

LAWRENCE G. WASDEN
ATTORNEY GENERAL

STEVEN L. OLSEN
Chief of Civil Litigation Division

W. SCOTT ZANZIG, ISB # 9361
Deputy Attorneys General
Civil Litigation Division
Office of the Attorney General
954 W. Jefferson Street, 2nd Floor
P. O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Fax: (208) 854-8073
scott.zanzig@ag.idaho.gov
Attorneys for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

F.V. and DANI MARTIN,)	
)	Case No. 1:17-cv-000170-CWD
Plaintiffs,)	
)	
vs.)	RESPONSE TO MOTION FOR
)	SUMMARY JUDGMENT (Dkt. 28)
RICHARD M. ARMSTRONG, in his official)	
capacity as Director of the Idaho Department)	
of Health and Welfare and ELKE SHAW-)	
TULLOCH, in her official capacity as)	
Administrator of the Division of Public Health)	
the Idaho Department of Health and Welfare,)	
and JAMES AYDELOTTE, in his official)	
capacity as State Registrar and Chief of the)	
Bureau of Vital Records and Health Statistics,)	
)	
Defendants.)	

INTRODUCTION

As Defendants acknowledged at the status conference on August 8, 2017, they conceded in their answer that no rational basis exists to overcome Plaintiffs' Equal Protection claim. By

conceding liability on this claim, Defendants allowed this case to be resolved simply: without breaking any new constitutional ground, the Court can enter judgment for Plaintiffs on their Equal Protection claim under the deferential rational basis standard.

Surprisingly, Plaintiffs did not seek judgment on this simple basis alone. Instead, they filed multiple declarations and asserted numerous unnecessary constitutional arguments in support of their summary judgment motion. Apparently unsatisfied with a judgment deciding their Equal Protection claim on the undisputed ground that it fails rational basis review, Plaintiffs argue at length that the Court should apply various standards of heightened scrutiny to resolve their claim. They also assert additional unnecessary constitutional claims for alleged violations of their substantive due process and First Amendment rights.

The Court need not and should not venture beyond the simple, undisputed ground that gives Plaintiffs all the relief they seek. The Court should limit its decision to a determination that Defendants violated Plaintiffs' Equal Protection rights without any rational basis.

BACKGROUND

Idaho Code § 39-250 provides that birth certificates can be amended “only in accordance with this chapter and rules promulgated by the board.” No statute or rule specifically permits amendment of the designated sex on a birth certificate.

Idaho Code § 39-250 requires that an amended certificate must be marked “amended,” except as specifically provided by statute. IDAPA 16.02.08.201.08.a provides that in case of an amendment, except where specifically provided otherwise by law, the item number of the entry that was amended must be identified, IDAPA 16.02.08.201.08.a.i; and the amendment must be made by drawing a line through the old information, without obliterating it, and inserting the

///

new information in an adjacent space. IDAPA 16.02.08.201.08.a.iii. It also specifically requires the line-out procedure for name changes. IDAPA 16.02.08.201.08.a.iv.

Based on these statutory and administrative rule limitations, the Idaho Department of Health and Welfare's Bureau of Vital Records and Health Statistics refuses to process applications from transgender persons requesting that the "sex" designated on their birth certificate be changed. The Bureau has interpreted Idaho law to prohibit such changes. The Bureau also has interpreted Idaho law to require name changes to be reflected on amended certificates.

Plaintiffs, two transgender women, brought this action challenging Defendants' interpretation and enforcement of Idaho law. They alleged violations of their rights under the Equal Protection Clause, and alleged rights under the Due Process Clause and First Amendment. (Dkt. 19.)

In their answer to the complaint, Defendants conceded that no rational basis justifies treating transgender persons like Plaintiffs differently than other persons. (Dkt. 23, ¶ 5.) Defendants conceded that no rational basis justifies the practice of automatically rejecting transgender persons' applications to change the "sex" designation on their birth certificates in a confidential manner. (Dkt. 23, ¶¶ 43-44.) Defendants made this concession because Idaho law does permit some changes to be made to birth certificates, and in a confidential manner (i.e., without disclosing the change on the amended certificate). *See, e.g.*, Idaho Code §§ 39-250(2) (permitting confidential change to birth certificate upon receipt of a voluntary acknowledgment of paternity); 39-258(e) (prescribing process for confidential change to birth certificate upon receipt of a certified report of adoption). At the status conference on August 8, 2017, Defendants' counsel notified the Court about Defendants' concessions and acknowledged that

Plaintiffs were entitled to judgment on their Equal Protection claim because Defendants admit they cannot satisfy the rational basis standard.

In support of their motion for summary judgment, Plaintiffs did not limit their argument to their Equal Protection claim on the undisputed ground that Idaho law and practice fails rational basis review. They also asked the Court to decide that heightened scrutiny should apply to their Equal Protection claim, and to consider other claims based on the Due Process Clause and First Amendment. (Dkt. 28-1, pp. 8-11, 14-20.) And they filed numerous declarations, including an expert declaration, in support of these additional arguments. (Dkts. 28-3, 28-4, 28-5, and 28-6.)

ARGUMENT

“[C]ourts should be extremely careful not to issue unnecessary constitutional rulings.” *Hawaii v. Trump*, 859 F.3d 741, 761 (9th Cir.), *cert. granted*, *Trump v. Int’l Refugee Assistance Project*, 137 S. Ct. 2080 (2017) (quoting *Am. Foreign Service Ass’n v. Garfinkel*, 490 U.S. 153, 161 (1989)). They should instead “dispose of cases on the narrowest possible ground.” *New Jersey Payphone Ass’n, Inc. v. Town of West New York*, 299 F.3d 235, 249 (3d Cir. 2002) (Alito, J., concurring). *See also Lyng v. Northwest Indian Cemetery Protective Ass’n*, 485 U.S. 439, 445 (1988) (“[a] fundamental and longstanding principle of judicial restraint requires that courts avoid reaching constitutional questions in advance of the necessity of deciding them”). The duty to avoid unnecessarily deciding constitutional claims also requires courts to refrain from deciding Equal Protection claims under heightened scrutiny when a challenged law or practice fails rational basis review. *E.g., Hooper v. Bernalillo Cnty. Assessor*, 472 U.S. 612, 618 (1985) (“if the statutory scheme cannot pass even the minimum rationality test, our inquiry ends”); *Zobel v. Williams*, 457 U.S. 55, 60 (1982) (“if the statutory scheme cannot pass even the minimal

[rational basis test], we need not decide whether any enhanced scrutiny is called for”).

Plaintiffs offer no justification for the Court to violate these rules and reach to decide the numerous unnecessary constitutional claims they have asserted. There is no reason to up the ante to heightened scrutiny when, as Plaintiffs readily admit, Defendants’ rational basis concessions entitle Plaintiffs to summary judgment. (Dkt. 28-1, p. 1.) That is particularly true because there is no Supreme Court or Ninth Circuit authority establishing that claims of transgender discrimination should be subject to heightened scrutiny. *Zobel* and *Hooper* make clear that the Court should decide the Equal Protection claim in Plaintiffs’ favor on rational basis grounds, not under heightened scrutiny.

Once the Court determines that Plaintiffs have established their Equal Protection claim, there is no reason to address the Due Process and First Amendment claims. To do so would fly in the face of the Court’s duty not to issue unnecessary constitutional rulings. Unnecessary rulings on these claims would be all the more troubling given that no Supreme Court or Ninth Circuit authority establishes Due Process or First Amendment rights for a transgender person to change a birth certificate.

Plaintiffs suggest that they are troubled by Defendants’ mention that they might consider factors such as whether an applicant has taken appropriate clinical steps to permanently change gender when they process transgender persons’ applications to amend birth certificates. Plaintiffs’ professed concerns should not have any effect on the Court’s decision in this case. Plaintiffs have not alleged, much less established, that the Constitution prevents a state from considering such factors in processing an application to amend a birth certificate. Moreover, the factors Defendants have mentioned are specifically included in the 2011 Model State Vital

///

///

Statistics Act,¹ and are found in many states' laws.² And many states employ much more rigorous requirements, including gender reassignment surgery, before they will change the sex designation on a birth certificate.³

In any event, the factors Defendants may choose to employ in processing future applications to amend birth certificates are not before the Court in this case and not ripe for any adjudication. To the extent the Court issues any injunctive relief, it should be limited to the conduct at issue. It would be appropriate for the Court to order Defendants to cease automatically rejecting transgender persons' applications to amend their birth certificates. It would be beyond the scope of this case and inappropriate for the Court to prescribe the factors Defendants may consider in processing those applications.

¹ Section 24(a)(4) of the Model Act requires that a transgender person applying to change the sex designation on his or her birth certificate must provide a "certified copy of an order of a court of competent jurisdiction indicating that [the applicant] has undergone the necessary course of treatment to transition permanently from one sex to the other" Model State Vital Statistics Act and Model State Vital Statistics Regulations, 2011 Revision (copy attached for Court's convenience). The Department of Health and Human Services' Centers for Disease Control and Prevention, National Health Statistics, has not yet approved the 2011 revision. The 1992 version it most recently approved contains a more onerous standard: sex change by surgical procedure. See Model State Vital Statistics Act and Regulations, 1992 Revision, Section 21(d) (available at <https://www.cdc.gov/nchs/data/misc/mvsact92b.pdf>).

² Examples of states with laws requiring transgender persons to complete appropriate clinical treatment for gender reassignment or transition include Connecticut, Conn. Gen. Stat. § 19a-42(i); Delaware, 16 Del. Admin. Code § 4205-10.7.1.2.1; Iowa, Iowa Code § 144.23(3); Maryland, Md. Code, Health-Gen. § 4-211(b); Massachusetts, Mass. Gen. L. ch. 46, § 13(e)(1); and Vermont, 18 Vt. Stat. § 5112.

³ States with statutory surgical requirements include Alabama, Ala. Code § 22-9A-19(d); Arizona, Ariz. Code § 36-337(A); Arkansas, Ark. Code § 20-18-307(d); Colorado, Colo. Rev. Stat. § 25-2-115(4); Georgia, Ga. Code § 31-10-23(e); Kentucky, Ky. Rev. Stat. § 213.121(5); Louisiana, La. Rev. Stat. § 40:62; Michigan, Mich. Comp. Laws § 333.2831(c); Missouri, Mo. Rev. Stat. § 193.215(9); Nebraska, Neb. Rev. Stat. § 71-604.01; New Jersey, N.J. Rev. Stat. § 26:8-40.12; New Mexico, N.M. Stat. § 24-14-25(D); North Carolina, N.C. Gen. Stat. § 130A-118(b)(4); and Wisconsin, Wis. Stat. § 69.15(4)(b).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

MODEL STATE VITAL STATISTICS ACT
and
MODEL STATE VITAL STATISTICS REGULATIONS
2011 Revision

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention
National Center for Health Statistics
Hyattsville, Maryland 20782

PENDING DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVAL

Endorsed by the National Association for Public Health Statistics and Information Systems by resolution.

This revision replaces the 1992 Revision of the Model State Vital Statistics Act and Model State Vital Statistics Regulations (PHS 95-1115).

2011 Revision- September 7, 2011

40 **WORKING GROUP TO REVISE THE MODEL STATE VITAL STATISTICS ACT**
41 **AND MODEL STATE VITAL STATISTICS REGULATIONS**

42
43 **Chairperson**

44 Alvin T. Onaka, Ph.D.
45 State Registrar and Chief
46 Office of Health Status Monitoring
47 Hawaii Department of Health
48

49 **Members**

50 Catherine Molchan Donald
51 State Registrar and Director
52 Center for Health Statistics
53 Alabama Department of Public Health
54

55 Linette T. Scott, M.D., M.P.H.
56 State Registrar and Deputy Director
57 Health Information and Strategic Planning
58 California Department of Public Health
59

60 Ronald Hyman
61 State Registrar and
62 Director of Vital Records, CHEIS
63 Colorado Department of Public Health and
64 Environment
65

66 Steven Schwartz, Ph.D.
67 New York City Registrar
68 Director, Office of the Registrar
69 New York City Department of Health
70 and Mental Hygiene
71

72 Karen R. Hampton, J.D.
73 Manager, Oregon Vital Events
74 Registry System
75 Oregon Department of Human Services
76

77 Patricia W. Potrzebowski, Ph.D.
78 Former Director, Bureau of Health Statistics
79 and Research, Pennsylvania Department of Health
80 Executive Director, National Association for Public Health Statistics and Information Systems
81

82 Wilfredo Lopez, J.D.
83 Former General Counsel, New York City Department of Health and Mental Hygiene
84 General Counsel Emeritus, New York City Department of Health and Mental Hygiene
85

86 **Centers for Disease Control**

2011 Revision- September 7, 2011

87 **and Prevention**
88 **National Center for Health Statistics**
89 **Division of Vital Statistics**
90 **Registration Methods Program**
91 **Hyattsville, Maryland**
92
93 Julia L. Kowaleski
94 Chief, Registration Methods Program
95
96 Judy M. Barnes
97 Registration Methods Specialist
98
99 Dewey H. LaRochelle
100 Project Specialist
101
102 George C. Tolson
103 Statistician
104
105
106
107
108

2011 Revision- September 7, 2011

109 **Preface**

110

111 The Model State Vital Statistics Act and Regulations were developed to serve as models for States in
112 preparing their own laws and regulations. The Model Law has been designed to improve the quality and
113 uniformity of State data by establishing standard reporting requirements, definitions, and procedures for
114 registering vital events. The Model Law has an impact on how vital statistics data are reported and
115 tabulated at the State level, which in turn impacts on national vital statistics.

116

117 The U.S. vital registration and statistics system exemplifies cooperation between the Federal and State
118 Governments at its best. Although the legal responsibility for the registration of vital events rests with the
119 individual States, the States and the National Center for Health Statistics (the Federal partner) work
120 together to build and maintain a cooperative system that produces records that satisfy the legal
121 requirements of individuals and their families while protecting the security of the records and preventing
122 fraudulent uses. In addition, the information is used for administrative and public health purpose and
123 meets statistical and research needs at the local, State, and national levels. These cooperative efforts
124 include the development and promotion of standards for electronic systems, certificates of live birth,
125 death, and report of fetal death, training and quality control programs, and model legislation.

126

127 This is the sixth revision of the Model State Vital Statistics Act (the first was in 1907) and the third
128 revision of the Model State Vital Statistics Regulations (the first was in 1977). The Model Act and
129 Regulations provide detailed guidance to State registrars of vital statistics and State legislators to guide
130 them in updating their State vital statistics laws and regulations. The Model Act and Regulations serve to
131 promote uniformity among States in authorities, definitions, security, registration and issuance practices,
132 preservation, disclosure, fees, penalties and other functions that comprise a State system of vital
133 statistics. A State may wish to adopt this revision in total or may wish to adopt various sections of the
134 Model Act and Regulations.

135

136 Major goals of this revision of the Model Act and Regulations are to provide guidance for vital event
137 registration, issuance, security and fraud prevention, and protection of confidential information in an
138 electronic environment.

139

140 New terminology has been introduced. A vital report is submitted and becomes a vital record when
141 accepted for registration by the State Registrar. In addition, certification (either paper or electronic) is
142 used instead of certified copy. Other laws or common usage may use the old terminology, (birth
143 certificate or death certificate), instead of the new terminology used in this this revision (birth certification
144 or death certification). Changes were made because of moving from paper to electronic systems. (See
145 Appendix I)

146

147 In developing this revision, input was sought not only from State vital records and statistics offices but
148 also from other persons and organizations, including Federal agencies, with an interest in the vital
149 statistics system as a source of legal records, statistical data, or for public health or administrative
150 purposes. Comments from these interested persons and organizations provided invaluable assistance in
151 developing the revision and should help guarantee that the vital statistics system continues to serve the
152 interests of its many users.

153

154

2011 Revision- September 7, 2011

155	Contents	
156		
157		Page
158	Working Group to Revise the Model State Vital Statistics Act and	
159	Model State Vital Statistics Regulations	
160	Preface	
161	Section 1. Short Title.....	
162	Section 2. Definitions	
163	Section 3. Office of Vital Statistics and Statewide System of Vital Statistics.....	
164	Section 4. Regulations	
165	Section 5. Appointment of State Registrar of Vital Statistics	
166	Section 6. Duties of State Registrar	
167	Regulation 6. Duties of State Registrar	
168	(Authorization: Section 6 of Model Act)	
169	Section 7. Security of Vital Statistics System.....	
170	Regulation 7. Security of Vital Statistics System.....	
171	(Authorization: Section 7 of Model Act)	
172	Section 8. Persons Required to Keep Records.....	
173	Regulation 8. Persons Required to Keep Records	
174	(Authorization: Section 8 of Model Act)	
175	Section 9. Duties to Furnish Information	
176	Section 10. Content of Vital Records and Vital Reports.....	
177	Section 11. Live Birth Registration	
178	Regulation 11. Live Birth Registration – Out-of-Institution Live Birth – Documentary Evidence	
179	
180	(Authorization: Section 11 of Model Act)	
181	Section 12. Infants of Unknown Parentage; Foundling Registration	
182	Regulation 12. Infants of Unknown Parentage; Foundling Registration.....	
183	(Authorization: Section 12 of Model Act)	
184	Section 13. Delayed Registration of Live Birth	
185	Regulation 13. Delayed Registration of Live Birth.....	
186	(Authorization: Section 13 of Model Act)	
187	Section 14. Judicial Procedures to Register a Live Birth.....	
188	Section 15. Death Registration	
189	Regulation 15. Death Registration	
190	(Authorization: Section 15 of Model Act)	
191	Section 16. Judicial Procedures to Register a Death.....	

2011 Revision- September 7, 2011

192 Section 17. Fetal Death Registration

193 Section 18. Authorization for Final Disposition.....

194 Regulation 18. Authorization for Final Disposition

195 (Authorization: Section 18 of Model Act)

196 Section 19. Marriage Registration.....

197 Section 20. Delayed Registration of Marriage.....

198 Section 21. (Divorce, Dissolution of Marriage, or Annulment) Registration.....

199 Section 22. Reports of Adoption.....

200 Section 23. Amendment and Correction of Vital Records

201 Regulation 23. Amendment and Correction of Vital Records.....

202 (Authorization: Section 23 of Model Act)

203 Section 24. Establishing Replacement Records of Live Birth.....

204 Regulation 24. Establishing Replacement Records of Live Birth

205 (Authorization: Section 24 of Model Act)

206 Section 25. Reports of Induced Termination of Pregnancy

207 Section 26. Preservation of Vital Records.....

208 Regulation 26. Preservation of Vital Records

209 (Authorization: Section 26 of Model Act)

210 Section 27. Confidentiality and Disclosure of Information from Vital Records or Vital

211 Reports.....

212 Regulation 27. Confidentiality and Disclosure of Information from Vital Records

213 or Vital Reports

214 (Authorization: Section 27 of Model Act)

215 Section 28. Certifications from the System of Vital Statistics.....

216 Regulation 28. Certifications from the System of Vital Statistics.....

217 (Authorization: Section 28 of Model Act)

218 Section 29. Fees

219 Regulation 29. Fees.....

220 (Authorization: Section 29 of Model Act)

221 Section 30. Penalties

222 Section 31. Applicability

223 Section 32. Severability

224 Section 33. Repeal.....

225 Section 34. Time of Taking Effect

226

227

2011 Revision- September 7, 2011

228
229
230
231
232
233
234
235
236

MODEL STATE VITAL STATISTICS ACT AND REGULATIONS

237
238
239
240
241
242
243
244
245
246
247
248
249

NOTE: Where the need for variation was apparent, parentheses, "()," have been placed around the word or phrase. In cases where recommendations were considered optional, brackets "[]," have been placed around the word or phrase.

250 **Section 1. Short Title**

251
252 This Act may be cited as the "Vital Statistics Act."
253

254 **Section 2. Definitions**

255
256 As used in this Act:

- 257
258 (a) "Amendment" means a change to a certification item on a vital record after a certification
259 has been issued.
260
261 (b) "Authorized representative" means an agent designated in a written and witnessed
262 statement signed by the registrant or other qualified applicant.
263
264 (c) "Certification" means the document, paper or electronic format, issued by the State
265 Registrar and containing all or a part of the exact information contained on the original vital
266 record, and which, when issued by the State Registrar, has the full force and effect of the
267 original vital record.
268
269 (d) "Certification item" means any item of information that appears on certifications, whether
270 paper or electronic, that are issued.
271
272 (e) "Certifier" means a person required to attest to the accuracy of the information submitted on
273 a vital event report.
274
275 (f) "Correction" means a change to a non-certification item on a vital record, or a change to a
276 certification item provided no certification, whether paper or electronic, has been issued.
277
278 (g) "Court of competent jurisdiction" means a court within the United States with jurisdiction
279 over the registrant and such other individuals that the court deems necessary.
280
281 (h) "Dead body" means a human body or such parts of such human body from the condition of
282 which it reasonably may be concluded that death occurred.
283
284 (i) "Disclosure" means to make available or make known personally identifiable information
285 contained in a vital record, by any means of communication.
286
287 (j) "Disposition, final" means the burial, interment, cremation, removal from the State, or other
288 authorized disposition of a dead body or fetus.
289
290 (k) "Electronic signature" means an electronic sound, symbol, or process attached to or
291 logically associated with a contract or other record and executed or adopted by a person with
292 the intent to attest to the accuracy of the facts in the record.
293
294
295 (l) "Facts of live birth" means the child's name, date of birth, place of birth and sex, and the
296 parent'(s) name(s) appearing on the record of live birth.

2011 Revision- September 7, 2011

297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342

- (m) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy and which is not an induced termination of pregnancy. The death is indicated by the fact that after such expulsion or extraction, the fetus does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps.
- (n) "Government agency" means a unit of local, state, federal, or tribal government.
- (o) "Health research" means a systematic study to gain information and understanding about health with the goal of finding ways to improve human health. Such study shall conform to or be conducted in accordance with generally accepted scientific standards or principles and be designed to develop or contribute to generalizable scientific knowledge.
- (p) "Human Remains" means a dead body, or any part of the body of a human being from the condition of which it reasonably can be concluded that death occurred, but does not include human ashes recovered after cremation.
- (q) "Individual" means a natural person.
- (r) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant, and which does not result in a live birth. This definition excludes management of prolonged retention of products of conception following fetal death.
- (s) "Institution" means any establishment, public or private, which provides:
- (1) in-patient or out-patient medical, surgical, or diagnostic care or treatment, or
 - (2) nursing, custodial, or domiciliary care, or
 - (3) to which persons are committed by law.
- (t) "Inter-jurisdictional exchange" means a process whereby registration areas agree to exchange vital records information with the State Registrars of other States, territories, and neighboring countries.
- (u) "Interment" means the disposition of human remains by entombment or burial.
- (v) "Legal representative" means a licensed attorney representing the registrant or other qualified applicant.
- (w) "Live birth" means the complete expulsion or extraction from its mother of a product of Human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes, or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Heartbeats are to be distinguished from transient

- 343 cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or
344 gasps.
345
- 346 (x) "Personally identifiable information" means information that can be used to distinguish or
347 trace an individual's identity, such as but not limited to his or her name, Social Security
348 number, biometric records or address, alone, or when combined with other personal or
349 identifying information which is linked or linkable to a specific individual, such as but not
350 limited to date and place of live birth or mother's name prior to first marriage.
351
- 352 (y) "Person in charge of an institution" means the officer or employee who is responsible for
353 administration and includes but is not limited to a person holding the title of chief executive
354 officer, administrator, superintendent, director or executive director.
355
- 356 (z) "Physician" means a person authorized or licensed to practice medicine or osteopathy
357 pursuant to the laws of this State.
358
- 359 (aa) "Record" means a report of a vital event that has been registered by the State Registrar.
360
- 361 (bb) "Record of foreign live birth" means a document registered by the State Registrar for a
362 person born in a foreign country who may or may not be a citizen of the U.S. and who was
363 adopted through a court with competent jurisdiction over the State Agency.
364
365
- 366 (cc) "Registration" means the process by which vital records are accepted and incorporated into
367 the official records of the (Office of Vital Statistics).
368
- 369 (dd) "Registration, date of" means the month, day, and year a vital record is incorporated into
370 the official records of the (Office of Vital Statistics).
371
- 372 (ee) "Report" means a document, paper or electronic, containing information related to a vital
373 event submitted by a person or entity required to submit the information in accordance
374 with this Act to the State Registrar for the purpose of registering a vital event.
375
- 376 (ff) "Sealed record" means the original record of a vital event and the evidence submitted to
377 support the change and shall not be subject to inspection except upon order of a court
378 with competent jurisdiction over the State Agency or as provided by regulation.
379
- 380 (gg) "State" means a State of the United States, the District of Columbia, New York City,
381 American Samoa, the Commonwealth of the Mariana Islands, the Commonwealth of
382 Puerto Rico, Guam and the U.S. Virgin Islands.
383
- 384 (hh) "State agency" means the State public health administrative agency that oversees the
385 (Office of Vital Statistics).
386
- 387 (ii) "System of vital statistics" means the collection, registration, preservation, amendment,
388 certification, verification, and the maintenance of the security and integrity of vital

389 records; the collection of other reports required by this Act; and activities related thereto
390 including the tabulation, analysis, publication, and dissemination of vital statistics.

391
392 (jj) "Verification" means a confirmation of the information on a vital record based on the facts
393 contained in a certification.

394
395 (kk) "Vital records" means reports of live birth, death, fetal death, marriage, (divorce, dissolution
396 of marriage, or annulment) and data related thereto which have been accepted for
397 registration and incorporated into the official records of the (Office of Vital Statistics).

398
399 (ll) "Vital statistics" means the aggregated data derived from the records and reports of live
400 birth, death, fetal death, induced termination of pregnancy, marriage, (divorce, dissolution of
401 marriage, or annulment) and supporting documentation and related reports.

402 403 **Section 3. Office of Vital Statistics and Statewide System of Vital Statistics**

404
405 There is hereby established in the State agency an (Office of Vital Statistics) which shall
406 maintain, operate and advance the only system of vital statistics throughout this State. [The
407 (Office of Vital Statistics) shall be provided with sufficient staff, suitable offices, and other
408 resources for the proper administration of the system of vital statistics and for the preservation
409 and security of its official records.]

410 411 **Section 4. Regulations**

412
413 The State Agency is authorized to adopt, amend, and repeal regulations for the purpose of
414 carrying out the provisions of this Act.

415 416 **Section 5. Appointment of State Registrar of Vital Statistics**

417
418 The (State Health Officer) shall appoint the State Registrar of Vital Statistics, hereinafter
419 referred to as "State Registrar," in accordance with (applicable civil service laws and
420 regulations).

421 422 **Section 6. Duties of State Registrar**

- 423
424 (a) The State Registrar shall:
- 425
426 (1) Administer and enforce the provisions of this Act and the regulations issued
427 hereunder, and issue instructions for the efficient administration of the system of
428 vital statistics.
 - 429
430 (2) Direct and supervise the system of vital statistics and the (Office of Vital Statistics)
431 and be custodian of its records.
 - 432
433 (3) Provide for the confidentiality and security of the system of vital statistics.

434
2011 Revision- September 7, 2011

- 435 (4) Direct, supervise, and control the activities of all persons engaged in activities
436 pertaining to the operation of the system of vital statistics.
437
- 438 (5) Develop and conduct training programs to promote uniformity of policy and
439 procedures throughout the State in matters pertaining to the system of vital
440 statistics.
441
- 442 (6) Prescribe, furnish, and distribute all forms required by this Act and the regulations
443 issued hereunder, and prescribe such other means for transmission of data,
444 including electronic submission, as will accomplish the purpose of complete,
445 accurate, and timely reporting and registration.
446
- 447 (7) Prepare and publish reports of vital statistics of this State and such other reports as
448 may be required by the State Agency.
449
- 450 (8) Provide to local health agencies information derived from vital records and vital
451 reports required under this Act, as he or she shall determine are necessary for local
452 health planning and program activities. The State Registrar shall establish a
453 schedule with each local health agency for transmittal of the information. The
454 information shall remain the property of the (Office of Vital Statistics), and the uses
455 which may be made of them shall be governed by the State Registrar.
456
- 457 (9) Prepare a plan to provide for the continuity of operations of the system of vital
458 statistics in the event of an emergency. The plan shall anticipate to the extent
459 practicable, natural or man-made events that interrupt normal activities of the
460 system of vital statistics, identify essential vital statistics services, and provide
461 guidance for maintaining such services. Components of the plan shall include
462 alternative locations for operations, identification of essential equipment and
463 document needs and where to obtain them, and identification of essential staff and
464 how to communicate with them in an emergency. Such plan shall be confidential
465 and shall not be subject to compelled disclosure. The State Registrar may,
466 however, authorize disclosure of all or part of the plan as the State Registrar may
467 deem necessary for the purpose of implementing the plan.
468
- 469 (b) The State Registrar may establish, designate or eliminate offices in the State to aid in
470 the efficient administration of the system of vital statistics.
471
- 472 (c) The State Registrar may delegate such functions and duties vested in him or her to
473 employees of the (Office of Vital Statistics) and to employees of any office established or
474 designated under Section 6(b).
475

476 **Regulations 1-5 intentionally left blank.**

477
478 **Regulation 6. Duties of State Registrar**
479 (Authorization: Section 6 of the Model Act)
480

2011 Revision- September 7, 2011

Regulation 6.1 Forms, Records, Reports, Electronic Data Files

All forms, records, electronic data files, reports, and supporting documentation used in the system of vital statistics are the property of the State Agency - and shall be surrendered to the State Registrar of Vital Statistics - hereinafter referred to as "State Registrar" - upon demand. The forms prescribed and distributed by the State Registrar for reporting vital statistics shall be used only for official purposes. Only those forms, including worksheets used in the preparation of vital records or vital reports, furnished or approved by the State Registrar shall be used for the submission of vital reports or in certifications thereof. Electronic data records will be accepted only when standards set by the State Registrar are met. Only computer programs specified and provided or otherwise authorized by the State Registrar shall be used for the submission of vital records and vital reports.

Regulation 6.2 Requirements for Preparation of Records and Reports

All individuals preparing or certifying a vital record or vital report shall be trained or approved by the State Registrar. All forms, records, and reports relating to vital statistics must either be computer printed, typewritten or printed legibly in black, unfading ink, or generated using electronic media approved by the State Registrar. All signatures required shall be either electronic or entered in black, unfading ink. Unless otherwise directed by the State Registrar, no vital record or vital report shall be complete and correct and acceptable for registration:

- (a) That does not contain the certifier's name computer printed, typed, or printed legibly [under his or her signature];
- (b) That does not supply all items of information or satisfactorily account for their omission;
- (c) That contains alterations or erasures;
- (d) That interferes with document imaging;
- (e) That does not contain signatures as required;
- (f) That is marked or flagged "copy" or "duplicate";
- (g) That is not an original;
- (h) That is prepared on an improper form;
- (i) That contains improper or inconsistent data;
- (j) That contains an indefinite cause of death which denotes only symptoms of disease or conditions resulting from disease;
- (k) That is not prepared in conformity with regulations or instructions issued by the State Registrar.

2011 Revision- September 7, 2011

528

529

Regulation 6.3 Designation of Local or Branch Registration Offices

530

531 The State Registrar shall determine whether offices other than the (Office of Vital Statistics) are
532 needed in this State to aid in the efficient administration of the system of vital statistics.

533

534 If the State Registrar determines that additional offices are necessary, such offices shall be
535 designated with the approval of the State Agency. The duties and responsibilities may be
536 assigned to currently existing offices or special branch offices of the (Office of Vital Statistics)
537 may be established in those areas where they are deemed necessary, or a combination of
538 existing offices and branch offices may be used. The employees of all offices shall be subject to
539 the control of the State Registrar when they are performing functions relating to the system of
540 vital statistics.

541

542 Any local registrar shall be appointed by the State Registrar. The local registrar shall, with the
543 approval of the State Registrar, appoint one or more deputy local registrars of vital statistics.
544 The deputy local registrar shall perform the duties of the local registrar in the absence or
545 incapacity of such local registrar and shall perform such other duties as may be prescribed. The
546 State Registrar may remove a local registrar or deputy local registrar for cause.

547

548 The State Registrar shall delegate such duties and responsibilities to such offices as he
549 or she deems necessary to provide for the efficient operation of the system of vital
550 statistics.

551

552 The State Registrar, with the approval of the State Agency, shall determine the responsibilities
553 and duties of each office independently.

554

Section 7. Security of Vital Statistics System

556 The Vital Statistics System supports civil registration and creates information that is used for
557 public health, statistical, health research, national security, and administrative purposes. Civil
558 registration of each vital event that occurs within the State is carried out primarily for the
559 purpose of establishing legal documents provided by law. Due to increased requirements of
560 civil registration in the context of national security and the use of live birth records as primary
561 identity documents, the State Registrar must take measures to prevent the fraudulent use of
562 vital records for purposes such as identity theft or terrorism, the State Registrar must maintain
563 security of personnel, physical environments, electronic systems, and preservation methods. In
564 addition, the State Registrar must perform data assurance and record matching activities to
565 protect the confidentiality and security of vital records and prevent their fraudulent use. This
566 section addresses authorities necessary for these purposes.

567

568 The State Registrar shall:

569

570 (a) authenticate all users of vital statistics systems and document that such users require
571 access based on their official duties;

572

2011 Revision- September 7, 2011

- 573 (b) authorize authenticated users of vital statistics systems to access specific components of
574 the vital statistics systems necessary for their official roles and duties;
575
- 576 (c) establish separation of duties between staff roles that may be susceptible to fraud or
577 misuse and routinely perform audits of staff work for the purposes of identifying fraud or
578 misuse within the vital statistics system;
579
- 580 (d) require that authenticated and authorized users maintain a specified level of training
581 related to security and provide written acknowledgment of security procedures and
582 penalties;
583
- 584 (e) validate data provided in reports submitted for registration through site visits or with
585 independent sources outside the registration system at a frequency specified by the State
586 Registrar to maximize the integrity of the data collected;
587
- 588 (f) protect personally identifiable information and maintain systems that provide for audits of
589 use and include protocols for breach identification and notification;
590
- 591 (g) receive a report of death if the decedent was born in the State or if the decedent was a
592 resident of the State from the United States Department of Defense or the United States
593 Department of State when the death of a United States citizen occurs outside the United
594 States;
595
- 596 (h) match death records registered in their jurisdiction and death records provided in
597 accordance with Section 27 to live birth records in their jurisdiction;
598
- 599 (i) match death records received from the United States Department of Defense or the
600 United States Department of State for deaths of United States citizens occurring outside
601 the United States to live birth records in their jurisdictions;
602
- 603 (j) work with law enforcement to provide evidence for active fraud investigations;
604
- 605 (k) provide secure workplace, storage and technology environments that have limited role-
606 based access;
607
- 608 (l) maintain overt, covert and forensic security measures for certifications, verifications and
609 automated systems that are part of the vital statistics system;
610
- 611 (m) comply with applicable laws and regulations associated with information technology
612 systems and related information security requirements; and
613
- 614 (n) comply with national standards that apply to the vital statistics system and its
615 components.
616

617 **Regulation 7: Security of Vital Statistics System**

618 (Authorization: Section 7 of the Model Act)

619

2011 Revision- September 7, 2011

- 620 (a) Certifications issued from vital statistics systems shall have security features.
621
622 (1) All certifications, paper and electronic, must include standard overt, covert, and
623 forensic security features that are designed to prevent tampering, counterfeiting, or
624 otherwise duplicating the certification for fraudulent purposes.
625
626 (i) The overt features enable instant authentication through visual inspection
627 by the user without requiring expert knowledge. Overt features may include
628 but are not limited to color changing inks, holograms, fibers, latent images,
629 watermarks and security threads.
630
631 (ii) The covert features are detectable with specific tools. Covert features may
632 include but are not limited to micro printing, fibers, and UV-fluorescent inks.
633
634 (iii) The forensic features are only detectable in a forensic laboratory by an
635 expert examiner or a code known only to the State Registrar.
636
637 (b) Matching of death records to live birth records as authorized in Section 7 shall include the
638 following actions:
639
640 (1) Upon matching the death record to the live birth record, the live birth record shall
641 be marked or flagged deceased.
642
643 (2) The date of death and the State or country where death occurred shall be
644 documented with the live birth record.
645
646 (3) The State Registrar shall have documented procedures for performing the match
647 of the death record to the live birth record.
648
649 (4) Initial matching and marking or flagging of records shall occur within (10) calendar
650 days after receipt of records.
651
652 (5) Certifications and verifications issued from live birth records marked or flagged
653 deceased shall be similarly marked or flagged.
654
655 (c) The State Registrar shall periodically test and audit the vital statistics system for
656 purposes of detecting fraud.
657
658 (1) Both internal processes and such external processes that interface with internal
659 processes shall be tested and audited on a frequency specified by the State
660 Registrar.
661
662 (2) The State Registrar shall provide copies of relevant findings and documentation to
663 appropriate authorities for further investigation.
664
665 (3) The results of such tests and audits shall be retained by the State Registrar but shall
666 not be subject to inspection or copying except by the State Registrar for purposes of

667 administering the vital statistics program.
668

669 **Section 8. Persons Required to Keep Records**
670

671 (a) Every person in charge of an institution shall keep a record of personal data concerning
672 each person admitted or confined to such institution. This record shall include such
673 information as required for the reports of live birth, death, fetal death or induced
674 termination of pregnancy required by this Act. The record shall be made at the time of
675 admission from information provided by the person being admitted or confined, but when
676 it cannot be so obtained, the information shall be obtained from relatives or other persons
677 acquainted with the facts. The name and address of the person providing the information
678 shall be a part of the record.
679

680 (b) Any licensed health care provider shall keep a record of personal data concerning each
681 person under the provider's care for a condition that results in a reportable vital event when
682 such documentation is not maintained by an institution described in (a). The record shall
683 include such information as required for the provider to submit a report of live birth, death,
684 fetal death or induced termination of pregnancy required by this Act. The record shall
685 include information provided by the person being treated. If the person being treated cannot
686 provide the information, then the licensed health care provider shall obtain the information
687 from relatives or other persons acquainted with the facts. The name and address of the
688 person providing the information shall be a part of the record.
689

690 (c) When a dead body or fetus is released or disposed of by an institution, the person in
691 charge of the institution shall keep a record showing the name of the decedent, date of
692 death, name and address of the person to whom the body or fetus is released, and the
693 date of removal from the institution. If final disposition is made by the institution, the date,
694 place, and manner of disposition shall also be recorded.
695

696 (d) A funeral director, embalmer, or other person who removes from the place of death,
697 transports, or makes final disposition of a dead body or fetus, in addition to filing any
698 record or other report required by this Act or regulations promulgated hereunder, shall
699 keep a record which shall identify the body, and such information pertaining to his or her
700 receipt, removal, delivery, burial, or cremation of such body as may be required by
701 regulations adopted by the State Agency.
702

703 (e) Records maintained under this section shall be retained for a period of not less than (7)
704 years and shall be made available for inspection by the State Registrar or his or her
705 representative upon demand.
706

707 **Regulation 8. Persons Required to Keep Records**

708 (Authorization: Section 8 of the Model Act)
709

710 Each funeral director shall keep a record containing, at a minimum, the following information
711 about each dead body or fetus the funeral director handles:
712

- 713 (a) The date, place, and time of receipt;
714
715 (b) The date, place, and manner of disposition;
716
717 (c) If the dead body or fetus is delivered to another funeral director, the date of such
718 delivery and the name and address of the funeral director to whom delivered; and
719
720 (d) The items required by the report of death for those deaths for which the funeral director
721 was required to register the report.
722

723 **Section 9. Duties to Furnish Information**

- 724
725 (a) Any person having knowledge of the facts shall furnish such information as he or she
726 may possess regarding any live birth, death, fetal death, induced termination of
727 pregnancy, marriage, or (divorce, dissolution of marriage, or annulment), upon demand of
728 the State Registrar. Any person required to report shall provide to the State Registrar
729 information that was required to be reported, but that was not so reported, within five
730 calendar days of that person receiving that information.
731
732 (b) Within five calendar days of receipt of any autopsy results or other information that would
733 provide pending or missing information or correct errors in a reported cause of death, the
734 physician, medical examiner, or coroner required to report the death shall register a
735 supplemental report of the cause of death to amend the record.
736
737 (c) Any person or institution that in good faith provides information required by this Act or
738 Regulations shall not be subject to any action for damages resulting from such provision
739 of information.
740
741 (d) The State Registrar shall have the authority to require alternative documentation from the
742 data provider of the occurrence of vital events for the purpose of quality assurance.
743

744 **Section 10. Content of Vital Records and Vital Reports**

- 745
746 (a) In order to promote and maintain nationwide uniformity in the system of vital statistics,
747 the forms of vital records and vital reports required by this Act, or by regulations adopted
748 hereunder, shall include as a minimum the items recommended by the Federal agency
749 responsible for national vital statistics.
750
751 (b) Each vital record, vital report, and other document required by this Act shall be prepared
752 in the format approved by the State Registrar.
753
754 (c) All vital records shall contain the date of registration.
755
756 (d) Information required in forms, vital records, or vital reports authorized by this Act may be
757 submitted, verified, registered, and stored by photographic, electronic, or other means
758 as prescribed by the State Registrar.

759

760

Section 11. Live Birth Registration

761

762 (a) A report of live birth for each live birth which occurs in this State shall be submitted to
 763 the (Office of Vital Statistics), or as otherwise directed by the State Registrar, within five
 764 calendar days after such live birth and shall be registered if it has been completed and
 765 submitted in accordance with this section.

766

767 (b) The physician, institution, or other person providing prenatal care shall provide the
 768 prenatal care information required for the report to the institution where the delivery is
 769 expected to occur not less than 30 calendar days prior to the expected delivery date.

770

771 (c) When a live birth occurs in an institution or en route thereto, the person in charge of the
 772 institution or his or her authorized designee shall obtain all data required by the State
 773 Registrar, prepare the report, certify that the child was born alive at the place and time
 774 and on the date stated either by signature or by an approved electronic process, and
 775 submit the report as directed in Section 11(a).

776

777 (d) In obtaining the information required for the report, all institutions shall use information
 778 gathering procedures (including worksheets) provided or approved by the State
 779 Registrar. Institutions may establish procedures to transfer, electronically or otherwise,
 780 information required for the report from other systems. Such procedures shall be
 781 reviewed and approved by the State Registrar prior to implementation to ensure that the
 782 information being transferred is the same as that being requested for the report.

783

784 (e) When a live birth occurs outside an institution,

785

786 (1) the information for the report of live birth shall be submitted in the format specified
 787 by the State Registrar in the following order of priority within five calendar days of
 788 the live birth by:

789

790 (a) the medical facility at which the mother and child are examined within five
 791 calendar days of the live birth; or

792

793 (b) the physician in attendance at the live birth or who examines the mother and the
 794 child within five calendar days of the live birth; or

795

796 (c) any other licensed or certified health care practitioner [authorized to attend the
 797 live birth] in attendance at the live birth or who examines the mother and the
 798 child within five calendar days of the live birth; or

799

800 (d) the father, the mother, or, in the absence of the father and the inability of
 801 the mother, the person in charge of the premises where the live birth occurred.

802

803 (2) the State Agency shall by regulation determine what evidence may be required to
 804 establish the facts of live birth.

2011 Revision- September 7, 2011

805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851

(3) When a report is submitted for an out of institution live birth that does not include the minimum acceptable documentation required in the regulations when the live birth occurred outside an institution or when the State Registrar has cause to question the validity or adequacy of the documentary evidence, and if the deficiencies are not corrected, the State Registrar shall not register the report of live birth. The State Registrar shall advise the registrant's mother or guardian of the reasons for this action, and shall further advise such person the right to seek an order from a court with competent jurisdiction over the State Agency.

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

(g) For purposes of live birth registration, the woman who gives live birth to the child shall be the live birth mother. The information required by the report of live birth shall be that of the live birth mother and such information shall be reported to and registered by the State Agency pursuant to State law. Thereafter, a court of competent jurisdiction may determine that a woman other than the live birth mother is the biological or genetic mother and order that the original live birth record be so amended. The original live birth record shall then be placed under seal. The information about the father [(spouse, parent, domestic partner, civil partner)] shall be entered as provided in Section 11(h).

(h) For the purposes of live birth registration:

(1) If the mother was married at the time of either conception or live birth, or between conception and live birth, the name of the husband [spouse] shall be entered on the report as the (father, parent) of the child, unless parentage has been determined otherwise by a court of competent jurisdiction.

(2) If the mother was not married at the time of either conception or live birth or between conception and live birth, the name of the (father, parent) shall not be entered on the report without an acknowledgment of paternity as prescribed by State law and signed by the mother and the person to be named as the (father, parent).

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the (father, parent) and surname of the child shall be entered on the report of live birth in accordance with the finding and order of the court.

(4) If the (father, parent) is not named on the report of live birth, non-identifiable information about the (father, parent) may be entered on the report.

- 852 (5) Acknowledgments referenced in this section shall be filed with (the State Registrar).
853
854 (i) Either of the parents of the child, or other informant, shall verify the accuracy of the
855 personal data to be entered on the report in time to permit the submission of the report
856 within the five calendar days as prescribed in Section 11(a).
857
858 (j) Reports of live birth submitted after five calendar days, but within one year from the date
859 of live birth shall be registered in the standard format of live birth reports in the manner
860 prescribed above. Such reports shall not be marked or flagged "Delayed."
861
862 (k) The State Registrar may require additional evidence in support of the facts of live birth.
863

864 **Regulations 9-10 intentionally left blank.**
865

866 **Regulation 11. Live Birth Registration Out-of-Institution Live Birth -**
867 **Documentary Evidence**

868 (Authorization: Section 11 of the Model Act)
869

870 When a live birth occurs in this State outside of a hospital or institution, and there is found to be
871 no live birth registration and the report of live birth is registered before the first birthday,
872 additional evidence in support of the facts of live birth may be required.
873

874 A report for the live birth shall be completed and registered upon acceptance by the State
875 Registrar of the following evidence by the individual responsible for submitting the report:
876

- 877 (a) Evidence of pregnancy, such as but not limited to:
878
879 (1) Prenatal record; or
880
881 (2) A statement from a physician or other health care provider qualified to determine
882 pregnancy; or
883
884 (3) A home visit by a public health nurse or other health care provider; or
885
886 (4) Other evidence acceptable to the State Registrar.
887
888 (b) Evidence that the infant was born alive, such as but not limited to:
889
890 (1) A statement from the physician or other health care provider who saw or examined
891 the infant; or
892
893 (2) An observation of the infant during a home visit by a public health nurse; or
894
895 (3) Other evidence acceptable to the State Registrar.
896

- 897 (c) Evidence of the mother's presence in this State on the date of the live birth, such as but
898 not limited to:
899
900 (1) If the live birth occurred in the mother's residence,
901
902 (a) A rent receipt that includes the mother's name and address, or
903
904 (b) Any type of utility, telephone, or other bill that includes the mother's name and
905 address, or
906
907 (c) A credit or debit card receipt that includes the date and location of the
908 transaction, or
909
910 (d) A driver's license, or a State-issued identification card, which includes the
911 mother's current residence on the face of the license/card, or
912
913 (e) Other evidence acceptable to the State Registrar.
914
915 (2) If the live birth occurred outside of the mother's place of residence, and the mother is a
916 resident of this State, such evidence shall consist of:
917
918 (a) An affidavit from the tenant of the premises where the live birth occurred, that
919 the mother was present on those premises at the time of the live birth; and
920
921 (b) Evidence of the affiant's residence similar to that required in paragraph (c)(1) of
922 this regulation; and
923
924 (c) Evidence of the mother's residence in the State similar to that required in
925 paragraph (c)(1) of this regulation; or
926
927 (d) Other evidence acceptable to the State Registrar.
928
929 (3) If the mother is not a resident of this State, such evidence must consist of clear and
930 convincing evidence acceptable to the State Registrar.
931

932 **Section 12. Infants of Unknown Parentage; Foundling Registration**
933

- 934 (a) Whoever assumes the custody of a live born infant of unknown parentage shall report in a
935 manner prescribed by the State Registrar within five calendar days to the (Office of Vital
936 Statistics) the following information:
937
938 (1) The date and city and/or county of finding;
939
940 (2) Sex and approximate live birth date of child;
941
942 (3) Name and address of the person or institution submitting this report;
943

2011 Revision- September 7, 2011

- 944 (4) Name given to the child by the custodian of the child;
945
946 (5) Other data required by the State Registrar.
947
948 (b) The place where the child was found shall be entered as the place of live birth.
949
950 (c) Information submitted under this section shall constitute the basis for the report of live
951 birth for the child.
952
953 (d) If the child is identified and a live birth registration is found or obtained, the report
954 submitted under this Section and any live birth registration resulting from that report shall
955 be voided and placed in a sealed file and shall not be subject to inspection except upon
956 order of a court with competent jurisdiction over the State Agency or as provided by
957 regulation.
958

959 **Regulation 12. Infants of Unknown Parentage; Foundling Registration**

960 (Authorization: Section 12 of the Model Act)

961
962 The report for an infant of unknown parentage shall be registered in the current format for live
963 births and shall:

- 964
965 (a) Have "foundling" plainly marked or flagged on the report;
966
967 (b) Show the required facts as determined by approximation and have parentage data left
968 blank;
969
970 (c) Show the name and title of the person or institution submitting the report under
971 Section 12.
972

973 When a report has been placed in a sealed file as provided by Section 12(d) of the Model Act,
974 the State Registrar may inspect such information for purposes of properly administering the vital
975 statistics program.
976

977 **Section 13. Delayed Registration of Live Birth**

- 978
979 (a) When a report of live birth of a person born in this State has not been registered within
980 one year, a delayed report of live birth may be submitted in accordance with regulations
981 of the State Agency. No delayed report shall be registered until the evidentiary
982 requirements as specified in regulation have been met.
983
984 (b) A certification issued as a result of a report submitted under this section shall indicate it is
985 a delayed registration and show the date of registration. The delayed record shall
986 contain a summary statement of the evidence submitted in support of the delayed
987 registration.
988
989 (c) All delayed reports of live birth shall be processed and registered only at the State (Office
990 of Vital Statistics).

2011 Revision- September 7, 2011

- 991
992 (d) All certifications of delayed registrations shall be issued from the single statewide
993 database prepared by the State Registrar.
994
995 (e) No delayed report of live birth shall be registered for a deceased person.
996
997 (f) When an applicant as defined by regulation does not submit the minimum
998 documentation required in the regulations for delayed registration or when the State
999 Registrar has cause to question the validity or adequacy of the applicant's (sworn,
1000 notarized, witnessed) statement or the documentary evidence, and if the deficiencies are
1001 not corrected, the State Registrar shall not register the delayed report of live birth. The
1002 State Registrar shall advise the applicant of the reasons for this action, and shall further
1003 advise the applicant of his or her right to seek an order from a court with competent
1004 jurisdiction over the State Agency.
1005
1006 (g) The State Registrar may provide for the dismissal of an application that is not actively
1007 pursued.
1008

1009 **Regulation 13. Delayed Registration of Live Birth**

1010 (Authorization: Section 13 of the Model Act)

1011 1012 **Regulation 13.1 Who May Request the Registration of a Delayed** 1013 **Registration of Live Birth**

1014
1015 Any person (18) years of age or older born in this State whose live birth is not recorded in this
1016 State may request the registration of a delayed report of live birth, subject to these regulations
1017 and instructions issued by the State Registrar. If a person is under (18) years of age, his or her
1018 parent or guardian, or in the absence, inability or refusal of his or her parent or guardian, any
1019 next of kin (18) years of age or older who is at least ten years older than the registrant acting for
1020 the registrant and having personal knowledge of the facts of live birth may request the
1021 registration of a delayed report of live birth, subject to these regulations and instructions issued
1022 by the State Registrar.
1023

1024 Each application for a delayed registration of live birth shall be signed and (sworn, notarized,
1025 witnessed) to before an official authorized to administer oaths by the person whose live birth is
1026 to be registered if such person is (18) years of age or over and is competent to sign and (swear,
1027 notarize, witness) to the accuracy of the facts stated therein; otherwise the application shall be
1028 signed and (sworn, notarized, witnessed) to by one of the parents of the registrant, his/her
1029 guardian, or any other person (18) years of age or older having personal knowledge of the facts
1030 of live birth.
1031

1032 **Regulation 13.2 Facts to be Established for a Delayed Registration of Live** 1033 **Birth**

1034
1035 The minimum facts which must be established by documentary evidence shall be the following:
1036

2011 Revision- September 7, 2011

- 1037 (a) The full name of the person at the time of live birth;
- 1038
- 1039 (b) The date of live birth;
- 1040
- 1041 (c) The State of live birth;
- 1042
- 1043 (d) The full name of the mother prior to first marriage.
- 1044

1045 **Regulation 13.3 Delayed Registration Following a Legal Change of Status**

1046 A live birth originally registered as a delayed live birth shall remain in the delayed registration
1047 format, regardless of subsequent legal change of status or amendment.
1048

1049 The prior delayed registration and the evidence upon which the delayed registration was based
1050 shall be placed in a sealed file. Such file shall not be subject to inspection except upon order of
1051 a court with competent jurisdiction over the State Agency or by the State Registrar for purposes
1052 of properly administering the vital statistics program.
1053

1054 Any certification of such record shall contain a summary of the evidence submitted to
1055 substantiate the amended delayed registration.
1056

1057 **Regulation 13.4 Documentary Evidence – Requirements**

1058 To be acceptable for registration, the name of the person at the time of the live birth and the
1059 date and place of live birth entered on a delayed registration of live birth shall be supported by at
1060 least:
1061

- 1062 (a) For persons born before 1965, one piece of acceptable documentary evidence that
1063 will establish to the satisfaction of the State Registrar the name of the mother;
- 1064 (b) For persons born on or after 1965, one piece of acceptable documentary evidence
1065 that will establish to the satisfaction of the State Registrar the names of the mother
1066 and father;
- 1067 (c) Three pieces of acceptable documentary evidence that will establish to the
1068 satisfaction of the State Registrar the facts and date of live birth as alleged in the
1069 application;
- 1070 (d) Facts of parentage shall be supported by at least one document.
1071

1072 **Regulation 13.5 Documentary Evidence – Acceptability**

1073 The State Registrar shall determine the acceptability of all documentary evidence submitted.
1074
1075
1076
1077
1078
1079
1080

- 1081 (a) Documents must be from independent sources and shall be in the form of the
1082 original record or a duly certified copy thereof or a signed statement from the
1083 custodian of the record or document.
1084
- 1085 (b) Documents may include but are not limited to:
1086
- 1087 (1) census records;
 - 1088
 - 1089 (2) hospital records;
 - 1090
 - 1091 (3) military records;
 - 1092
 - 1093 (4) Social Security records;
 - 1094
 - 1095 (5) voter registration records;
 - 1096
 - 1097 (6) school records; or
 - 1098
 - 1099 (7) other documents as designated by the State Registrar.
1100
- 1101 (c) All documents submitted in evidence:
1102
- 1103 (1) for persons more than ten years of age must have been established at least ten
1104 years prior to the date of application;
 - 1105
 - 1106 (2) for persons ten years of age or younger must be dated at least one year prior to
1107 the date of application or within the first year of life;
 - 1108
 - 1109 (3) shall not be contradictory.
1110

1111 **Regulation 13.6 Abstraction of Documentary Evidence**

1112
1113 The State Registrar or his or her designated representative shall abstract on the delayed
1114 registration of live birth a description of each document submitted to support the facts. This
1115 description shall include:

- 1116 (a) The title or description of the document;
- 1117
- 1118 (b) The name and address of the custodial organization, if any;
- 1119
- 1120
- 1121 (c) The creation date of the original document;
- 1122
- 1123 (d) All live birth facts required by Regulation 13.2 contained in each document accepted
1124 as evidence.
1125

1126 Original documents submitted in support of the delayed live birth registration shall be returned to
1127 the applicant after review. Copies of all items submitted shall be maintained and indexed by the
1128 State Registrar.
1129

1130 **Regulation 13.7 Verification by the State Registrar**
1131

1132 The State Registrar, or his or her designated representative shall verify:
1133

- 1134 (a) That no prior report of live birth is registered in this State for the person whose live
1135 birth is to be recorded;
1136
- 1137 (b) That he or she has reviewed the evidence submitted to establish the facts of live
1138 birth;
1139
- 1140 (c) That the abstract of the evidence appearing on the delayed record of live birth
1141 accurately reflects the nature and content of the document.
1142

1143 **Regulation 13.8 Dismissal After One Year**
1144

1145 An application for a delayed registration of live birth that has not been completed within one year
1146 from the date of application may be dismissed at the discretion of the State Registrar. Upon
1147 dismissal, the State Registrar shall so advise the applicant and documents submitted in support
1148 of such registration shall be returned to the applicant.
1149

1150 **Section 14. Judicial Procedures to Register a Live Birth**
1151

- 1152 (a) If the State Registrar refuses to register a report of live birth under the provisions of
1153 Section 11 or 13, a petition signed and (sworn, notarized, witnessed) to by the petitioner
1154 may be filed with a court with competent jurisdiction over the State Agency for an order
1155 establishing a record of the date and place of the live birth and the parentage of the
1156 person whose live birth is to be registered.
1157
- 1158 (b) Such petition [shall be made on a form prescribed and furnished or approved by the State
1159 Registrar and] shall allege:
1160
 - 1161 (1) That the person for whom a report of live birth is sought was born in this State;
1162
 - 1163 (2) That no report of live birth of such person can be found in the (Office of Vital
1164 Statistics) or (the office of any local custodian of live birth records);
1165
 - 1166 (3) That diligent efforts by the petitioner have failed to obtain the evidence required in
1167 accordance with Sections 11 or 13 of this Act and Regulations adopted pursuant
1168 thereto;
1169
 - 1170 (4) That the State Registrar has refused to register a report of live birth and;
1171

- 1172 (5) Such other allegations as may be required.
1173
1174 (c) The petition shall be accompanied by a statement of the State Registrar made in
1175 accordance with Sections 11(e) (3) or 13(f) and all documentary evidence to support
1176 such registration which was submitted to the State Registrar.
1177
1178 (d) The court shall fix a time and place for hearing the petition and shall give the State
1179 Registrar 30 calendar days notice of said hearing. The State Registrar or his or her
1180 authorized representative may appear and testify in the proceeding.
1181
1182 (e) If the court finds, from the evidence presented, that the person for whom a report of live
1183 birth is sought was born in this State, it shall make findings as to the place and date of
1184 live birth, parentage, and such other findings as may be required and shall issue an
1185 order [on a form prescribed and furnished or approved by the State Registrar] to
1186 establish a court-ordered report of live birth. This order shall include the live birth data to
1187 be registered, a description of the evidence presented, and the date of the court's action.
1188
1189 (f) The clerk of court shall forward each such order to the State Registrar within three
1190 calendar days of the order being entered. Such order shall be used to register a report
1191 of live birth for the individual. The record of live birth shall include a statement that it was
1192 registered based on a court order.
1193

1194 **Section 15. Death Registration**

- 1195
1196 (a) A report of death for each death which occurs in this State shall be submitted to the
1197 (Office of Vital Statistics), or as otherwise directed by the State Registrar, within five
1198 calendar days after death or the finding of a dead body and prior to final disposition, and
1199 shall be registered if it has been completed and submitted in accordance with this
1200 section.
1201
1202 (1) If the place of death is unknown but the dead body is found in this State, the report
1203 of death shall be completed and submitted in accordance with this section. The
1204 place where the body is found shall be noted as the place of death.
1205
1206 (2) When death occurs in a moving conveyance within or outside the United States and
1207 the body is first removed from the conveyance in this State, the death shall be
1208 registered in this State and the place where it is first removed shall be deemed the
1209 place of death, and may show the actual location of death insofar as it can be
1210 determined.
1211
1212 (3) In all other cases, the place where death is pronounced shall be considered the
1213 place where death occurred.
1214
1215 (4) If the date of death is unknown, the medical certifier shall determine the date by
1216 approximation. If the date cannot be determined by approximation, the date found
1217 shall be entered and identified as date found.
1218

2011 Revision- September 7, 2011

- 1219 (b) The funeral director or person acting as such who first assumes custody of the dead
1220 body shall submit the report of death to the (Office of Vital Statistics). However, the
1221 report of death may be submitted by the funeral director responsible for the disposition
1222 of the body. In cases where there is no funeral director or person acting as such, the
1223 (medical examiner/coroner) shall submit the report of death.
1224
- 1225 (1) He or she shall obtain the personal data from the next of kin or the best qualified
1226 person or source available and shall obtain the medical certification from the person
1227 responsible therefore.
1228
- 1229 (2) The funeral director or person acting as such shall provide the report of death
1230 containing sufficient information to identify the decedent to the medical certifier within
1231 48 hours after death unless the medical certification has already been submitted.
1232
- 1233 (c) The medical certification shall be completed within 48 hours after having access to the
1234 report of death by the decedent's primary or attending physician, except when inquiry is
1235 required by the (Post-Mortem Examinations Act). For purposes of this Section, the
1236 decedent's primary or attending physician is the physician who has treated the decedent
1237 through examination, medical advice, or medications within the 12 months preceding the
1238 death. In the absence or inability of said physician or with his or her approval the report
1239 may be completed by his or her associate physician, the chief medical officer of the
1240 institution in which death occurred, or the physician who performed an autopsy upon the
1241 decedent, provided such individual has access to the medical history of the case, and
1242 death is due to natural causes. The person completing the cause of death shall attest to
1243 its accuracy either by signature or by an approved electronic process.
1244
- 1245 (d) When inquiry is required by the (Post-Mortem Examinations Act), the (medical examiner/
1246 coroner) in the jurisdiction where death occurred or the body was found shall determine
1247 the cause and manner of death and shall complete and sign the medical certification
1248 within 48 hours after taking charge of the case.
1249
- 1250 (e) When death occurs in an institution and the person responsible for the completion of the
1251 medical certification is not available to pronounce death, another physician at the
1252 institution who views the body may pronounce death, attest to the pronouncement by
1253 signature or an approved electronic process, and, with the permission of the person
1254 responsible for the medical certification, release the body to the funeral director or
1255 person acting as such.
1256
- 1257 (f) When a death occurs in an institution and the death is not under the jurisdiction of the
1258 medical examiner or coroner, the person in charge of the institution or his or her
1259 designated representative, shall enter the following information on the report of death
1260 within 48 hours of death:
1261
- 1262 (1) The name of the decedent and the date of death shall be completed if not
1263 already done so;
1264
- 1265 (2) The medical certification of death and the (electronic signature) of the physician

1266 shall be completed by the person's primary or attending physician or as set
1267 forth in subsection 15(c) hereof;

1268
1269 (3) The partially completed report of death shall be made available to the
1270 funeral director [or person acting as such] within 48 hours of death.

- 1271
1272 g) If the cause or manner of death is unknown or pending investigation, the cause or
1273 manner of death shall be noted as such on the report and reported within 48 hours after
1274 death.
- 1275
1276 (h) Upon receipt of autopsy results or other information that would change the information in
1277 the cause-of-death section of the report of death from that originally reported, the
1278 medical certifier shall within five days submit to the (Office of Vital Statistics) a
1279 supplemental report to amend the report of death.
- 1280
1281 (i) When a death which has not been or is not the subject of a presumptive death
1282 proceeding in any court of this or any other State is presumed to have occurred within
1283 this State as a result of a known event in this State, but no remains of the presumed
1284 deceased can be located, a report of death may be prepared by the State Registrar only
1285 upon receipt of an order of court with competent jurisdiction over the State Agency,
1286 which shall include the finding of facts required to complete the report of death.¹ Such a
1287 report of death shall be marked or flagged "Presumptive" and shall show on its face the
1288 date of death as determined by the court, the date of registration, and the identity of the
1289 court and the date of the order.
- 1290
1291 (j) When a death of a missing person domiciled in this State, and which has not been or is
1292 not the subject of a presumptive death proceeding in any court of this or any other State,
1293 has been determined by a court with competent jurisdiction over the State Agency in
1294 accordance with the laws of this State to have presumptively occurred in another State,
1295 a report of death may be prepared by the State Registrar only upon receipt of an order
1296 of such court, which shall include the finding of facts required to complete the report of
1297 death. Such a report of death shall be marked or flagged "Presumptive" and shall show
1298 on its face the date of death as determined by the said court, the date of registration,
1299 and the identity of such court and the date of the order.
- 1300
1301 (k) When a death occurring in this State has not been registered as prescribed by this
1302 Section, a report of death may be submitted to the State Registrar using the current
1303 format of the report of death provided the physician at the time of death or the county
1304 medical examiner, State medical examiner or coroner and the funeral director or person
1305 acting as such are available to complete the report of death. If the report of death is
1306 submitted more than one year after the date of death or date the body was found, the
1307 medical certifier and funeral director shall state in accompanying notarized statements
1308 that the information submitted is based on records kept in their files. If the physician at
1309 the time of death, county coroner, county medical examiner, or State medical examiner

1 Deaths of persons who are presumed to have died in this State outside of a known event where the remains cannot be located, generally fall under the law of this State governing probate.

2011 Revision- September 7, 2011

1310 and funeral director or person acting as such are unavailable or decline then the death
1311 shall not be registered except upon receipt of an order from a court with competent
1312 jurisdiction over the State Agency.
1313

1314 **Regulation 14 intentionally left blank.**
1315

1316 **Regulation 15. Death Registration**

1317 (Authorization: Section 15 of the Model Act)
1318

1319 **Regulation 15.1 Registration of Incomplete Reports of Death**
1320

- 1321 (a) If all the information necessary to complete a report of death is not available within the
1322 time prescribed for submitting the report of death, the funeral director or person acting as
1323 such, or the (medical examiner/coroner) shall submit the report of death with the
1324 information that is available and indicate the items that are unknown.
1325
- 1326 (b) Supplemental information providing the unknown non-medical information omitted shall
1327 be submitted by the funeral director or person acting as such or the (medical
1328 examiner/coroner) with the State Registrar within five calendar days after such
1329 information is obtained. The supplemental information shall be incorporated into the
1330 existing death record in accordance with Regulation 23.
1331
- 1332 (c) Supplemental information providing the unknown medical information omitted from the
1333 report shall be submitted by the medical certifier with the State Registrar within five
1334 calendar days after such information is obtained. The supplemental information shall be
1335 incorporated into the existing report of death in accordance with Regulation 23.
1336

1337 **Section 16. Judicial Procedures to Register a Death**
1338

1339 A death may be registered by the State Registrar as specified in Section 15(i), (j) or (k), upon
1340 receipt of an order of a court with competent jurisdiction over the State Agency.
1341

- 1342 (a) The court order to establish a death record shall include all of the following information:
1343
- 1344 (1) Decedent's legal name (first, middle, last and suffix, if any);
 - 1345 (2) Date of death as determined from the evidence presented;
 - 1346 (3) City, county and place of death as determined from the evidence presented;
 - 1347 (4) Decedent's date of live birth, city and State or country of live birth, race(s), ethnicity,
1348 sex, social security number, and parent(s) name(s) prior to first marriage;
 - 1349 (5) Decedent's address including street address, city, county, State, and zip code at time
1350 of death;
1351
1352
1353
1354

- 1355 (6) Decedent's marital status at time of death;
1356
1357 (7) Name, prior to first marriage, of surviving spouse (if any); and
1358
1359 (8) The information necessary to complete the medical certification including the cause
1360 and manner of death. If the death occurred from an injury, information on how and when
1361 the injury occurred. If such information is unknown, the order shall indicate such.
1362
1363 (b) The death report shall be prepared by the (State Registrar, medical examiner/ coroner) and
1364 be submitted to the State Registrar for registration. This report shall be prepared from the
1365 information in the court order.
1366
1367 (c) All certifications issued shall show the date of the court order and the name of the court
1368 issuing that order.
1369
1370 (d) If the death was registered pursuant to Section 15 (i) or (j) the record shall be marked or
1371 flagged "Presumptive."
1372

1373 **Section 17. Fetal Death Registration**

1374
1375 A report of each fetal death of 350 grams or more, or if weight is unknown, of 20 completed
1376 weeks gestation or more, calculated from the date last normal menstrual period began to the
1377 date of delivery, which occurs in this State shall be submitted within five calendar days after
1378 delivery to the (Office of Vital Statistics) or as otherwise directed by the State Registrar and shall
1379 be registered if it has been completed and submitted in accordance with this Section. All
1380 induced terminations of pregnancy shall be reported in the manner prescribed in Section 25 and
1381 shall not be reported as fetal deaths.
1382

- 1383 (a) When a fetus is delivered in an institution or en route thereto, the person in charge of the
1384 institution or his or her designated representative shall obtain all data required by the
1385 State Registrar to prepare and submit the report. In obtaining the information required by
1386 the fetal death report, all institutions shall use information gathering procedures (including
1387 worksheets) provided or approved by the State Registrar. Institutions may establish
1388 procedures to transfer, electronically or otherwise, information required by the fetal death
1389 report from other systems. Such procedures shall be reviewed and approved by the State
1390 Registrar prior to implementation to ensure that the information being transferred is the
1391 same as that being requested on the fetal death report.
1392
1393 (b) When a fetus is delivered outside an institution, the physician in attendance at or
1394 immediately after delivery shall prepare and submit the report.
1395
1396 (c) When a fetal death required to be reported by this Section occurs without medical
1397 attendance at or immediately after the delivery or when inquiry is required by the (Post-
1398 Mortem Examinations Act), the (medical examiner/coroner) shall investigate the cause of
1399 fetal death and shall prepare and submit the report within five calendar days.
1400

- 1401 (d) If the cause of fetal death is unknown or pending investigation, the cause of fetal death
1402 shall be noted as such on the report.
1403
- 1404 (e) A notation indicating the record was amended shall be shown on certifications of the
1405 record. The date of the change and what item was changed shall also be shown on
1406 certifications of the record.
1407
- 1408 (f) When a fetal death occurs in a moving conveyance and the fetus is first removed from the
1409 conveyance in this State or when a fetus is found in this State and the place of fetal death
1410 is unknown, the fetal death shall be reported in this State. The place where the fetus was
1411 first removed from the conveyance or the fetus was found shall be considered the place of
1412 fetal death.
1413

1414 **Section 18. Authorization for Final Disposition**

- 1415
- 1416 (a) Human remains shall be disposed of in accordance with State law.²
1417
- 1418 (b) No person shall dispose of human remains unless all of the following have occurred prior
1419 to final disposition of the body:
1420
- 1421 1) The report of death or fetal death has been registered with the State Registrar as
1422 provided in Sections 15 or 17;
1423
- 1424 2) The funeral director or person acting as such has obtained from the State Registrar a
1425 Disposition Permit authorizing final disposition;
1426
- 1427 3) If final disposition is to be cremation, resomation or burial at sea, additional
1428 authorization must be obtained from the (medical examiner/coroner) in a format
1429 prescribed by the State Registrar.
1430
- 1431 (c) For purposes of this Section, upon request of the parent or their authorized representative,
1432 a disposition permit may be issued for a fetus that is the result of a fetal death or induced
1433 termination of pregnancy.
1434
- 1435 (d) A Disposition Permit issued under the law of another State which accompanies human
1436 remains brought into this State shall be authority for final disposition of the human remains
1437 in this State.
1438
- 1439 (e) No person in charge of any place in which interment or other disposition of human
1440 remains is made shall inter or allow interment or other disposition of human remains
1441 unless the human remains are accompanied by a disposition permit.
1442
- 1443 (f) Each person in charge of any place of final disposition shall indicate on the disposition
1444 permit the date of disposition and shall return all completed disposition permits to the

2 If disposition requirements are not otherwise specified in State law, then such provisions should be set forth in this Section.

2011 Revision- September 7, 2011

1445 State Registrar after disposition. When there is no person in charge of the place of final
1446 disposition, the funeral director or person acting as such shall complete the disposition
1447 permit and return it to the State Registrar after disposition.
1448

1449 [(g) Authorization for disinterment and reinterment shall be required prior to disinterment of
1450 human remains. Such authorization shall be issued by the State Registrar to a licensed
1451 funeral director or person acting as such, upon proper application.]
1452

1453 **Regulations 16 and 17 intentionally left blank.**
1454

1455 **[Regulation 18. Authorization for Disinterment and Reinterment**

1456 (Authorization: Section 18 of the Model Act)
1457

1458 An authorization for disinterment and reinterment of human remains shall be issued by the State
1459 Registrar upon receipt of a written application signed by the next of kin and the person who is in
1460 charge of the disinterment or upon receipt of an order of a court with competent jurisdiction over
1461 the State Agency directing such disinterment.
1462

1463 Upon receipt of such a court order or signed permission of the next of kin, the State Registrar
1464 may issue one authorization to permit disinterment and reinterment of all human remains in a
1465 mass disinterment provided that, insofar as possible, the remains of each body be identified and
1466 the place of disinterment and reinterment specified. The authorization shall be permission for
1467 disinterment, transportation, and reinterment.
1468

1469 Human remains deposited in a receiving vault shall not be considered a disinterment when
1470 removed from the vault for final disposition.]
1471

1472 **[Section 19. Marriage Registration**

- 1473
- 1474 (a) A report of each marriage performed in this State shall be submitted to the (Office of Vital
1475 Statistics) and shall be registered if it has been completed in accordance with this Section
1476 and regulations pursuant to this Act.
1477
 - 1478 (b) The (official) who issues the marriage license shall prepare the report in the format
1479 prescribed by the State Registrar upon the basis of information obtained from the parties
1480 to be married.
1481
 - 1482 (c) Each person who performs a marriage shall certify the fact of marriage and submit the
1483 report to the (official) who issued the license within five calendar days after the ceremony.
1484
 - 1485 (d) Every (official) issuing marriage licenses shall complete and submit such licenses to the
1486 (Office of Vital Statistics) within fifteen calendar days after the ceremony.]
1487

1488 **[Section 20. Delayed Registration of Marriage**

1489 ((a) The registration of a marriage after one year from the date of marriage shall be made on the
1490 current report of marriage and shall be registered if it is submitted by the official responsible for
1491 issuing marriage licenses.

1492
1493 (b) The report of marriage shall indicate it is a delayed registration and show the date of
1494 registration.]

1495
1496 **[Section 21. (Divorce, Dissolution of Marriage, or Annulment) Registration**

1497
1498 (a) A report of each (divorce, dissolution of marriage, or annulment) (decreed, ordered) by
1499 any court in this State shall be submitted by the (clerk of court) to the (Office of Vital
1500 Statistics) and shall be registered if it has been completed and submitted in accordance
1501 with this Section. The report shall be prepared by the petitioner or his or her legal
1502 representative in the form prescribed by the State Registrar and shall be submitted to the
1503 (clerk of court) with the petition. In all cases the report shall be completed and submitted
1504 to the (clerk of court) prior to the granting of the (decree, order).

1505
1506 (b) The (clerk of court) shall complete and submit the report of each (divorce, dissolution of
1507 marriage, or annulment) to the (Office of Vital Statistics) within five calendar days of
1508 granting the (divorce, dissolution of marriage, or annulment).]

1509
1510 **Section 22. Reports of Adoption**

1511
1512 (a) For each adoption decreed by a court of competent jurisdiction in this State, the court
1513 shall require the preparation of a report of adoption on a form prescribed and furnished
1514 by the State Registrar. The report of adoption shall include such facts as are necessary
1515 to locate and identify the report of live birth of the person adopted. In the case of a
1516 person who was born in a foreign country, the report of adoption shall provide evidence
1517 from sources determined to be reliable by the court as to the date and place of live birth
1518 of such person. The report of adoption shall include information necessary to establish a
1519 replacement report of live birth of the person adopted; shall identify the order of
1520 adoption; and shall be certified by the clerk of the court.

1521
1522 (b) Information necessary to prepare the report of adoption shall be furnished by each
1523 petitioner for adoption or by his or her attorney. The (social service agency) or any
1524 person having knowledge of the facts shall supply the court with such additional
1525 information as may be necessary to complete the report of adoption. The provision of
1526 such information shall be required prior to the issuance of a final decree in the matter by
1527 the court.

1528
1529 (c) Whenever an adoption decree is amended or annulled the clerk of the court shall
1530 prepare a report thereof which shall include such facts as are necessary to identify the
1531 original report of adoption and the facts amended in the adoption decree as shall be
1532 necessary to properly amend the report of live birth.

1533

- 1534 (d) The clerk of the court shall forward to the State Registrar reports of adoption, reports of
1535 annulment of adoption and amendments of decrees of adoption within five calendar
1536 days of the order being entered.
1537
- 1538 (e) When the State Registrar receives a report of adoption, report of annulment of adoption,
1539 or amendment of a decree of adoption for a person born outside this State, he or she
1540 shall forward such report to the State Registrar in the State of live birth.
1541
- 1542 (f) If the live birth occurred in a foreign country and the child was not a citizen of the United
1543 States at the time of live birth, the State Registrar shall prepare a "Record of Foreign
1544 Live Birth" as provided by Section 24(j). If the child was born in a neighboring country,
1545 the State Registrar shall also send a copy of the report of adoption, report of annulment
1546 of adoption, or amendment of a decree of adoption to the appropriate registration
1547 authority.
1548
- 1549 (g) If the child was born in a foreign country and through parentage is a citizen of the United
1550 States, the State Registrar shall not prepare a "Record of Foreign Live Birth" and shall
1551 notify the adoptive parents of the procedures for obtaining a revised live birth record for
1552 their child through the United States Department of State.
1553

1554 **Section 23. Amendment and Correction of Vital Records**

- 1555
- 1556 (a) A vital record registered under this Act may be amended or corrected only in accordance
1557 with this Act and regulations adopted by the State Agency to protect the integrity and
1558 accuracy of vital records.
1559
- 1560 (b) (1) A vital record that is amended under this section shall indicate that it has been
1561 amended, except as otherwise provided in this Section or by regulation.
1562
- 1563 (2) Documentation shall be maintained by the State Registrar that identifies the evidence
1564 upon which the amendment or correction was based, the date of the amendment or
1565 correction, and the identity of the authorized vital statistics employee making the
1566 amendment or correction.
1567
- 1568 (c) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing
1569 the name of a person born in this State and upon request of such person if (18) years of
1570 age or older, [or person has the status of emancipated minor,] or if less than (18) years of
1571 age, his or her parents, guardian, or legal representative, the State Registrar shall amend
1572 the live birth record to show the new name.
1573
- 1574 (d) When an applicant does not submit the minimum documentation required for amending a
1575 vital record or when the State Registrar has cause to question the validity or adequacy of
1576 the applicant's (notarized) statements or the documentary evidence, and the deficiencies
1577 are not corrected, the State Registrar shall not amend the vital record. The State
1578 Registrar shall advise the applicant of the reason for this action and shall further advise
1579 the applicant of the right of appeal to a court with competent jurisdiction over the State
1580 Agency.

2011 Revision- September 7, 2011

1581
1582
1583
1584
1585
1586
1587
1588
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1620
1621
1622
1623
1624
1625

[(e) When an amendment is made to a marriage record or to information contained on a record of (divorce, dissolution of marriage, or annulment) by the local official issuing the marriage license or the court which entered the decree of (divorce, dissolution of marriage, or annulment), copies of such amendment shall be forwarded to the State Registrar.

If a record of (divorce, dissolution of marriage, or annulment) is set aside by the court which entered the decree of (divorce, dissolution of marriage, or annulment), a copy of the notice of set aside shall be forwarded to the State Registrar and the State Registrar shall void the original divorce record.]

Regulations 19-22 intentionally left blank.

Regulation 23. Amendment and Correction of Vital Records

(Authorization: Section 23 of the Model Act)

Amendments to vital records are changes made to certification items after a certification has been issued and that do not result in a seal and replace record. Documentary evidence supporting the amendment is required and some amendments may require a court order.

Corrections to vital records are changes made to non certification items, including information collected for medical and statistical purposes, within a year of the event. A correction may be made to a certification item provided no certification, whether paper or electronic, has been issued. Documentary evidence supporting the correction may be required.

(a) Live birth records are presumed to contain accurate information on the facts of live birth when they are registered. Live birth records will be amended or corrected only to rectify errors in the facts of live birth, except as provided for in Sections 23(c) and 24.

(b) A delayed record of live birth placed on file with supporting documentation or by judicial procedure shall not be amended except to reflect changes as provided by Section 24.

Regulation 23.1 Correction of Vital Records

(a) Correction of items that do not appear on certifications may be made by the State Registrar upon identification, query, or request of a person as defined in Regulation 23.4.

(b) Correction of items that appear on certifications may be made by the State Registrar if no certification has been issued and a request is submitted by the licensed facility, licensed provider, health care provider, medical examiner/coroner or other person knowledgeable about the facts who originally provided the information to the State Registrar. The submission shall include supporting documentation as defined in Regulation 23.5.

1626 (c) Only the medical certifier or (medical examiner/coroner) may correct the medical certifier
1627 section of the death record, including the manner, cause and date of death.

1628
1629 (d) When such corrections are made by the State Registrar, a notation as to the source of the
1630 information, the date the change was made, and the identity of the authorized vital statistics
1631 employee making the change shall be made on the record in such a way as not to become a
1632 part of any certification issued.

1633 **Regulation 23.2 Amendment of Vital Records**

1634
1635
1636 (a) Once a certification has been issued, changes to items that appear on certifications may
1637 only be made by the State Registrar upon request of a person as defined in Regulation 23.4.
1638 Such request shall include supporting documentation as defined in 23.5.

1639
1640 (b) Upon acceptance of the requested amendment by the State Registrar, records of live birth,
1641 death, fetal death, [marriage, (divorce, dissolution of marriage, annulment)] shall be
1642 amended by the State Registrar by changing the new information to the record in a manner
1643 that preserves the existing information in the record for audit purposes.

1644
1645 (c) A notation indicating the record was amended shall be shown on certifications of the record.
1646 The date of the change and what item was changed shall also be shown on certifications of
1647 the record.

1648 **Regulation 23.3 Application for Amendments to Vital Records**

1649
1650
1651 (a) Unless otherwise provided in these regulations or in the statute, all amendments to live
1652 birth and death records shall be supported by a notarized affidavit setting forth:

- 1653
1654 (a) Information to identify the record;
1655
1656 (b) The items to be amended;
1657
1658 (c) The incorrect information as it appears; and
1659
1660 (d) The correct information as it should appear.

1661 **Regulation 23.4 Who May Apply to Amend or Correct Vital Records**

1662
1663
1664 (a) To amend a live birth record, application may be made by the parents if the registrant
1665 is under (18) years of age, the guardian, the registrant if (18) years of age or over, [or
1666 person who has the status of emancipated minor,] or the legal representative acting
1667 on behalf of the registrant.

1668
1669 (b) The licensed facility, licensed provider, or health care provider responsible for
1670 submitting a report of live birth may request an amendment or correction within one
1671 year of the date of the event.

1672
1673
1674
1675
1676
1677
1678
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1710
1711
1712
1713

- (c) To amend the personal information on a death record, application may be made by the next of kin as specified in State (probate or other) law. The informant listed on the death record or the funeral director or person acting as such who submitted the report of death may apply to amend the personal information on the death record.
- (d) The medical certification of cause of death may only be amended upon receipt of a signed statement or approved electronic notification from the physician or (medical examiner, coroner) who originally certified the cause of death. In the absence or inability of the physician, the cause of death may be amended upon receipt of a signed statement or an approved electronic notification from his or her duly authorized medical associate, or the chief medical officer of the institution in which death occurred, or a (medical examiner, coroner) who assumes jurisdiction of the case provided such individual has access to the medical history of the case. The State Registrar may require documentary evidence to substantiate the requested amendment.
- (e) The State Registrar may initiate a correction to a live birth, death, or fetal death record if the State Registrar becomes aware of incorrect information on a record. The State Registrar may contact any facility or individual responsible for the original submission of data to assist in the collection of evidence of the error and correct information.

Regulation 23.5 Documentary Evidence Required to Amend or Correct Vital Records

- (a) With the exception of corrections as outlined in Regulation 23.1, or an amendment to the medical certification, one or more items of documentary evidence must be presented that support the alleged facts. All documents presented must contain sufficient information to clearly indicate that they pertain to the registrant on the record for which the amendment or correction has been requested.
 - (1) Acceptable documents include, but are not limited to:
 - (a) Certified copy of a marriage record;
 - (b) Certified copy of a live birth record of the registrant's child;
 - (c) School records;
 - (d) Social Security records;
 - (e) Passports or visas;
 - (f) Military records;
 - (g) Federal government census records;
 - (h) Government agency records for benefit establishment such as social services, Medicaid, clinical services, or similar services;

- 1714 (i) Court orders clearly establishing the facts to be amended;
1715 (j) Medical records; or
1716 (k) Other documents deemed to be valid and adequate by the State Registrar to
1717 support the requested change.
- 1718 (2) Documents presented must be from independent sources. Family documents
1719 such as records from bibles or genealogical records are not acceptable.
1720
- 1721 (3) Documents must be in the form of the original record or must be a duly certified
1722 copy or excerpt thereof from the original custodian of the record.
1723
- 1724 (4) Only one document of each type listed in (a)(1)(a) through (j) above may be used in
1725 cases where more than one document is required to support the facts.
1726
- 1727 (5) For live birth records, the documents submitted must have been established prior to
1728 the registrants (18th) birthday or at least ten years prior to the date of application for the
1729 amendment or correction. The State Registrar may make exceptions for other
1730 documents such as court orders, passports, or other evidence that clearly support the
1731 facts of live birth.
1732
- 1733 (b) The State Registrar shall evaluate the evidence submitted in support of any
1734 amendment, and when he or she finds reason to doubt its validity or adequacy, the
1735 amendment may be rejected and the applicant advised of the reasons for this action.
1736

1737 **Regulation 23.6 Amendment or Addition of Registrant's First or Middle**
1738 **Names on Live Birth Records**

- 1739
- 1740 (a) Until the registrant's first birthday, first or middle names may be amended or added upon
1741 receipt of an affidavit signed by the parents named on the record or the legal guardian of the
1742 registrant.
1743
- 1744 (b) After one year from the date of live birth, a legal change of name order must be submitted
1745 from a court of competent jurisdiction to amend a first or middle name.
1746
- 1747 (c) After one year from the date of live birth, first or middle names may be added pursuant to
1748 Regulations 23.2, 23.3, and 23.4.
1749

1750 **Regulation 23.7 Amendments to Live Birth Records**

- 1751
- 1752 (a) Amendment or correction of date of live birth

- 1753
- 1754 (1) The date of live birth cannot be changed to a date that is after the date the live birth
1755 record was registered.
1756

1757 (2) The date of live birth may be changed up to 30 calendar days with two supporting
1758 documents provided that date is not after the date the live birth record was registered. At
1759 least one of the documents must have been created within 90 calendar days of the
1760 alleged date of live birth.

1761
1762 (3) Other changes not described in Regulation 23.7(a)(2) to the date of live birth may be
1763 made at the discretion of the State Registrar provided that a minimum of three documents
1764 adequately support that the registrant has consistently used the date from childhood and
1765 the change does not make the live birth date after the date the certificate was registered.
1766 At least one of the documents must have been created within seven years of the alleged
1767 date of live birth. The change cannot be made if that change would be in conflict with any
1768 live birth record registered in the (Office of Vital Statistics) for other children of the same
1769 mother.

1770
1771 (b) Signatures may not be amended.
1772

1773 **Regulation 23.8 Amendments to Death Records**

1774
1775 (a) When the marital/partnership status is shown as married/partnered and a surviving
1776 spouse/partner is listed on the death record of the decedent then the marital/partnership status
1777 shall be changed to:

1778
1779 (1) widowed and the spouse/partner removed if a death certification for the
1780 spouse/partner documenting that the spouse/partner died prior to the death of the
1781 decedent is submitted.

1782
1783 (2) divorced or never married and the spouse/partner removed if a certification of
1784 divorce/dissolution/annulment documenting that the event occurred prior to the death of
1785 the decedent is submitted.

1786
1787 (b) If the marital/partnership status is shown as married/partnered and surviving spouse/partner
1788 is listed as unknown or is blank on the death record, then a marriage/partnership certification
1789 must be provided to add the name of the surviving spouse/partner.

1790
1791 (c) If the marital/partnership status is shown as married/partnered and the surviving
1792 spouse/partner is listed on the death record then an order from a court of competent jurisdiction
1793 will be needed to change that spouse/partner to a different person.

1794
1795 (d) When the marital/partnership status is shown as divorced, widowed, or never married and no
1796 surviving spouse/partner is listed on the death record of the decedent then the
1797 marital/partnership status shall be amended to married/partnered and the surviving
1798 spouse/partner added upon receipt of:

1799
1800 (1) Notarized affidavits from the informant and from the alleged surviving spouse/partner
1801 stating that an error was made and stating the correct information, and a certification of
1802 the marriage/partnership record showing that the person to be listed as the surviving

1803 spouse/partner was married to/partnered with the decedent prior to death are submitted;
1804 or

1805
1806 (2) An order from a court of competent jurisdiction issued in a legal action indicating that
1807 the person was in a common-law marriage with the decedent at the time of the
1808 decedent's death.

1809
1810 (e) Other changes to marital/partnership status and surviving spouse/partner will be made only
1811 upon the finding of a court of competent jurisdiction in an order that determined the
1812 marital/partnership status of the decedent and identifies the surviving spouse/partner, if
1813 appropriate.

1814
1815 (f) For sections (a) through (d) above, in addition to documentation required, the informant
1816 listed on the death record shall be notified of the requested change and given the opportunity to
1817 respond prior to the State Registrar amending the death record. If the informant disagrees with
1818 the change, marital status and surviving spouse can only be changed upon receipt of an order
1819 from a court of competent jurisdiction.

1820
1821 (g) Amendment to other items on the death record:

1822
1823 (1) Signatures shall not be amended.

1824
1825 (2) Other personal and statistical items on the death record shall be amended with
1826 supporting documentary evidence that is acceptable to the State Registrar.

1827
1828 (3) An order from a court of competent jurisdiction may be used to amend any item except
1829 signatures, the date of registration, or to amend the date of death to a date that is after
1830 the date of registration.

1831
1832 (h) Notwithstanding (a) through (f) of this Section, any item may be amended except signatures
1833 if evidence is submitted that the amendment is required because of clerical error by the facility,
1834 institution or individual responsible for submitting the report.

1835
1836 **Regulation 23.9 Amendment of the Same Item More than Once**

1837
1838 Once an amendment of an item is made on a vital record, except for cause and manner of death
1839 to be amended by the (physician, medical examiner, coroner) or clerical error on the part of the
1840 State Registrar, that item shall not be amended again except upon receipt of an appropriate
1841 order which, depending on the nature of the order, shall be from either a court of competent
1842 jurisdiction or a court with competent jurisdiction over the State Agency.

1843
1844 **Section 24. Establishing Replacement Records of Live Birth**

1845
1846 (a) The State Registrar shall amend a record of live birth and establish a replacement
1847 record of live birth for a person born in this State upon receipt of the following:

1848

- 1849 (1) A report of adoption as provided in Section 22 or a certified copy of the decree of
1850 adoption, together with the information necessary to identify the original record of
1851 live birth and to establish a replacement record of live birth, except that a
1852 replacement record of live birth shall not be established if so requested by the court
1853 decreeing the adoption; or
1854
- 1855 (2) A request that a replacement record of live birth be prepared as prescribed by
1856 regulation establishing parentage or that a court of competent jurisdiction has
1857 determined the paternity of such a person or that both parents have acknowledged
1858 the paternity of such person; or
1859
- 1860 (3) A written request of both parents and a (sworn, notarized, witnessed)
1861 acknowledgment of paternity signed by both parents; or
1862
- 1863 (4) A certified copy of an order of a court of competent jurisdiction indicating that an
1864 individual born in this State has undergone the necessary course of treatment to
1865 transition permanently from one sex to the other and that the sex on the live birth
1866 record shall be changed.
1867
- 1868 (b) If the individual's name has been changed pursuant to Section 24(a), the order or
1869 request shall include the name that currently appears on the live birth record and the
1870 new name to be designated on the replacement record of live birth. The new name of
1871 the individual shall be shown on the replacement record.
1872
- 1873 (c) Upon receipt of a certified copy of an order of a court with competent jurisdiction over the
1874 State Agency changing the name of a person born in this State as authorized by 18 USC
1875 3521 et.seq. or comparable provision of State law, the State Registrar may create a
1876 replacement record of live birth to show the new information as specified in the court
1877 order.
1878
- 1879 (d) When a replacement record of live birth is prepared, the city and/or county and date of
1880 live birth shall be included. The replacement record of live birth shall be substituted for
1881 the original record of live birth. The original record of live birth and the evidence
1882 submitted for Sections 24(a) and 24(c) shall be placed under seal and not be subject to
1883 inspection except upon order of a court with competent jurisdiction over the State Agency
1884 or as provided by regulation.
1885
- 1886 (e) Upon receipt of a report of an amended decree of adoption, the record of live birth shall
1887 be amended as provided by regulation.
1888
- 1889 (f) Upon receipt of a report or decree of annulment of adoption, the original record of live
1890 birth shall be restored. The annulled record of live birth and evidence shall not be
1891 subject to inspection except upon order of a court with competent jurisdiction over the
1892 agency or as provided by regulation.
1893
- 1894 (g) If the date and place of live birth have not been determined in the adoption or paternity
1895 proceedings then a replacement record of live birth will not be created.

2011 Revision- September 7, 2011

1896
 1897
 1898
 1899
 1900
 1901
 1902
 1903
 1904
 1905
 1906
 1907
 1908
 1909
 1910
 1911
 1912
 1913
 1914
 1915
 1916
 1917
 1918
 1919
 1920
 1921
 1922
 1923
 1924
 1925
 1926
 1927
 1928
 1929
 1930
 1931
 1932
 1933
 1934
 1935
 1936
 1937
 1938
 1939
 1940

- (h) If no record of live birth is found for the person for whom a replacement record of live birth is to be prepared under this Section, and the court order indicates a date of live birth more than one year from the date submitted to the (Office of Vital Statistics), the replacement record of live birth shall be prepared in the format of a delayed record of live birth.
- (i) When a replacement record of live birth is registered by the State Registrar, all copies of the original record of live birth in the custody of any other custodian of vital records in this State shall be forwarded to the State Registrar.
- (j) The State Registrar shall prepare and register a record of foreign live birth for a person born in a foreign country who is not a citizen of the United States and who was adopted through a court with competent jurisdiction over the State Agency upon request by the court, the adopting parents, or the adopted person if (18) years of age or over. The court order shall include the date and place of the child's live birth. Such record shall be labeled "Record of Foreign Live birth" and shall show the actual country of live birth. [A statement shall also be included on any certification indicating that it is not evidence of United States citizenship for the person named.] After registration of the record of foreign live birth in the new name of the adopted person, the State Registrar shall seal the report of adoption which shall not be subject to inspection except upon order of a court with competent jurisdiction over the State Agency or as provided by regulation.

Regulation 24. Establishing Replacement Records of Live Birth
 (Authorization: Section 24 of the Model Act)

Regulation 24.1 Court Determination of Parentage

A replacement record of live birth shall be prepared by the State Registrar for a child born in this State upon receipt of a certification of an order from a court of competent jurisdiction determining parentage. If the surname of the child is not decreed by the court, a request from both parents or, if only one parent appears on the replacement record of live birth, the sole parent, shall specify the surname to be placed on the replacement record of live birth.

Regulation 24.2 Establishment of Parentage

- (a) If the live birth mother and father marry after the live birth of a child, a replacement record of live birth shall be prepared by the State Registrar for a child born in this State upon receipt of a (sworn, notarized, witnessed) acknowledgment of paternity signed by the biological parents of said child together with a certification of the parents' marriage record. However, if another man is noted as the father of the child on the original record of live birth, a replacement record of live birth may be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption.

1941 (b) A replacement record of live birth shall be prepared by the State Registrar for a child
1942 born in this State to unmarried parents upon receipt of a (sworn, notarized,
1943 witnessed) acknowledgment of paternity signed by both parents and a written
1944 request by both parents that the child's surname be changed on the record of live
1945 birth. However, if another man is noted as the father of the child on the original
1946 record of live birth, a replacement record of live birth may be prepared only when a
1947 determination of paternity is made by a court of competent jurisdiction, or following
1948 adoption.

1949
1950 (c) In lieu of preparing a replacement record of live birth under the provisions of
1951 Regulations 24.1, 24.2, and 24.3, the original record may be altered provided that
1952 the fact of alteration is not obvious on the record.
1953

1954 **Regulation 24.3 Contents of Replacement Record of Live Birth**

1955
1956 The replacement record of live birth prepared pursuant to Regulation 24.1 or 24.2 shall be on
1957 the form in use at the time of its preparation and shall include the following items and such other
1958 information necessary to complete the record of live birth:

1959 (a) The name of the child;

1960
1961 (b) The date and (city and county) of live birth as transcribed from the original report of
1962 live birth;

1963
1964 (c) The names and personal particulars of the parents after establishment of parentage ;

1965
1966 (d) [The name of the attendant;]

1967
1968 (e) The State file number assigned to the original record of live birth;

1969
1970 (f) The original date of registration.
1971

1972
1973 The information necessary to locate the existing report of live birth and to complete the
1974 replacement report of live birth shall be submitted to the State Registrar on forms prescribed or
1975 approved by him or her.
1976

1977 **Regulation 24.4 Prior Record of Live Birth to Be Placed in a Restricted File**

1978
1979 After preparation of the replacement record of live birth, the prior record of live birth and the
1980 evidence upon which the replacement record of live birth was based are to be placed in a
1981 restricted file. Such file shall not be subject to inspection except upon order of a court with
1982 competent jurisdiction over the State Agency or by the State Registrar for purposes of properly
1983 administering the vital statistics program or as otherwise provided by State law.
1984

1985 **Section 25. Reports of Induced Termination of Pregnancy**

1986
2011 Revision- September 7, 2011

1987 (a) Each induced termination of pregnancy which occurs in this State, regardless of the length of
1988 gestation, shall be reported to the (Office of Vital Statistics) within five calendar days by the
1989 person in charge of the institution in which the induced termination of pregnancy was performed.
1990 If the induced termination of pregnancy was performed outside an institution, it shall be reported
1991 by the attending medical provider.

1992
1993 (b) (Reports, Summaries) of induced termination of pregnancy are statistical reports to be used
1994 only for public health purposes. The State Registrar shall dispose of such reports when all
1995 statistical processing of the reports has been accomplished. However, the State Registrar may
1996 establish a data file of such reports so they will be available for future research and such file
1997 may be retained for as long as the State Registrar deems necessary. All disposals of reports
1998 and data files shall maintain confidentiality and security of information.

1999

2000 **Section 26. Preservation of Vital Records**

2001

2002 The State Registrar shall develop and implement a preservation management program to
2003 preserve vital record documents and information and meet generally accepted standards for
2004 permanent preservation.

2005

2006 (a) The State Registrar shall prepare typewritten, photographic, electronic, or other
2007 reproductions of records or reports in the (Office of Vital Statistics). Such reproductions
2008 when verified and approved by the State Registrar shall be accepted as the original vital
2009 record documents. The original vital record documents from which permanent
2010 reproductions have been made may be disposed of as provided by regulation.

2011

2012 (b) The State Registrar shall provide for the continued availability and integrity of vital event
2013 information. Mechanisms may include redundant copies of information in multiple
2014 locations and formats such as microfilm/microfiche, imaging and electronic databases.

2015

2016 (c) The preservation management program shall provide for the continued availability of
2017 historic vital record documents and information for research and related purposes. Vital
2018 records will be considered historic when 125 years have elapsed after the date of live
2019 birth, or 75 years have elapsed after the date of death or fetal death, or 100 years after
2020 the date of marriage, or (divorce, dissolution of marriage, or annulment). Supporting
2021 documents, including but not limited to corrections and acknowledgments of paternity,
2022 may also be included with historic vital records. Sealed records will not be classified as
2023 historic unless unsealed by a court with competent jurisdiction over the State Agency.
2024 Historic vital records may be transferred to the State Archives in accordance with archival
2025 procedures which shall provide for the continued safekeeping of the records. There shall
2026 be no cost to the (Office of Vital Statistics) for such transfer or maintenance. Prior to
2027 transferring live birth and death records to the State Archives, the State Registrar shall
2028 redact all information identified in the U.S. Standard Certificates of Live Birth, Death, and
2029 Report of Fetal Death, or as identified by the State (in regulation) as medical or health
2030 use only .

2031

2032 Regulation 25 intentionally left blank.

2011 Revision- September 7, 2011

2033
2034
2035
2036
2037
2038
2039
2040
2041
2042
2043
2044
2045
2046
2047
2048
2049
2050
2051
2052
2053
2054
2055
2056
2057
2058
2059
2060
2061
2062
2063
2064
2065
2066
2067
2068
2069
2070
2071
2072
2073
2074
2075
2076
2077
2078
2079

Regulation 26. Preservation of Vital Records

(Authorization: Section 26 of the Model Act)

- (a) Notwithstanding the requirements of any other record retention laws or regulations, when an authorized reproduction of a vital record has been properly prepared by the State Registrar and when all steps have been taken to provide for the continued preservation of the information, the record from which such authorized reproduction was made may be disposed of by the State Registrar. Such record may not be disposed of, however, until the quality of the authorized reproduction has been tested to ensure that acceptable certifications can be issued and until a permanent copy of such record has been placed in a secure location removed from the building where the authorized reproduction is housed. Such permanent copy shall be maintained in such a manner to ensure that it can replace the authorized reproduction should the authorized reproduction be lost or destroyed.
- (b) The State Registrar may offer the original documents from which the authorized reproductions are made to the State Archives. The State Archives shall retain permanently such records and shall adhere to the restrictions in the vital statistics law related to access to such records. If the State Archives declines to place such records in its files the State Registrar shall be authorized to destroy the documents. Such destruction shall be in accordance with generally accepted methods for disposition of confidential or sensitive documents.
- (c) Microfilm used for preservation shall be manufactured to the ISO and ANSI standards for Life Expectancy of 500 years (LE-500). The master copy shall be silver halide. It shall be processed according to ISO 18901:2002 (or its equivalent) specifications for stability. It shall be stored according to ISO 18911:2000 (or its equivalent) environmental practices. Redundant copies shall be stored at one or more sites distant from the master copies. Mechanisms for retrieving copies from distant sites shall be documented and periodically tested.
- (d) Electronic images of vital record documents shall be indexed for ease of retrieval. Long-term archiving of electronic documents shall follow ISO 19005-1; 2005 specifications or its equivalent. The index shall allow for linking of amended or corrected images to the original image. The images shall be stored in a tamper resistant manner and media. The preservation management program shall include the refreshment of storage media to assure integrity and prevent obsolescence on a periodic basis into new formats as they become accepted.
- (e) Vital event information stored as electronic data shall be stored in a manner that is both tamper resistant and tamper evident. All changes to information shall be tracked, including the item changed, the user who made the change, the date of the change, and the justification for the change. Backups of electronic data shall be made at regular intervals, and copies shall be stored at one or more sites distant from the master copy. Mechanisms and procedures for retrieving copies from distant sites shall be documented and periodically tested.

2011 Revision- September 7, 2011

- 2080 (f) The preservation management program shall provide for the periodic refreshment of
2081 electronic data, to include hardware, software, and coding standards. The program will
2082 include documentation of changes in coding structures, provide for testing of converted
2083 files to assure data quality, and address associated costs.
2084

2085 **Section 27. Confidentiality and Disclosure of Information from Vital Records**
2086 **or Vital Reports**

- 2087
- 2088 (a) Vital records, vital reports, indices, related documents, and data or information contained
2089 therein shall be confidential and shall not be considered public records under the Federal
2090 Freedom of Information Act or this State's (public records laws). It shall be unlawful for
2091 any person to permit inspection of, or to disclose data or information contained in vital
2092 records, vital records related documents or in vital reports or to copy or issue a copy of all
2093 or part of any such record or report unless authorized by this Act. No person shall violate
2094 the provisions of this Act, the regulations promulgated hereunder, or of any agreement
2095 entered into in accordance with this Act or such regulations. The State Registrar may
2096 adopt regulations consistent with this Section of the Act.
2097
- 2098 (b) Personally identifiable information which may identify any natural person named in any
2099 vital record or report may be disclosed for health research purposes only after submission
2100 of written requests for information by researchers and the approval of the State Registrar
2101 through the execution of written research agreements that describe the research project,
2102 document applicable Institutional Review Board approvals, if necessary, and protect the
2103 confidentiality and security of the information provided. Such agreements shall prohibit
2104 the re-release by the researcher of any personally identifiable information without explicit
2105 permission from the State Registrar. Such agreements shall also set forth the payment, if
2106 any, to be provided by the researcher to the State Registrar to use the data for the
2107 specified research project(s). Ownership of vital records data provided under such
2108 agreements shall remain with the State Registrar, not the researcher or the research
2109 project.
2110
- 2111 (c) Government entities, including Federal, State, local and Tribal agencies may, upon written
2112 request, and the approval of the State Registrar or his/her designee be furnished copies of
2113 records or data from the system of vital statistics, provided that such copies or data shall
2114 be used solely in the conduct of the government agency's official duties. Written data
2115 sharing agreements that clearly specify the intended uses and protect the confidentiality
2116 and security of the information provided shall be executed prior to the release of
2117 personally identifiable information for government agency official use. Such agreements
2118 shall prohibit the re-release by the government agency of any personally identifiable
2119 information other than re-release that may be provided for in the agreement. Such
2120 agreements shall also set forth the payment, if any, to be provided by the government
2121 agency to the State Registrar to use the data for the specified purpose. Ownership of vital
2122 records data provided under such agreements shall remain with the State Registrar, not
2123 the government agency authorized by the agreement to use the data.
2124
- 2125 (d) The National Center for Health Statistics or its successor agency may be furnished such
2126 copies of records, reports, or data from the system of vital statistics as it may require for

2011 Revision- September 7, 2011

2127 national statistics, provided the National Center for Health Statistics or its successor
 2128 agency shares in the cost of collecting, processing, and transmitting such data, and
 2129 provided further that such data shall not be used for other than statistical purposes by the
 2130 National Center for Health Statistics or its successor agency unless so authorized by the
 2131 State Registrar. In order for the State Registrar to furnish such records, reports, or data
 2132 the National Center for Health Statistics or its successor agency shall enter into an
 2133 agreement with the State Registrar indicating the statistical purposes for which the
 2134 records, reports, or data may be used. Such agreement shall prohibit the re-release by
 2135 the National Center for Health Statistics or its successor agency without explicit
 2136 permission from the State Registrar. Ownership of vital records data provided under such
 2137 agreements shall remain with the State Registrar, not the National Center for Health
 2138 Statistics or its successor agency.

- 2139
- 2140 (e) The State Registrar may, by the inter-jurisdictional exchange agreement, transmit vital
 2141 records data or copies of records and other reports required by this Act to State offices of
 2142 vital statistics outside this State or in a neighboring country when such data, records or
 2143 other reports relate to residents of those States or neighboring countries or persons born
 2144 or who die in those States or neighboring countries. This exchange agreement shall
 2145 specify the purposes for which the data or records may be used by each State or
 2146 neighboring country, and the agreement shall further provide instructions for the proper
 2147 retention and disposition of such data or copies of records. Any vital records data or
 2148 copies of such records received by the (Office of Vital Statistics) from another State or
 2149 neighboring country as a result of this exchange shall be deemed confidential and
 2150 ownership shall be retained by the State or neighboring country where the event occurred.
 2151 Such data or records may be used by the recipient State or neighboring country only for
 2152 the purposes specified in the agreement and the recipient State or neighboring country
 2153 may not otherwise disclose other States' or neighboring countries' records.³
 2154
- 2155 (f) When the death of a United States citizen occurs outside the United States, the State
 2156 Registrar in the State where the decedent was born and the State Registrar in the State
 2157 where the decedent was a resident shall each receive a report of death from the United
 2158 States Department of Defense (for military and related personnel) and the United States
 2159 Department of State (for non-military personnel).
 2160
- 2161 (g) When 125 years have elapsed after the date of live birth, or 75 years have elapsed after the
 2162 date of death or fetal death, or 100 years after the date of marriage, or (divorce, dissolution
 2163 of marriage, or annulment), the live birth, death, fetal death, marriage, and (divorce,
 2164 dissolution of marriage, annulment) records available for issuance under Section 28, whether
 2165 paper, electronic or other media in the custody of the State Registrar may be transferred to
 2166 the State Archives in accordance with archival procedures which shall provide for the
 2167 continued safekeeping of the records. There shall be no cost to the (Office of Vital Statistics)
 2168 for such transfer or maintenance. Prior to transferring live birth, death and fetal death
 2169 records to the State Archives, the State Registrar shall redact all information identified in the

3 Agreements with foreign countries may not be enforceable by a State against an offending foreign country. The only practical remedy for a breach of the agreement may be termination.

2011 Revision- September 7, 2011

2170 U.S. Standard Certificates of Live Birth, Death, and Report of Fetal Death, or as identified by
2171 the State (in regulation) as medical or health use only.

2172
2173 (h) A decision of the State Registrar with regard to the inspection or disclosure of data or
2174 information contained in a vital record or vital report shall constitute a final agency
2175 determination.

2176

2177 **Regulation 27. Confidentiality and Disclosure of Information from Vital**
2178 **Records or Vital Reports**

2179 (Authorization: Section 27 of the Model Act)

2180

2181 To protect the confidentiality and security of vital records and vital reports:

2182

2183 (a) The State Registrar shall not permit access to or disclosure of personally identifiable
2184 information contained in vital records, or issue a copy of all or part of any such record
2185 unless the applicant is authorized to obtain such record for a proper purpose under
2186 Section 27, or is authorized to obtain such record under Section 28. Access to or
2187 disclosure of information contained in vital records for sale or release to the public, for
2188 direct or indirect marketing of goods or services, for other non-research solicitation of
2189 registrants or families of registrants, or for other commercial or speculative purposes
2190 shall not be deemed a proper purpose. The State Registrar may impose reasonable
2191 conditions as to the use and re-disclosure of information, and may limit access to the
2192 minimum necessary to fulfill the purpose for which information is requested.

2193

2194 (b) Requests for personally identifiable information contained in vital records for health
2195 research purposes shall be submitted in writing to the State Registrar.

2196

2197 (1) Each request shall contain at a minimum:

2198

2199 (a) name, title, organizational affiliation and contact information (mailing
2200 address, telephone number, and email address) of the requestor and the
2201 organizational official authorized to execute agreements;

2202

2203 (b) title, objectives and description of the proposed research study;

2204

2205 (c) Institutional Review Board approval of study protocol if any contact with
2206 study subjects including children or parents listed on live birth records or
2207 next-of-kin or informants of decedents is proposed;

2208

2209 (d) physical and electronic storage and security measures to be taken to
2210 assure confidentiality and security of identifying information, and provision
2211 for return or destruction of the information at the conclusion of the research
2212 study;

2213

2214 (e) time frame of the research study;

2215

2011 Revision- September 7, 2011

- 2216 (f) names of all persons on the research study team who will have access to
2217 the personally identifiable information; and
2218
2219 (g) plan for dissemination of the results.
2220

2221 (2) Each request for personally identifiable information from vital records to be used
2222 for health research purposes shall be reviewed to determine compliance with at
2223 least the following:

- 2224 (a) contains all required elements;
2225
2226 (b) adequately justifies the need for the requested information;
2227
2228 (c) compliance with past data use agreements;
2229
2230 (d) the requested information can be provided within the time frame set forth in
2231 the request; and
2232
2233 (e) the State Registrar has adequate resources with which to comply with the
2234 request;
2235
2236

2237 (c) Requests by government agencies for any identifiable information contained in the
2238 State's vital records maintained pursuant to this Act, or for verifications thereof, shall
2239 specify in writing the official use to which the requested information will be put and why
2240 the information is necessary in accordance with Section 27(c). The request may be
2241 granted only if the State Registrar agrees that the requested information is necessary for
2242 a proper purpose.
2243

2244 (1) Each request shall contain at a minimum:

- 2245 (a) name, title, agency, and contact information (mailing address, telephone
2246 number, and email address) of the requestor and the agency official authorized to
2247 execute agreements;
2248
2249 (b) purpose or intended use of the data or vital records being requested;
2250
2251 (c) physical and electronic storage and security measures to be taken to assure
2252 confidentiality and security of identifying information, and provision for return or
2253 destruction of the information at the conclusion of the intended use;
2254
2255 (d) time frame of intended use; and
2256
2257 (e) names of all persons who will have access to the personally identifiable
2258 information being requested.
2259
2260

2261 (2) Each request from a government agency for personally identifiable information from
2262 vital records shall be reviewed to determine compliance with at least the following:

2263
2264
2265
2266
2267
2268
2269
2270
2271
2272
2273
2274
2275
2276
2277
2278
2279
2280
2281
2282
2283
2284
2285
2286
2287
2288
2289
2290
2291
2292
2293
2294
2295
2296
2297
2298
2299
2300
2301
2302
2303
2304
2305
2306
2307
2308

- (a) contains all required elements;
 - (b) adequately justifies the need for the requested information;
 - (c) compliance with past data use agreements;
 - (d) the requested information can be provided within the time frame set forth in the request; and
 - (e) the State Registrar has adequate resources with which to comply with the request.
- (d) The State Registrar shall enter into data use agreements for all approved health research and government agency requests for personally identifiable information from vital records. Each data use agreement shall include but not be limited to:
- (1) specification of exactly what information will be disclosed to the requestor, the purpose for which it is provided, and the manner in which the data will be used;
 - (2) the charges or fees, if any, to be paid by the requestor to the State Registrar for use of the data;
 - (3) a prohibition of re-release by the requestor of any information that may identify any person or any individual case record, whether identifiable or not, without the prior written approval of the State Registrar;
 - (4) the requestor's acknowledgment and agreement that ownership of all information provided by the State Registrar shall remain exclusively that of the State Registrar and that the data use agreement constitutes a license to use the data provided only for the purpose and in the manner set forth in the agreement;
 - (5) the requestor's agreement neither to attempt to link nor to permit others to attempt to link the data set with individually identifiable records from any other data set without the prior written approval of the State Registrar;
 - (6) the requestor's agreement neither to use nor to allow anyone else to use the information to attempt to learn the identity of any person included from the information provided without the prior written approval of the State Registrar;
 - (7) agreement that if the identity of any person is discovered inadvertently, the recipient will not make use of this knowledge; will immediately notify the State

2309 Registrar; and will safeguard or destroy the information which led to the
2310 identification of the individual as requested by the State Registrar; and

2311
2312 (8) acknowledgment and agreement that the requestor shall be responsible for
2313 any breach of security, including but not limited to any notifications to affected
2314 persons required by law or by the State Registrar, and any fines, penalties or
2315 other sanctions that may be imposed pursuant to applicable law.
2316

2317 (9) agreement to prohibit the use of data provided for any purpose not explicitly
2318 identified and approved in the signed data use agreement.
2319

2320 **Section 28. Certifications from the System of Vital Statistics**

2321
2322 In accordance with Section 27 of this Act and the regulations adopted pursuant thereto:
2323

2324 (a) (1) A certification of a live birth record or any part thereof, issued in accordance with this
2325 Section, shall be considered for all purposes the same as the original and shall be prima
2326 facie evidence of the facts stated therein. However, the evidentiary value of a record
2327 submitted more than one year after the event, a record which has been amended, or a
2328 record of foreign live birth shall be determined by the judicial or administrative body or
2329 official before whom the certification is offered as evidence.
2330

2331 (2) A certification of a death, fetal death, [marriage/partnership or (divorce, dissolution,
2332 annulment)] record or any part thereof, issued in accordance with this section, shall be
2333 considered for all purposes the same as the original and shall be prima facie evidence of
2334 the facts stated therein.
2335

2336 (b) The State Registrar shall require the applicant for a certification to submit a signed
2337 application, identity documentation, and evidence of eligibility. Upon receipt of an
2338 application and before issuing a certification:
2339

2340 (1) The State Registrar shall review the identity documents provided by the applicant.
2341 (A) Such documentation must be acceptable to the State Registrar and shall include:

2342 (i) government issued identification that includes a photograph; or

2343 (ii) at least two alternate forms of identification; or

2344 (iii) an alternative electronic process.
2345

2346 (B) Alternate forms of identification may include but are not limited to (letters from
2347 government or social agencies, pay statements, utility bills, student identification with
2348 photo) or other items acceptable to the State Registrar.
2349

2350 (2) The State Registrar shall review the evidence of eligibility provided by the applicant for a
2351 certification. Such documentation shall consist of copies of vital records establishing
2352 eligibility, court documents establishing eligibility, or alternative methods identified and
2353
2354
2355

2356 accepted by the State Registrar. Evidence of eligibility shall demonstrate that the
2357 applicant is qualified to receive a certification.
2358

2359 (A) A qualified applicant must have reached (18) years, of age, the age of majority or any
2360 age if the applicant has the status of emancipated minor.
2361

2362 (B) A qualified applicant for a certification of live birth shall be limited to the registrant, his
2363 or her (spouse, domestic partner, civil partner), child, parent, [sibling, grandparent,
2364 grandchild,] legal guardian, legal representative, the qualified applicant's authorized
2365 representative, or a government agency in the conduct of its official duties.
2366

2367 (C) A qualified applicant for a certification of death shall be limited to the decedent's
2368 (spouse, domestic partner, civil partner), child, parent, next of kin as specified by (probate
2369 or other) law, [sibling, grandparent, grandchild, person in charge of disposition,] legal
2370 guardian immediately prior to death, legal representative, the qualified applicant's
2371 authorized representative, or a government agency in the conduct of its official duties. A
2372 funeral director from the funeral home or a person acting as the funeral director named on
2373 the death record is a qualified applicant for a period not to exceed 12 months after the
2374 date of death. Others may be authorized to obtain a certification when they demonstrate
2375 that the record is needed for the determination or protection of the applicant's personal or
2376 property right.
2377

2378 (D) A qualified applicant for a certification of fetal death shall be limited to the parent,
2379 [sibling, grandparent,] guardian of a parent with legal documentation, legal representative,
2380 the qualified applicant's authorized representative, or government agency in the conduct
2381 of its official duties. A funeral director from the funeral home or a person acting as the
2382 funeral director named on the fetal death record is a qualified applicant for a period not to
2383 exceed 12 months after the date of delivery.
2384

2385 [(E) A qualified applicant for a certification of (marriage, domestic partnership, civil
2386 partner), (divorce, dissolution of marriage, annulment, dissolution of domestic
2387 partnership, dissolution of civil union) shall be limited to the registrants, either registrant's
2388 current (spouse, domestic partner, or civil partner), child, parent, [sibling, grandparent,
2389 grandchild,] legal guardian, legal representative, the qualified applicant's authorized
2390 representative, or government agency in the conduct of its official duties.]
2391

2392 (3) The State Registrar may verify with originating agencies the identity
2393 documents and evidence of eligibility submitted in support of an application.
2394

2395 (c) The State Registrar shall, upon receipt and approval of an application, issue a certification
2396 of a vital record in the form of a physical image or abstract to the qualified applicant.
2397

2398 (d) The State Registrar shall require all certifications of vital records registered in the State
2399 system to be issued from the State's central database.
2400

2401 (e) The State Registrar may issue certifications directly to entities upon receipt of an
2402 application from a qualified applicant as set forth in (b) of this Section.

2403
2404
2405
2406
2407
2408
2409
2410
2411
2412
2413
2414
2415
2416
2417
2418
2419
2420
2421
2422
2423
2424
2425
2426
2427
2428
2429
2430
2431
2432
2433
2434
2435
2436
2437
2438
2439
2440
2441
2442
2443
2444
2445
2446
2447
2448
2449

- (1) A certification may be issued in electronic form if requested by the qualified applicant to a government agency or other institution approved by the State Registrar.
 - (2) The State Registrar may authorize a government agency or other institution to receive certifications in electronic form through an automated system approved by the State Registrar.
 - (3) The State Registrar, in approving a government agency or other institution for receipt of certifications in electronic form, shall consider proposed use, frequency of need, security after receipt and other criteria as determined.
- (f) The State Registrar shall establish minimum information to be included in a certification. No certification shall be issued without the minimum information necessary with the exception that live birth records without a first name for the registrant may be issued to government agencies for adoption [or custody] purposes only.
- (g) A death certification containing the manner or cause of death information shall not be issued except as follows:
- (1) Upon specific request of the spouse, domestic partner, child, parent, next of kin as specified by (probate or other) law, [person in charge of disposition,] or an authorized representative of any of the above; or
 - (2) When a documented need for the manner or cause of death to establish a legal right or claim has been demonstrated; or
 - (3) Upon receipt of an order from a court with competent jurisdiction over the State Agency ordering such release.
- (h) Each certification issued for a record registered after (date) shall indicate the date of registration. Each certification issued from a record registered after (date) and marked or flagged as "Amended" shall be similarly marked or flagged and shall indicate the effective date(s) of the amendment(s). A certification issued from a record marked or flagged as "Delayed" shall be similarly marked or flagged and shall include the date of registration and a description of the evidence used to establish the delayed record. Any certification issued of a "Record of Foreign Live Birth" shall indicate this fact and shall show the actual place of live birth [and the fact that the certification is not proof of United States citizenship]. A certification issued from a live birth record that has been matched to a death record shall be marked or flagged "Deceased".
- (i) Information identified in the U.S. Standard Certificates of Live Birth, Death, and Report of Fetal Death, or as identified by the State (in regulation) as medical or health use only from any vital record shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal, or judicial body. Information so identified as administrative, statistical, medical, or health use only shall not be included in a certification of the vital record.

2011 Revision- September 7, 2011

2450
2451
2452
2453
2454
2455
2456
2457
2458
2459
2460
2461
2462
2463
2464
2465
2466
2467
2468
2469
2470
2471
2472
2473
2474
2475
2476
2477
2478
2479
2480
2481
2482
2483
2484
2485
2486
2487
2488
2489
2490
2491
2492
2493
2494
2495
2496

- (j) After acceptance of an application by a qualified applicant, if no record is identified as matching the application criteria, the State Registrar shall issue a document indicating that no matching record was identified and the specific criteria used in the attempt to identify the record, including type of event, name of registrant, date or range of dates of event, and other criteria used. This document shall be issued with security features as specified in Section 7 that deter altering, counterfeiting, or duplicating.
- (k) Verification of the facts contained in a certification may be furnished by the State Registrar to any government agency in the conduct of its official duties. The request for verification must:
 - (1) include a copy of the certification and be in a format prescribed or approved by the State Registrar; or
 - (2) be submitted electronically through an automated system approved by the State Registrar if the requester attests to having the certification and can provide the State file number or date of registration.
- (l) Any certification issued from the centralized system shall meet the requirements for (apostille, authentication, exemplification), by (a State's designated competent authority) to facilitate use of the certification outside of the United States.
- (m) All forms and procedures used in the issuance of certifications of vital records in the State shall be uniform and provided or approved by the State Registrar. Any certification issued shall have security features as specified in Section 7 that deter altering, counterfeiting, or duplicating.
- (n) The State Registrar shall maintain a searchable file, either physical or electronic, of all accepted applications for a minimum of (three) years.
- (o) When the State Registrar receives information that a record may have been registered, corrected or amended through fraud or misrepresentation, he or she may withhold issuance of any certification of that record pending inquiry by appropriate authorities to determine whether fraud or misrepresentation has occurred.
 - (1) If upon conclusion of the inquiry no fraud or misrepresentation is found, certifications shall be issued upon the request of a qualified applicant.
 - (2) If upon conclusion of the inquiry there is reasonable cause to suspect fraud or misrepresentation, the State Registrar shall provide copies of the record and evidence to appropriate authorities for further investigation.
 - (3) If upon conclusion of the investigation by appropriate authorities, fraud or misrepresentation is found, the State Registrar shall provide an opportunity to the registrant or the registrant's representative to respond to the findings prior to voiding [and sealing] the record.

2497
2498
2499
2500
2501
2502
2503
2504
2505
2506
2507
2508
2509
2510
2511
2512
2513
2514
2515
2516
2517
2518
2519
2520
2521
2522
2523
2524
2525
2526
2527
2528
2529
2530
2531
2532
2533
2534
2535
2536
2537
2538
2539
2540
2541
2542
2543

(4) The voided record and evidence shall be retained but shall not be subject to inspection or copying except upon order of a court with competent jurisdiction over the State Agency or by the State Registrar for purposes of administering the vital statistics program.

(p) When the State Registrar receives information that an application for a certification may have been submitted for purposes of fraud or misrepresentation, he or she may withhold issuance of the certification requested pending inquiry by appropriate authorities to determine whether fraud or misrepresentation has occurred.

(1) If upon conclusion of the inquiry no fraud or misrepresentation is found, certification shall be issued.

(2) If upon conclusion of the inquiry there is reasonable cause to suspect fraud or misrepresentation, the requested certification shall not be issued and the State Registrar shall provide copies of the application and evidence to appropriate authorities for further investigation.

(3) The application and evidence shall be retained but shall not be subject to inspection or copying except upon order of a court with competent jurisdiction over the State Agency or by the State Registrar for purposes of administering the vital statistics program.

(q) The State Registrar shall periodically test and audit vital statistics systems for purposes of detecting fraud. If fraud is detected, the State Registrar shall provide copies of the evidence to proper authorities for further investigation and implement the provisions of (p) and (q). The results of such tests and audits shall be retained but shall not be subject to inspection or copying except by the State Registrar for purposes of administering the vital statistics program.

(r) No person shall prepare or issue any paper or electronic document which purports to be an original vital record, a certification or a verification of a vital record, or a copy of a vital record except as authorized in this Act or regulations adopted hereunder.

(s) All applications and supporting documentation submitted for the purpose of issuing certifications of vital records shall be confidential and shall not be released except upon receipt of an order from a court with competent jurisdiction over the State Agency ordering such release.

Regulation 28. Certifications from the System of Vital Statistics

(Authorization: Section 28 of the Model Act)

(a) Certifications of vital records may be made by mechanical, electronic, or other reproductive processes.

(b) Each certification issued shall be certified as a true representation by the officer in whose custody the record is entrusted and shall include the name of the issuing officer,

2011 Revision- September 7, 2011

- 2544 the registrar's signature or an authorized facsimile thereof, and the seal of the issuing
2545 office.
- 2546
- 2547 (1) In addition, each certification of a live birth record shall include at a minimum the
2548 following information:
- 2549
- 2550 (a) State file number;
- 2551
- 2552 (b) first name(s);
- 2553
- 2554 (c) middle name(s) (if any);
- 2555
- 2556 (d) last name, suffix (if any);
- 2557
- 2558 (e) date of live birth;
- 2559
- 2560 (f) State of live birth;
- 2561
- 2562 (g) city or county of live birth;
- 2563
- 2564 (h) sex;
- 2565
- 2566 (i) name(s) of parent(s) prior to first marriage;
- 2567
- 2568 (j) date of registration;
- 2569
- 2570 (k) if matched to a death record, indicate "Deceased";
- 2571
- 2572 (l) if any amendments have been made, amendment history of field(s) shown; and
- 2573
- 2574 (m) date of issuance.
- 2575
- 2576 (2) In addition, all certifications of a death record shall include at a minimum the following
2577 information:
- 2578
- 2579 (a) State file number;
- 2580
- 2581 (b) first name(s);
- 2582
- 2583 (c) middle name(s) (if any);
- 2584
- 2585 (d) last name, suffix (if any);
- 2586
- 2587 (e) date and time of death;
- 2588
- 2589 (f) State of death;
- 2590

- 2591 (g) city or county of death;
2592
2593 (h) date of live birth;
2594
2595 (i) State or foreign country of live birth;
2596
2597 (j) sex;
2598
2599 [(k) name(s) of parent(s) prior to first marriage;]
2600
2601 (l) surviving (spouse's, civil or domestic partner's) name prior to first marriage;
2602
2603 (m) date of registration;
2604
2605 (n) if any amendments have been made, amendment history of field(s) shown; and
2606
2607 (o) date of issuance.
2608
2609 (3) In addition, all certifications of a fetal death record shall include at a minimum the
2610 following information:
2611
2612 (a) State file number;
2613
2614 (b) first name(s), (if any);
2615
2616 (c) middle name(s), (if any);
2617
2618 (d) last name;
2619
2620 (e) suffix, (if any);
2621
2622 (f) date and time of delivery;
2623
2624 (g) State of delivery;
2625
2626 (h) city or county of delivery;
2627
2628 (i) sex;
2629
2630 (j) name(s) of parent(s) prior to first marriage;
2631
2632 (k) date of registration;
2633
2634 (l) if any amendments have been made, amendment history of field(s) shown; and
2635
2636 (m) date of issuance.
2637

2011 Revision- September 7, 2011

2638 [(4) In addition, all certifications of a marriage or domestic partnership record shall include
2639 at a minimum the following information for each registrant:

- 2640 (a) State file number;
- 2641
- 2642 (b) first name(s);
- 2643
- 2644 (c) middle name(s) (if any) prior to this marriage/partnership;
- 2645
- 2646 (d) last name, suffix (if any) prior to this marriage/partnership;
- 2647
- 2648 (e) date of live birth;
- 2649
- 2650 (f) date of this marriage/partnership;
- 2651
- 2652 (g) State of this marriage/partnership;
- 2653
- 2654 (h) city or county where ceremony occurred;
- 2655
- 2656 (i) names taken after this marriage/partnership;
- 2657
- 2658 [(j) date of registration;]
- 2659
- 2660 (k) if any amendments have been made, amendment history of field(s) shown; and
- 2661
- 2662 (l) date of issuance.]
- 2663
- 2664

2665 [(5) In addition, all certifications of a divorce, dissolution or annulment record shall include
2666 at a minimum the following information for each registrant:

- 2667 (a) State file number;
- 2668
- 2669 (b) first name(s);
- 2670
- 2671 (c) middle name(s) (if any) prior to this divorce, dissolution or annulment;
- 2672
- 2673 (d) last name, suffix (if any) prior to this divorce, dissolution or annulment;
- 2674
- 2675 (e) date of live birth;
- 2676
- 2677 (f) date of this marriage/partnership;
- 2678
- 2679 (e) date of this divorce, dissolution or annulment;
- 2680
- 2681 (f) State of this divorce, dissolution or annulment;
- 2682
- 2683 (g) city or county where this divorce, dissolution or annulment occurred;
- 2684

2685
2686
2687
2688
2689
2690
2691
2692
2693
2694
2695
2696
2697
2698
2699
2700
2701
2702
2703
2704
2705
2706
2707
2708
2709
2710
2711
2712
2713
2714
2715
2716
2717
2718
2719
2720
2721
2722

- (h) names taken after this divorce, dissolution or annulment;
 - [(i) date or registration;]
 - (j) if any amendments have been made, amendment history of field(s) shown; and
 - (k) date of issuance
- (c) The State Registrar may include in a certification any other item from the vital record that is not restricted pursuant to Subsection 28(i).

Section 29. Fees⁴

- (a) The State Agency shall prescribe [by regulation] the fee to be paid for the following services:
 - (1) Certifications of records, whether paper or electronic; or for a search of the files when no certification is made; or for copies or information provided for health research, statistical, or administrative purposes, or in response to subpoena or court order;
 - (2) Verifications of information contained on live birth, death, [fetal death, marriage and divorce] records when such information is provided. The (Office of Vital Statistics) may issue such verifications for a negotiated and agreed-upon fee to government agencies, whether foreign or domestic;
 - (3) The replacement of a live birth record subsequent to adoption, establishment of parentage, paternity determination or acknowledgment, [change to an acquired sex] or court order;
 - (4) The submission of an application to register a delayed report of a vital event;⁵
 - (5) The submission of an application to amend a vital record, provided that no fee shall be charged for an amendment completed within one year after the registration of the record;
 - (6) Maintenance of electronic vital event registration systems by authorized users;⁶

4 The implications of establishing a fee by regulation or by statute may differ from State to State. In some States a fee established in a regulation promulgated by an administrative agency would be limited to recovering the cost of providing the specific service in question. On the other hand, in some other States a fee established in a statute enacted by a legislative body could exceed the cost of the service. A State should consider this distinction when deciding how to establish a particular fee.

5 State law may not permit charging a fee for a delayed report, as there may be a prohibition against charging a fee to register a vital event.

6 Where utilization of an electronic vital events registration system is mandated, charging mandated users a fee for the maintenance of the system may be problematic, particularly if the fee is established by regulation.

2011 Revision- September 7, 2011

2723
2724
2725
2726
2727
2728
2729
2730
2731
2732
2733
2734
2735
2736
2737
2738
2739
2740
2741
2742
2743
2744
2745
2746
2747
2748
2749
2750
2751
2752
2753
2754
2755
2756
2757
2758
2759
2760
2761
2762
2763
2764
2765
2766
2767
2768
2769

(7) Providing personally identifiable information from vital records data to health researchers or government agencies;

(8) Providing programming and analytic services in response to statistical data requests;

(9) Issuing permits required by law;

(10) Other services as determined by the State Registrar.

(b) The (Office of Vital Statistics) shall make searches and issue certifications, transcripts, corrections or disposition permits without charge when:

(1) Requested in connection with a pending application for benefits from the Department of Veterans Affairs, if written proof of the application is first submitted;

(2) Completed in response to administrative errors as determined by the State Registrar.

(c) In addition to the fees prescribed for the issuance of a certification of a vital record, the State Registrar shall collect a fee of \$_____ for each copy requested to be deposited in the State Vital Statistics Improvement Fund. Funds collected pursuant to this section shall be used to improve the system of vital statistics in this State. Such funds shall not be used to supplant existing funding which is necessary for the daily operation of the system of vital statistics.

(d) Fees collected under this section by the State Registrar shall be deposited in the (general fund, dedicated vital statistics fund) of this State, according to the procedures established by (the laws governing collection, the State Treasurer). Fees for the State Vital Statistics Improvement Fund shall be retained in a non lapsing fund for the improvement of the system of vital statistics.

Regulation 29. Fees

(Authorization: Section 29 of the Model Act)

(a) No certification shall be issued until the fee for such certification is received unless specific approval has been obtained from the State Registrar or otherwise provided for by statute or regulation.

(b) Fee for services:

(1) (a) For a () year search of the vital record files and issuance of a certification, whether paper or electronic, of a vital record if found.....\$_____

(b) For each additional certification, whether paper or electronic, of the same vital record issued at the same time.....\$_____

- 2770 (2) For a () year search of the vital record files when no record is found and issuance of a
- 2771 certification of Failure to Find, whether paper or electronic\$_____
- 2772
- 2773 (3) For a verification of the facts contained in a vital record:
- 2774
- 2775 (a) Individual requests, whether paper or electronic\$_____
- 2776
- 2777 (b) Automated standardized requests, a negotiated and agreed-upon fee based on
- 2778 volume of requests.....\$_____
- 2779
- 2780 (4) For submitting an application to prepare a replacement record of live birth by adoption,
- 2781 establishment of parentage, paternity determination, [change to acquired sex] or
- 2782 court order which does not include one certification.....\$_____
- 2783
- 2784 (5) For submitting an application to prepare a record of foreign live birth which does [not]
- 2785 include one certification\$_____
- 2786
- 2787 (6) For submitting an application to amend a vital record one year or more after the event
- 2788 which does not include one certification.....\$_____
- 2789
- 2790 [(7) For submitting an application to register a delayed report of a vital event
- 2791\$_____]⁷
- 2792
- 2793 (8) Additional charges for expedited certification services that require special
- 2794 attention.....\$_____
- 2795
- 2796 (9) Additional charges for expedited correction and amendment services.....\$_____
- 2797
- 2798 (10) Additional charges for expedited programming and analysis in response to statistical
- 2799 data requests.....\$_____.
- 2800
- 2801 (11) For issuing disposition permits.....\$_____
- 2802
- 2803 (12) For issuing disinterment and re-interment permits.....\$_____
- 2804
- 2805 (13) For adding a first and middle name more than 60 calendar days after the registration of
- 2806 the record.....\$_____
- 2807
- 2808 (14) For correcting live birth and death record errors and omissions after 12 months from the
- 2809 date of the event.....\$_____
- 2810
- 2811 (15) For providing vital events data files to researchers or government agencies, the fee per
- 2812 year per event type is.....\$_____
- 2813

⁷ State law may not permit charging a fee for a delayed report because there may be a prohibition against charging a fee to register a vital event.

2011 Revision- September 7, 2011

- 2814 (16) For providing programming and analytic services in response to statistical data
2815 requests, the fee (per hour, with a minimum of _____ (hours) is\$_____)
2816
2817 (17) A fee may be charged for special services not specified above. The fee shall be the
2818 actual cost for providing the service as determined by the State Registrar.
2819
2820 (c) Fees charged to the State Registrar by outside entities to deliver services in this section
2821 shall be charged at cost to the customer. Examples include but are not limited to credit card
2822 fees, bank fees, and mailing fees.
2823

2824 **Section 30. Penalties**

- 2825
2826 (a) For each instance of an occurrence set forth in this subsection a fine of not more than
2827 \$50,000, or imprisonment of not more than five years, or both, shall be imposed on:
2828
2829 (1) Any person who willfully and knowingly makes any false statement to the State
2830 Registrar or designee when submitting information required by this Act, including:
2831
2832 (a) reports;
2833
2834 (b) applications for amendments or corrections, including associated
2835 evidence;
2836
2837 (c) applications for certifications and verifications;
2838
2839 (d) applications for access to information in vital records;
2840
2841 (e) applications for creation of a vital record, including delayed records; or
2842
2843 (2) Any person who without lawful authority and with the intent to deceive, makes,
2844 counterfeits, alters, amends, or mutilates any record, report, application or
2845 supporting documentation required by this Act, a certification or verification of such
2846 record, or security paper; or
2847
2848 (3) Any person who willfully and knowingly obtains, possesses, uses, sells, furnishes, or
2849 attempts to obtain, possess, use, sell, or furnish vital record documents, whether
2850 physical or electronic, which have been counterfeited, altered, amended, or
2851 mutilated, or which are false in whole or in part, for purposes other than specified in
2852 this Act, including:
2853
2854 (a) State vital records security paper;
2855
2856 (b) any record or report required by this Act;
2857
2858 (c) certification or verification; or
2859

2860 (d) information in vital records.

2861

2862 (4) Any person who without lawful authority possesses any record, report or application
2863 required by this Act or a certification, verification or security paper, knowing same to
2864 have been stolen or otherwise unlawfully obtained; or

2865

2866 (5) Any employee of the (Office of Vital Statistics) or any office designated under
2867 Section 6(b)) who willfully and knowingly furnishes security paper, certifications or
2868 verifications with the knowledge or intention that they will be used for purposes other
2869 than those specified in this Act.

2870

2871 (b) For each instance of an occurrence set forth in this subsection a fine of not more than
2872 \$10,000, or imprisonment of not more than one year, or both, shall be imposed on:

2873

2874 (1) Any person who willfully and knowingly refuses to provide information required by
2875 this Act or regulations adopted hereunder; or

2876

2877 (2) Any person who willfully and knowingly transports or accepts for transportation,
2878 interment, or other disposition human remains without an accompanying permit as
2879 provided in this Act; or

2880

2881 (3) Any person who willfully and knowingly neglects or violates any of the provisions of
2882 this Act or the regulations promulgated hereunder, or of any agreement entered into
2883 in accordance with this Act, or who refuses to perform any of the duties required by
2884 this Act or by such regulations or agreements.

2885

2886 (c) For each instance of an occurrence set forth in this subsection, and in addition or as an
2887 alternative to the sanctions set forth in subsections (a) and (b) above, a civil penalty
2888 of not more than \$10,000 shall be imposed on any person who violates any of the
2889 provisions of this Act, the regulations promulgated hereunder, or of any agreement
2890 entered into in accordance with this Act, or who fails to perform any of the duties
2891 required by this Act or by such regulations or agreements. Any such civil penalties
2892 shall be credited to the State's Vital Statistics Improvement Fund.

2893

2894 **Section 31. Applicability**

2895

2896 The provisions of this Act apply to the maintenance, operation and advancement of the system
2897 of vital statistics, and shall also apply to all vital records and vital reports previously received by
2898 the (Office of Vital Statistics) and in the custody of the State Registrar or any other (custodian of
2899 vital records).

2900

2901 **Section 32. Severability**

2902

2903 If any provision of this Act (or the application thereof to any person or circumstances) is held
2904 invalid, such invalidity shall not affect other provisions or applications of the Act which can be

2905 given effect without the invalid provision or application, and to this end the provisions of the Act
2906 are declared to be severable.

2907

2908 **Section 33. Repeal**

2909

2910 (Section ____ and Section ____,____ Laws of ____ are hereby repealed; and) all other laws or
2911 parts of laws which are inconsistent with the provisions of this Act are hereby repealed.

2912

2913 **Section 34. Time of Taking Effect**

2914

2915 This Act shall take effect.

2916

2917

2918 Appendix I

2919

2920

2921 **New Work Flow Terminology:**

2922

2923

2924 A **Report** is submitted to the **Registrar**.

2925

2926 The **Registrar** accepts the **Report** and it becomes a **Record**.

2927

2928 The **Record** is used for:

2929

- **Certification** – subset of the **Record** necessary for civil purposes.

2930

- **Verification** – performed based on matching a **Certification** against the Registrar's **Records**.

2931

2932

- **Data File Provision** – subset of the **Records** used for research, governmental purposes, etc.

2933

2934

2935

2936

