

UTAH VITAL STATISTICS ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends provisions regarding the completion and amendment of a birth certificate.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the completion of a birth certificate;
- ▶ amends provisions regarding amending a birth certificate; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-2, as last amended by Laws of Utah 2018, Chapters 49 and 153

26-2-5, as last amended by Laws of Utah 2008, Chapter 3

26-2-11, as last amended by Laws of Utah 1995, Chapter 202

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **26-2-2** is amended to read:

29 **26-2-2. Definitions.**

30 As used in this chapter:

31 (1) "Adoption document" means an adoption-related document filed with the office, a
32 petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
33 in support of a supplementary birth certificate.

34 (2) "Custodial funeral service director" means a funeral service director who:

35 (a) is employed by a licensed funeral establishment; and

36 (b) has custody of a dead body.

37 (3) "Dead body" or "decedent" means a human body or parts of the human body from
38 the condition of which it reasonably may be concluded that death occurred.

39 (4) "Dead fetus" means a product of human conception, other than those circumstances
40 described in Subsection [76-7-301\(1\)](#):

41 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
42 period began to the date of delivery; and

43 (b) that was not born alive.

44 (5) "Declarant father" means a male who claims to be the genetic father of a child, and,
45 along with the biological mother, signs a voluntary declaration of paternity to establish the
46 child's paternity.

47 (6) "Dispositioner" means:

48 (a) a person designated in a written instrument, under Subsection [58-9-602\(1\)](#), as
49 having the right and duty to control the disposition of the decedent, if the person voluntarily
50 acts as the dispositioner; or

51 (b) the next of kin of the decedent, if:

52 (i) (A) a person has not been designated as described in Subsection (6)(a); or

53 (B) the person described in Subsection (6)(a) is unable or unwilling to exercise the
54 right and duty described in Subsection (6)(a); and

55 (ii) the next of kin voluntarily acts as the dispositioner.

56 (7) "Female" means an individual with ovaries who is confirmed before or at birth to
57 have external anatomical characteristics that appear to have the purpose of performing the
58 natural reproductive function of providing eggs and receiving sperm from a male donor.

59 ~~[(7)]~~ (8) "File" means the submission of a completed certificate or other similar
60 document, record, or report as provided under this chapter for registration by the state registrar
61 or a local registrar.

62 ~~[(8)]~~ (9) "Funeral service director" means the same as that term is defined in Section
63 [58-9-102](#).

64 ~~[(9)]~~ (10) "Health care facility" means the same as that term is defined in Section
65 [26-21-2](#).

66 ~~[(10)]~~ (11) "Health care professional" means a physician, physician assistant, or nurse
67 practitioner.

68 ~~[(11)]~~ (12) "Licensed funeral establishment" means:

69 (a) if located in Utah, a funeral service establishment, as that term is defined in Section
70 [58-9-102](#), that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

71 (b) if located in a state, district, or territory of the United States other than Utah, a
72 funeral service establishment that complies with the licensing laws of the jurisdiction where the
73 establishment is located.

74 ~~[(12)]~~ (13) "Live birth" means the birth of a child who shows evidence of life after the
75 child is entirely outside of the mother.

76 ~~[(13)]~~ (14) "Local registrar" means a person appointed under Subsection [26-2-3\(3\)\(b\)](#).

77 (15) "Male" means an individual with testes who is confirmed before or at birth to have
78 external anatomical characteristics that appear to have the purpose of performing the natural
79 reproductive function of providing and delivering sperm to a female recipient.

80 ~~[(14)]~~ (16) "Nurse practitioner" means an individual who:

81 (a) is licensed to practice as an advanced practice registered nurse under Title 58,
82 Chapter 31b, Nurse Practice Act; and

83 (b) has completed an education program regarding the completion of a certificate of
84 death developed by the department by administrative rule made in accordance with Title 63G,
85 Chapter 3, Utah Administrative Rulemaking Act.

86 ~~[(15)]~~ (17) "Office" means the Office of Vital Records and Statistics within the
87 Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

88 ~~[(16)]~~ (18) "Physician" means a person licensed to practice as a physician or osteopath
89 in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,

90 Utah Osteopathic Medical Practice Act.

91 [~~(17)~~] (19) "Physician assistant" means an individual who:

92 (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a,
93 Physician Assistant Act; and

94 (b) has completed an education program regarding the completion of a certificate of
95 death developed by the department by administrative rule made in accordance with Title 63G,
96 Chapter 3, Utah Administrative Rulemaking Act.

97 [~~(18)~~] (20) "Presumed father" means the father of a child conceived or born during a
98 marriage as defined in Section 30-1-17.2.

99 [~~(19)~~] (21) "Registration" or "register" means acceptance by the local or state registrar
100 of a certificate and incorporation of the certificate into the permanent records of the state.

101 (22) "Sex" means male or female, the innate and immutable characteristics established
102 at conception and that can be confirmed before or at birth.

103 [~~(20)~~] (23) "State registrar" means the state registrar of vital records appointed under
104 Subsection 26-2-3(2)(e).

105 [~~(21)~~] (24) "Vital records" means:

106 (a) registered certificates or reports of birth, death, fetal death, marriage, divorce,
107 dissolution of marriage, or annulment;

108 (b) amendments to any of the registered certificates or reports described in Subsection
109 [~~(21)~~] (24)(a);

110 (c) an adoption document; and

111 (d) other similar documents.

112 [~~(22)~~] (25) "Vital statistics" means the data derived from registered certificates and
113 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
114 dissolution of marriage, or annulment.

115 Section 2. Section 26-2-5 is amended to read:

116 **26-2-5. Birth certificates -- Execution and registration requirements.**

117 (1) As used in this section, "birthing facility" means a general acute hospital or birthing
118 center as defined in Section 26-21-2.

119 (2) (a) For each live birth occurring in the state, a certificate shall be filed with the
120 local registrar for the district in which the birth occurred within 10 days [~~following~~] after the

121 day on which the birth occurs.

122 (b) The certificate shall be registered if it is completed and filed in accordance with this
123 chapter.

124 (c) The certificate shall be completed as fully as possible and include:

125 (i) the date, time, and place of birth;

126 (ii) each parent's name and address;

127 (iii) the name of the child;

128 (iv) the sex of the child as male or female or, if the sex cannot be factually determined
129 at birth, undetermined;

130 (v) other information related to the birth as required by the state registrar; and

131 (vi) the name and signature of the individual who completes the certificate.

132 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the
133 birthing facility, or his designee, shall obtain and enter the information required under this
134 chapter on the certificate, securing the required signatures, and filing the certificate.

135 (b) (i) The date, time, place of birth, and required medical information shall be certified
136 by the birthing facility administrator or his designee.

137 (ii) The attending physician or nurse midwife may sign the certificate, but if the
138 attending physician or nurse midwife has not signed the certificate within seven days [~~of the~~
139 ~~date of~~] after the day on which the birth occurs, the birthing facility administrator or his
140 designee shall enter the attending physician's or nurse midwife's name and transmit the
141 certificate to the local registrar.

142 (iii) The information on the certificate about the parents shall be provided and certified
143 by the mother or father or, in their incapacity or absence, by [~~a person~~] an individual with
144 knowledge of the facts.

145 (4) [~~(a)~~] For live births that occur outside a birthing facility, the birth certificate shall
146 be completed and filed by the physician, nurse, midwife, or other [~~person~~] individual primarily
147 responsible for providing assistance to the mother at the birth. If there is no such [~~person~~]
148 individual, either the presumed or declarant father shall complete and file the certificate. In his
149 absence, the mother shall complete and file the certificate, and in the event of her death or
150 disability, the owner or operator of the premises where the birth occurred shall do so.

151 [~~(b) The certificate shall be completed as fully as possible and shall include the date,~~

152 ~~time, and place of birth, the mother's name, and the signature of the person completing the~~
153 ~~certificate.]~~

154 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
155 administrator or director of that facility, or his designee, shall:

156 (i) provide the birth mother and declarant father, if present, with:

157 (A) a voluntary declaration of paternity form published by the state registrar;

158 (B) oral and written notice to the birth mother and declarant father of the alternatives
159 to, the legal consequences of, and the rights and responsibilities that arise from signing the
160 declaration; and

161 (C) the opportunity to sign the declaration;

162 (ii) witness the signature of a birth mother or declarant father in accordance with
163 Section 78B-15-302 if the signature occurs at the facility;

164 (iii) enter the declarant father's information on the original birth certificate, but only if
165 the mother and declarant father have signed a voluntary declaration of paternity or a court or
166 administrative agency has issued an adjudication of paternity; and

167 (iv) file the completed declaration with the original birth certificate.

168 (b) If there is a presumed father, the voluntary declaration will only be valid if the
169 presumed father also signs the voluntary declaration.

170 (c) The state registrar shall file the information provided on the voluntary declaration
171 of paternity form with the original birth certificate and may provide certified copies of the
172 declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform
173 Parentage Act.

174 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
175 a description of the process for filing a voluntary declaration of paternity, and of the rights and
176 responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15,
177 Utah Uniform Parentage Act.

178 (b) Information regarding the form and services related to voluntary paternity
179 establishment shall be made available to birthing facilities and to any other entity or individual
180 upon request.

181 (7) The name of a declarant father may only be included on the birth certificate of a
182 child of unmarried parents if:

183 (a) the mother and declarant father have signed a voluntary declaration of paternity; or

184 (b) a court or administrative agency has issued an adjudication of paternity.

185 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or

186 administrative agencies, and voluntary rescissions of paternity shall be filed with and

187 maintained by the state registrar for the purpose of comparing information with the state case

188 registry maintained by the Office of Recovery Services pursuant to Section [62A-11-104](#).

189 Section 3. Section **26-2-11** is amended to read:

190 **26-2-11. Registration of court order and amendment of birth certificate.**

191 ~~[(1) When a person born in this state has a name change or sex change approved by an~~
192 ~~order of a Utah district court or a court of competent jurisdiction of another state or a province~~
193 ~~of Canada, a certified copy of the order may be filed with the state registrar with an application~~
194 ~~form provided by the registrar.]~~

195 (1) Except as otherwise provided by statute, an individual born in this state may, by an
196 order of a Utah district court or a court of competent jurisdiction of another state or a province
197 of Canada, amend the individual's birth certificate to change:

198 (a) the individual's name; or

199 (b) any other information to correct a mistake of fact that occurred at the time the birth
200 certificate was completed or issued, as determined by the court.

201 (2) An individual seeking an amendment described in Subsection (1) shall submit an
202 application to the state registrar that includes a certified copy of the court order.

203 ~~[(2)]~~ (3) (a) Upon receipt of the application, a certified copy of the order, and payment
204 of the required fee, the state registrar shall review the application, and if complete, register it
205 and note the fact of the amendment on the otherwise unaltered original certificate.

206 (b) The amendment shall be registered with and become a part of the original
207 certificate, unless a court orders otherwise for good cause, and a certified copy shall be issued
208 to the applicant without additional cost.