

HB0153S01 compared with HB0153

~~{deleted text}~~ shows text that was in HB0153 but was deleted in HB0153S01.

Inserted text shows text that was not in HB0153 but was inserted into HB0153S01.

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~~{UTAH V REAL ESTATE ACT}~~ Representative Merrill F. Nelson proposes the following substitute bill:

STATE RECORDS AND IDENTIFICATION 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 and amends the Uniform Driver License Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the completion of a birth certificate;
- ▶ amends provisions regarding ~~{amending}~~ changing a birth certificate;
- ▶ directs the Drivers License Division regarding the recording of an individual's sex on a license or identification card; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

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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

53-3-104, as last amended by Laws of Utah 2018, Chapters 233 and 415

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

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

26-2-2. Definitions.

As used in this chapter:

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

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

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

(b) has custody of a dead body.

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

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

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

(b) that was not born alive.

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

(6) "Dispositioner" means:

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(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the disposer; or

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

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

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

(ii) the next of kin voluntarily acts as the disposer.

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

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

{ (8) (9) "Funeral service director" means the same as that term is defined in Section 58-9-102.

{ (9) (10) "Health care facility" means the same as that term is defined in Section 26-21-2.

{ (10) (11) "Health care professional" means a physician, physician assistant, or nurse practitioner.

{ (11) (12) "Licensed funeral establishment" means:

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

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

{ (12) (13) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

{ (13) (14) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).

~~{ (15) "Male" means an individual with testes who is confirmed before or at birth to have~~

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external anatomical characteristics that appear to have the purpose of performing the natural reproductive function of providing and delivering sperm to a female recipient.

† ~~(14)~~~~(16)~~ "Nurse practitioner" means an individual who:

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

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

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

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

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

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

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

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

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

~~(22)~~20 "Sex" means ~~male or female,~~ the ~~innate~~biological and ~~immutable~~physiological characteristics ~~established,~~ determined at conception and ~~that can be confirmed before or at birth,~~ generally identifiable at birth, that define an individual as male or female.

~~(20)~~ ~~(23)~~21 "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

~~(21)~~ ~~(24)~~22 "Vital records" means:

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

(b) amendments to any of the registered certificates or reports described in Subsection [(21)] ~~(24)~~(22)(a);

(c) an adoption document; and

(d) other similar documents.

[(22)] ~~(25)~~(23) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

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

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

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

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

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

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

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

(ii) each parent's name and address;

(iii) the name of the child;

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

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

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

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

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

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

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

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

~~[(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.]~~

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

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

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

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

(C) the opportunity to sign the declaration;

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

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

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

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

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

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

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

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

- (a) the mother and declarant father have signed a voluntary declaration of paternity; or
- (b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 62A-11-104.

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

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

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

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

- (a) the individual's name or the individual's sex from "undetermined" or "other" to

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"male" or "female"; or

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

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

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

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

(b) The state registrar:

(i) may not make a notation of a change on a certified copy of a birth certificate, unless otherwise ordered by a court for good cause shown; and

(ii) shall issue to an individual whose application is registered under Subsection (3)(a) a certified copy of the individual's birth certificate without additional cost.

Section 4. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter;

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(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

(f) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

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(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206; [and]

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license[-];

(16) for purposes of issuing a license or identification card under this chapter, presume that an individual's sex is as presented in a document required as proof of the individual's identity, unless:

(a) the individual submits a notarized statement that states:

(i) a proposed sex of "male", "female", or "other";

(ii) the individual is not involved in a court action or proceeding, or if so, a description of the court action or proceeding;

(iii) the individual is not on probation or parole, or that the individual has given written notice to the individual's probation or parole officers of the individual's intent to place the sex described in Subsection (16)(a)(i) on a license or identification card;

(iv) the individual is not placing the sex described in Subsection (16)(a)(i) on a license or identification card to avoid creditors or anyone else with a claim against the individual;

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(v) that placing the sex described in Subsection (16)(a)(i) on a license or identification card will not affect any right, title, or interest of anyone else;

(vi) the individual is not placing the sex described in Subsection (16)(a)(i) on a license or identification card for any illegal, fraudulent, or wrongful purpose; and

(vii) the sex described in Subsection (16)(a)(i) is consistent with the individual's gender identity as defined in Section 34A-5-102; or

(b) if the individual is a minor:

(i) the individual submits a statement described in Subsection (16)(a); and

(ii) the individual's parent or legal guardian submits a notarized statement that states the parent or legal guardian acknowledges and consents to the placement of the individual's proposed sex on the minor's license or identification card; and

(17) if an individual submits the required statements in accordance with Subsection (16), reflect the sex described in Subsection (16)(a)(i) on the individual's license or identification card issued under this chapter.