (Administration of any agent with the intent to inhibit preterm uterine contractions to extend length of pregnancy)

External cephalic version – (Attempted conversion of a fetus from a non-vertex presentation by external manipulation)

Successful  Failed

**68. Were precautions taken against ophthalmia neonatorum?**  Yes  No

If Yes, then specify the Medication Used: \_\_\_\_\_

**69. Was a Serological test for Syphilis performed for the Mother?**

YES If Yes give the date the specimen was taken: \_\_\_\_\_ (MMDDYYYY)

If Yes when was the test performed?  During pregnancy  Time of Delivery

NO If No give reason (check one below)

Mother's Refusal  Syphilis Status Known

**Other (specify):** \_\_\_\_\_

**Unknown (Reason why there was no test is unknown)**

**Unknown (Unknown whether or not the test was performed)**

**70. Onset of Labor** (Check all that apply):

- None
- Premature Rupture of the Membranes (prolonged  $\geq 12$  hours (Spontaneous tearing of the amniotic sac, (natural breaking of the bag of waters) 12 hours or more before labor begins)
- Precipitous labor ( $< 3$  hours) (Labor that progresses rapidly and last less than 3 hours)
- Prolonged labor ( $\geq 20$  hours) (Labor that progresses slowly and last for 20 hours or more)

**71. Characteristics of labor and delivery** (Check all that apply):

- None
- Induction of labor (Initiation of uterine contractions by medical and/or surgical means for the purpose of delivery before the spontaneous onset of labor)
- Augmentation of labor (Stimulation of uterine contractions by drug or manipulative technique with the intent to reduce the time to delivery)
- Non-vertex presentation (Includes any non-vertex fetal presentation, e.g. breech, shoulder, brow, face presentations, and transverse lie in the active phase of labor or at delivery other than vertex)
- Steroids (glucocorticoids) for fetal lung maturation received by the mother prior to delivery (Includes betamethasone, dexamethasone, or hydrocortisone specifically given to accelerate fetal lung maturation in anticipation of preterm delivery. Excludes steroid medication given to the mother as an anti-inflammatory treatment)
- Antibiotics received by the mother during labor (Includes antibacterial medications given systemically (intravenous or intramuscular) to the mother in the interval between the onset of labor and the actual delivery,
- Clinical chorioamnionitis diagnosed during labor or maternal temperature  $> 38.0$  C (100.4 F) (Clinical diagnosis of chorioamnionitis during labor made by the delivery attendant. Usually includes more than one of the following; fever, uterine tenderness and/or irritability, leukocytosis and fetal tachycardia. Any maternal temperature at or above 38 C (100.4 F)
- Moderate/heavy meconium staining of the amniotic fluid (staining of the amniotic fluid caused by passage of fetal bowel contents during labor and/or at delivery which is more than enough to cause a greenish color change of an otherwise clear fluid)
- Fetal intolerance of labor was such that one or more of the following actions was taken: in-utero resuscitative measures, further fetal assessment, or operative delivery (In Utero Resuscitative measures such as any of the following; maternal position change, oxygen administration to the mother, intravenous fluids administered to the mother, amnioinfusion, support of maternal blood pressure and administration of uterine relaxing agents. Further fetal assessment includes any of the following; scalp pH, scalp stimulation, acoustic stimulation, Operative delivery- operative delivery intervention to shorten time to delivery of the fetus such as forceps, vacuum, or cesarean delivery)
- Epidural or spinal anesthesia during labor (Administration to the mother of a regional anesthetic for control of the pain of labor i.e. delivery of the agent into a limited space with the distribution of the analgesic effect limited to the lower body)
- Abruptio Placenta

**72. Method of delivery** (The physical process by which the complete delivery of the infant was affected)

(Complete A, B, C, and D):

A. Was delivery with forceps attempted but unsuccessful? (Obstetric forceps was applied to the fetal head in an unsuccessful attempt at vaginal delivery)  Yes  No

B. Was delivery with vacuum extraction attempted but unsuccessful? (Ventouse or vacuum cup was applied to the fetal head in an unsuccessful attempt at vaginal delivery)  Yes  No

C. Fetal presentation at birth (Check one):

- Cephalic - (Presenting part of the fetus listed as vertex, occipital anterior (OA), occipital posterior (OP))
- Breech - (Presenting part of the fetus listed as breech, complete breech, frank breech, footling breech)
- Other - (Any other presentation not listed above)

D. Final route and method of delivery (Check one):

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- Vaginal/Spontaneous (Delivery of the entire fetus through the vagina by the natural force of labor with or without manual assistance from the delivery attendant)
- Vaginal/Forceps (Delivery of the fetal head through the vagina by application of obstetrical forceps to the fetal head)
- Vaginal/Vacuum (Delivery of the fetal head through the vagina by application of a vacuum cup or ventouse to the fetal head)
- Cesarean (Extraction of the fetus, placenta and membranes through an incision in the maternal abdominal and uterine walls)  
 If cesarean, was a trial of labor attempted? (Labor was allowed, augmented or induced with plans for a vaginal delivery)  
 Yes                       No

**73. Maternal morbidity** (Serious complications experienced by the mother associated with labor and delivery)  
 (Check all that apply):

- None
- Maternal transfusion (Includes infusion of whole blood or packed red blood cells associated with labor and delivery)
- Third or fourth degree perineal laceration ( 3 laceration extends completely through the perinatal skin, vaginal mucosa, perineal body and anal sphincter. 4 laceration is all of the above with extension through the rectal mucosa)
- Ruptured uterus - (Tearing of the uterine wall.) (
- Unplanned hysterectomy ( Surgical removal of the uterus that was not planned prior to the admission. Includes anticipated but not definitively planned hysterectomy)
- Admission to intensive care unit (Any admission of the mother to a facility/unit designated as providing intensive care)
- Unplanned operating room procedure following delivery (Any transfer of the mother back to a surgical area for an operative procedure that was not planned prior to the admission for delivery. Excludes postpartum tubal ligations.)

**74. Birthweight:**

**GRAMS:** \_\_\_\_\_ **or** **POUNDS/OUNCES:** \_\_\_\_\_

**75. Obstetric estimate of gestation at delivery** (completed weeks): \_\_\_\_\_

(The birth attendant's final estimate of gestation based on all perinatal factors and assessments, but not the neonatal exam. Do not compute based on date of the last menstrual period and the date of birth)

**76. Apgar score** (A systematic measure for evaluating the infant's physical condition at specific intervals at birth)

- Score at **5** minutes \_\_\_\_\_ 0 through 10     Not Taken                       Unknown
- If 5 minute score is less than 6:
- Score at **10** minutes \_\_\_\_\_ 0 through 10     Not Taken                       Unknown

**77. Abnormal conditions of the newborn** (Disorders or significant morbidity experienced by the newborn)  
 (Check all that apply):

- None
- Assisted ventilation required immediately following delivery (Infant given manual breaths for any duration with bag and mask or bag and endotracheal tube within the first several minutes from birth. Excludes oxygen only and laryngoscopy for aspiration of meconium)
- Assisted ventilation required for more than six hours (Infant given mechanical ventilation (breathing assistance) by any method for > 6 hours. Includes conventional, high frequency, and \or continuous positive pressure (CPAP)
- NICU admission (Admission into a facility or unit staffed and equipped to provide continuous mechanical ventilatory support for a newborn)
- Newborn given surfactant replacement therapy ( Endotracheal instillation of a surface active suspension for the treatment of surfactant deficiency due to preterm birth or pulmonary injury resulting in respiratory distress. Includes both artificial and extracted natural surfactant)
- Antibiotics received by the newborn for suspected neonatal sepsis ( Any antibacterial drug (e.g. penicillin, ampicillin, gentamicin, cefotaxime etc) given systemically ( intravenous or intramuscular)
- Seizure or serious neurological dysfunction ( Seizure in any involuntary repetitive, convulsive movement of behavior. Serious neurologic dysfunction is severe alteration or alertness such as obtundation, stupor or coma , i.e. hypoxic-ischemic encephalopathy. Excludes lethargy or hypotonia in the absence of other neurologic findings. Exclude systems associated with CNS congenital anomalies)
- Significant birth injury (skeletal fracture(s), peripheral nerve injury, and/or soft tissue/solid organ hemorrhage which requires intervention) ( Defined as present immediately following delivery or manifesting soon after delivery. Includes any bony fracture or weakness or loss of sensation, but excludes fractured clavicles and transient facial nerve palsy. Soft tissue hemorrhage requiring evaluation and\or treatment includes sub-galeal (progressive extravasation within the scalp) hemorrhage, giant cephalohematoma,

extensive truncal, facial and/or extremity echymosis accompanied by evidence of anemia and/or hypovolemia and/or hypotension. Solid organ hemorrhage includes subcapsular hematoma of the liver, fractures of the spleen, or adrenal hematoma)

**78. Congenital anomalies of the newborn** (Malformations of the newborn diagnosed prenatal or after delivery.) (Check all that apply):

- None of the anomalies listed
- Anencephaly - (Partial or complete absence of the brain and skull. Also called anencephalus, acrania, or abscent brain. Also includes infants with craniorachischisis ( anencephaly with a contiguous spine defect)
  - Meningomyelocele/Spina bifida ( Spina Bifida is herniation of the meninges and/or spinal cord tissue through a bony defect of spine closure. Meningomyelocele is herniation of meninges and spinal cord tissue. Meningocele ( herniation of meninges without spinal cord tissue) should also be included in this category. Both open and closed (covered with skin) lesions should be included. Do Not include spina bifida occulta ( a midline bony spinal defect without protrusion of the spinal cord or meninges)
- Cyanotic congenital heart disease ( Congenital heart defects which cause cyanosis. Includes but is limited to: transposition of the great arteries (vessels) tetralogy of Fallott , pulmonary or pulmonic valvular atresia, tricuspid atresia, truncus arteriosus, total\partial anomalous pulmonary venous return with or without obstruction)
- Congenital diaphragmatic hernia ( Defect in the formation of the diaphragm allowing hernation of abdominal organs into the thoracic cavity)
  - Omphalocele ( A defect in the anterior abdominal wall, accompanied by hernation of some abdominal organs through a widened umbilical stalk. The defect is covered by a membrane ( different from gastroschisis, see below) although this sac may rupture. Also called exomphalos. Do Not include umbilical hernia (completely covered by skin) in this category)
- Gastroschisis ( An abnormalitiy of the anterior abdominal wall, lateral to the umbilicus, resulting in hernation of the abdominal contents directly into the amniotic cavity. Differentiated from omphalocele by the location of the defect and absence of a protective membrane)
- Limb reduction defect (excluding congenital amputation and dwarfing syndromes) ( Complete or partial absence of a portion of an extremity associated with failure to develop)
- Cleft Lip with or without Cleft Palate ( Incomplete closure of the lip. May be unilateral, bilateral or median)
- Cleft Palate alone ( Incomplete fusion of the palatal shelves. May be limited to the soft palate or may extend into the hard palate. Cleft palate in the presence of the cleft lip should be included in the “cleft lip with or without Cleft Palate” category above)
- Down Syndrome - (Trisomy 21)
  - Karyotype Confirmed
  - Karyotype Pending
  - Unknown
- Suspected chromosomal disorder ( Includes any constellation of congenital malformations resulting from or compatible with known syndromes caused by detectable defects in chromosome structure)
  - Karyotype Confirmed
  - Karyotype Pending
  - Unknown
- Hypospadias ( Incomplete closure of the male urethra resulting in the urethral meatus opening on the ventral surface of the penis. Includes first degree- on the glans ventral to the tip, second degree- in the coronal sulcus, and thried degree- on the penile shaft)
- Microcephaly

**79. Was infant transferred within 24 hours of delivery ?** (Check “yes” if the infant was transferred from this facility to another within 24 hours of delivery. If transferred more than once, enter name of first facility to which the infant was transferred.)

- Yes                       No                       Unknown

If yes, name of facility infant transferred to: \_\_\_\_\_

**80. Is infant living at time of report?** (Infant is living at the time this birth certificate is being completed. Answer “Yes” if the infant has already been discharged to home care.)

- Yes                       No                       Infant transferred, status unknown

**81. Is infant being breastfed at discharge?**

- Yes                       No                       Unknown

**82. Hepatitis B Immunization given?**

- Yes                       No                       Unknown

If Yes, Date given: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**83. Attendant's name, title, and N.P.I**

Attendant's name \_\_\_\_\_

**Attendant's title:**

- M.D.                       D.O.                       CNM/CM - (Certified Nurse Midwife/Certified Midwife)  
 Other Midwife - (Midwife other than CNM/CM)  
 Other specify: \_\_\_\_\_

**84. Is the Certifier the same as the Attendant**

- Yes                       No                       Unknown

If NO answer Certifier question

**85. Certifier's name and title:** \_\_\_\_\_

(The individual who certifies to the fact that the birth occurred. May be, but need not be, the same as the attendant at birth.)

- M.D.                       D.O.                       Hospital administrator or designee  
 CNM/CM (Certified Nurse Midwife / Certified Midwife)  
 Other Midwife (Midwife other than CNM/CM)  
 Other (Specify) \_\_\_\_\_

**86. Date certified:** \_\_\_\_\_ M M D D Y Y Y Y

**87. Principal source of payment for this delivery (At time of delivery):**

- Private Insurance  
 Medicaid (Comparable State program)  
 Self-pay (No third party identified)  
 Other (Specify, e.g., Indian Health Service, CHAMPUS/TRICARE, Other Government (federal,state, local))  
\_\_\_\_\_

**88. Infant's medical record number:** \_\_\_\_\_

**89. Newborn Screening Number:** \_\_\_\_\_

If Unknown check reason why     **Religious Waiver**

**90. Was the mother transferred to this facility for maternal medical or fetal indications for delivery?**

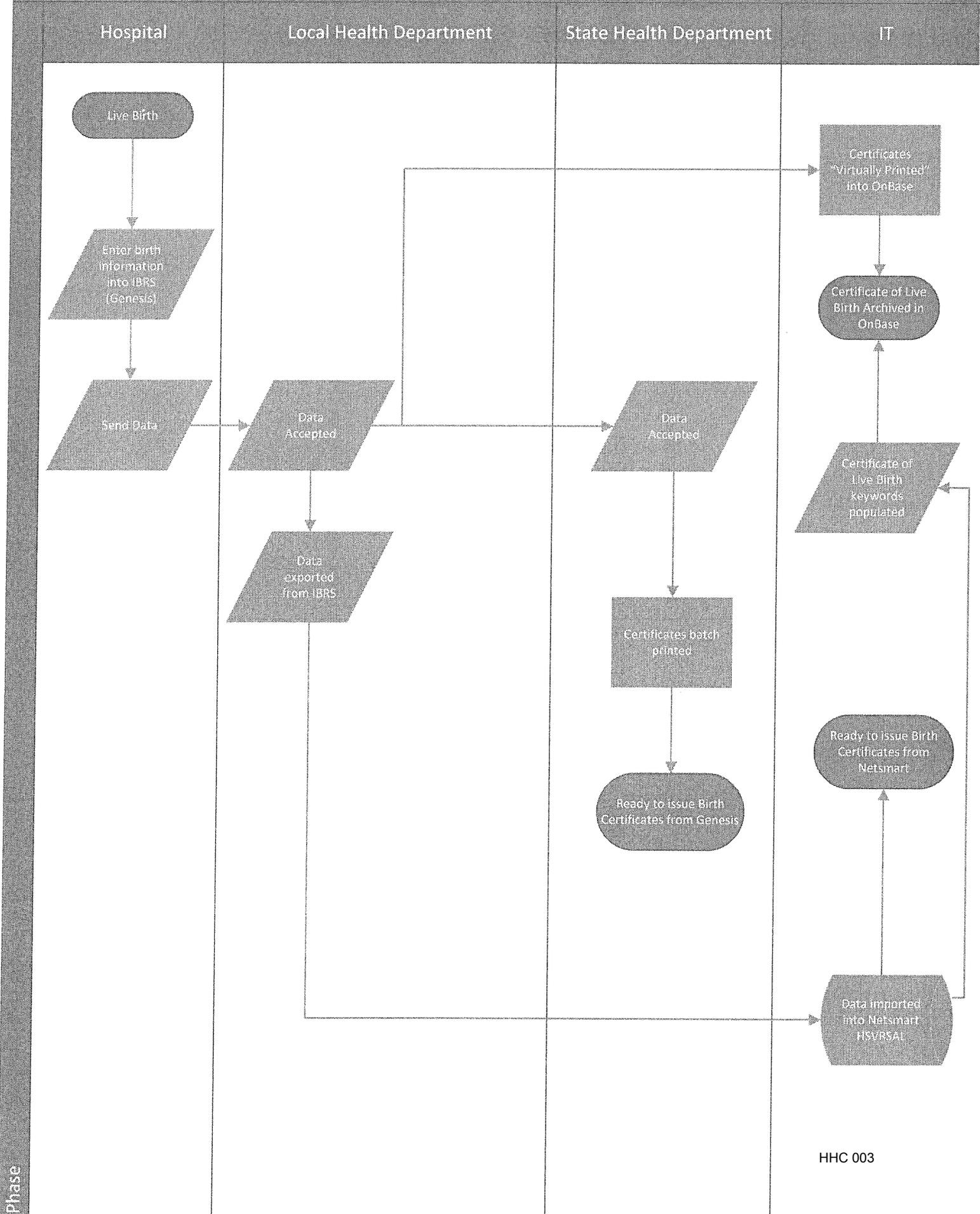
(Transfers include hospital to hospital, birth facility to hospital, etc.)

- Yes                       No

If Yes, enter the name of the facility mother transferred from:

\_\_\_\_\_

# Live Birth: Hospital to ISDH



Phase