

## **Vital Statistics Statutes: 71-601 to 71-649**

### **71-601. Act, how cited.**

Sections 71-601 to 71-649 shall be known and may be cited as the Vital Statistics Act.

**Source:** Laws 2005, LB 301, § 21; Laws 2018, LB1040, § 1.

### **71-601.01. Terms, defined.**

For purposes of the Vital Statistics Act:

(1) Abstract of marriage means a certified document that summarizes the facts of marriage, including, but not limited to, the name of the bride and groom, the date of the marriage, the place of the marriage, and the name of the office filing the original marriage license. An abstract of marriage does not include signatures;

(2) Certificate means the record of a vital event. Certificate does not include a commemorative certificate;

(3) Certification means the process of recording, filing, amending, or preserving a certificate, which process may be by any means, including, but not limited to, microfilm, electronic, imaging, photographic, typewritten, or other means designated by the department;

(4) Commemorative certificate means a document commemorating a nonviable birth;

(5) Department means the Department of Health and Human Services; and

(6) Nonviable birth means an unintentional, spontaneous fetal demise occurring prior to the twentieth week of gestation during a pregnancy that has been verified by a health care practitioner.

**Source:** Laws 1994, LB 886, § 2; Laws 1996, LB 1044, § 512; Laws 2005, LB 301, § 24; Laws 2006, LB 1115, § 38; Laws 2007, LB296, § 400; Laws 2018, LB1040, § 2.

### **71-602. Department; standard forms; release of information; confidentiality.**

(1) The department shall adopt and promulgate rules and regulations prescribing all standard forms for registering with or reporting to the department and for certification to the public of any birth, abortion, marriage, annulment, dissolution of marriage, or death registered in Nebraska. Such forms shall (a) provide for the registration of vital events as accurately as possible, (b) secure information about the economic, educational, occupational, and sociological backgrounds of the individuals involved in the registered events and their parents as a basis for statistical research in order to reduce morbidity and mortality and improve the quality of life, (c) accomplish such duties in a manner which will be uniform with forms for reporting similar events which have been established by the United States Public Health Service to the extent such forms are consistent with state law, and (d) permit other deviations from such forms as will reduce the costs of gathering information, increase efficiency, or protect the health and safety of the people of Nebraska without jeopardizing such uniformity.

(2) All information designated by the department on all certificates as being for health data and statistical research shall be confidential and may be released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the department in accordance with its rules and regulations. The department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

**Source:** Laws 1989, LB 344, § 1; Laws 1992, LB 1019, § 47; Laws 1993, LB 536, § 60; Laws 1996, LB 1044, § 513; Laws 2007, LB296, § 401.

### **71-602.01. Release of information; written agreements authorized.**

All information designated by the department on all certificates as being for health data and statistical research shall be confidential but may be released to the department for research and statistical purposes. The department may release cost, health, and associated health risk information from medicaid records to the department for research and statistical purposes. Such release shall provide for protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

**Source:** Laws 1993, LB 536, § 61; Laws 1996, LB 1044, § 514; Laws 2007, LB296, § 402.

### **71-603. Vital statistics; duties of department; rules and regulations.**

The department shall provide for the registration of vital events and shall adopt, promulgate, and enforce such rules and regulations as are necessary to carry out the purposes of the Vital Statistics Act.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 1, p. 781; C.S.1922, § 8228; Laws 1927, c. 166, § 1, p. 448; C.S.1929, § 71-2401; R.S.1943, § 71-601; Laws 1965, c. 418, § 1, p. 1335; Laws 1991, LB 703, § 27;

Laws 1994, LB 886, § 1; Laws 1996, LB 1044, § 511; R.S.1943, (2003), § 71-601; Laws 2005, LB 301, § 23.

**71-603.01. Electronic signatures; department; duty.**

The department shall provide for an electronic means of receiving electronic signatures as provided in section 86-611 for purposes of filing and amending death and fetal death certificates under the Vital Statistics Act.

**Source:** Laws 2005, LB 301, § 22.

**71-604. Birth certificate; preparation and filing.**

(1) A certificate for each live birth which occurs in the State of Nebraska shall be filed on a standard Nebraska certificate form. Such certificate shall be filed with the department within five business days after the birth.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or his or her authorized designee shall obtain the personal data, prepare the certificate which shall include the name, title, and address of the attendant, certify that the child was born alive at the place and time and on the date stated either by standard procedure or by an approved electronic process, and file the certificate. The physician, physician assistant, or other person in attendance shall provide the medical information required for the certificate within seventy-two hours after the birth.

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

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

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

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

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 5, p. 781; Laws 1921, c. 253, § 1, p. 863; C.S.1922, § 8232; Laws 1927, c. 166, § 2, p. 448; C.S.1929, § 71-2404; R.S.1943, § 71-604; Laws 1965, c. 418, § 2, p. 1335; Laws 1985, LB 42, § 2; Laws 1989, LB 344, § 9; Laws 1994, LB 886, § 3; Laws 1997, LB 307, § 135; Laws 2007, LB296, § 403; Laws 2009, LB195, § 67.

**Annotations**

- In the light of the legislative history of laws pertaining to osteopathy the term physician, used in this section, was intended to include regularly licensed osteopathic physicians. State ex rel. Johnson v. Wagner, 139 Neb. 471, 297 N.W. 906 (1941).

**71-604.01. Birth certificate; sex reassignment; new certificate; procedure.**

Upon receipt of a notarized affidavit from the physician that performed sex reassignment surgery on an individual born in this state and a certified copy of an order of a court of competent jurisdiction changing the name of such person, the department shall prepare a new certificate of birth in the new name and sex of such person in substantially the same form as that used for other live births. The evidence from which the new certificate is prepared and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

**Source:** Laws 1994, LB 886, § 4; Laws 1996, LB 1044, § 515; Laws 2007, LB296, § 404.

**71-604.02. Repealed. Laws 1979, LB 39, § 3.**

**71-604.03. Repealed. Laws 1987, LB 385, § 7.**

**71-604.04. Repealed. Laws 1987, LB 385, § 7.**

**71-604.05. Birth certificate; restriction on filing; social security number required; exception; use; release of data to Social Security Administration.**

(1) The department shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant who is under twenty-five years of age when an application for such certificate is filed, (c) a certificate of live birth filed after adoption of a Nebraska-born person who is under twenty-five years of age or a person born outside of the jurisdiction of the United States, or (d) a certificate of live birth issued pursuant to section 71-628 unless the social security number or numbers issued to the parents are furnished by the person seeking to register the birth. No such certificate may be amended to show paternity unless the social security number of the father is furnished by the person requesting the amendment. The social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown.

(2) Social security numbers (a) shall be recorded on the birth certificate but shall not be considered part of the birth certificate and (b) shall only be used for the purpose of enforcement of child support orders in Nebraska as permitted by Title IV-D of the federal Social Security Act, as amended, or as permitted by section 7(a) of the federal Privacy Act of 1974, as amended.

(3) The department may release data to the Social Security Administration which is necessary to obtain a social security number and which is contained on the birth certificate of any individual who has applied for or is receiving medicaid or Supplemental Nutrition Assistance Program benefits. The department shall make such data available only for the purpose of obtaining a social security number for the individual.

(4) The department shall provide to the Social Security Administration each parent's name and social security number collected in the birth certification process as required by the federal Taxpayer Relief Act of 1997.

**Source:** Laws 1991, LB 703, § 28; Laws 1993, LB 536, § 62; Laws 1996, LB 1044, § 516; Laws 1997, LB 307, § 136; Laws 1998, LB 1073, § 89; Laws 2004, LB 1005, § 55; Laws 2007, LB296, § 405; Laws 2009, LB288, § 34.

**71-605. Death certificate; cause of death; sudden infant death syndrome; how treated; cremation, disinterment, or transit permits; how executed; filing; requirements.**

(1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the department. Such standard form shall include a space for veteran status and the period of service in the armed forces of the United States and a statement of the cause of death made by a person holding a valid license as a physician, physician assistant, or nurse practitioner who last attended the deceased. The standard form shall also include the deceased's social security number and a notice that, pursuant to section 30-2413, demands for notice which may affect the estate of the deceased are filed with the county court in the county where the decedent resided at the time of death. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians, physician assistants, or nurse practitioners for the purpose of filing with the department and providing child support enforcement information pursuant to section 43-3340.

(2) The physician, physician assistant, or nurse practitioner shall have the responsibility and duty to complete and sign by electronic means pursuant to section 71-603.01, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician, physician assistant, or nurse practitioner was in attendance, the funeral director and embalmer shall refer the case to the county attorney who shall have the responsibility and duty to complete and sign the death certificate by electronic means pursuant to section 71-603.01.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years until an autopsy is performed at county expense by a qualified pathologist pursuant to section 23-1824. The parents or guardian shall be notified of the results of the autopsy by their physician, physician assistant, nurse practitioner, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

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

(3) A completed death certificate shall be filed with the department within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the department of the reason for the delay and file the certificate as soon as possible.

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

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the department to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the person listed in section 30-2223 or a county attorney on a form furnished by the department. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the department within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the department prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the department a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the remains of a child born dead pursuant to section 71-20,121.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the department within five business days after the interment takes place.

(10) The changes made to this section by Laws 2019, LB593, shall apply retroactively to August 24, 2017.

**Source:** Laws 1921, c. 253, § 2, p. 863; C.S.1922, § 8233; Laws 1927, c. 166, § 3, p. 449; C.S.1929, § 71-2405; R.S.1943, § 71-605; Laws 1949, c. 202, § 1, p. 585; Laws 1953, c. 241, § 1, p. 830; Laws 1961, c. 341, § 3, p. 1091; Laws 1965, c. 418, § 3, p. 1335; Laws 1973, LB 29, § 1; Laws 1978, LB 605, § 1; Laws 1985, LB 42, § 3; Laws 1989, LB 344, § 10; Laws 1993, LB 187, § 8; Laws 1996, LB 1044, § 517; Laws 1997, LB 307, § 137; Laws 1997, LB 752, § 172; Laws 1999, LB 46, § 4; Laws 2003, LB 95, § 33; Laws 2005, LB 54, § 14; Laws 2005, LB 301, § 25; Laws 2007, LB463, § 1184; Laws 2009, LB195, § 68; Laws 2012, LB1042, § 4; Laws 2014, LB998, § 14; Laws 2016, LB786, § 1; Laws 2017, LB268, § 15; Laws 2019, LB593, § 9.

**Effective Date: May 31, 2019**

#### **Cross References**

- **For authority of chiropractors to sign death certificates**, see section 38-811.
- **For authority of physician assistants to sign death certificates**, see section 38-2047.
- **Medical Assistance Act**, see section 68-901.
- **Organ and tissue donation**, notation required, see section 71-4816.

#### **Annotations**

- Medical certificate is not admissible as proof of cause of death. *O'Neil v. Union Nat. Life Ins. Co.*, 162 Neb. 284, 75 N.W.2d 739 (1956).
- An autopsy is required and justified and may be ordered by the county attorney, without the consent of the family, whenever it is necessary to determine whether or not the cause of death of a human being involved unlawful means. *Sturgeon v. Crosby Mortuary*, 140 Neb. 82, 299 N.W. 378 (1941).
- In a controversy between individuals where the cause of death is a material issue, the medical certificate of death, executed by the physician last in attendance, is not competent proof of the cause of death as recited therein. *Omaha & C. B. St. Ry. Co. v. Johnson*, 109 Neb. 526, 191 N.W. 691 (1922).

#### **71-605.01. Death certificate; death in military service outside continental limits of United States; recording.**

Death certificates issued by or under the authority of the United States for persons who were residents of Nebraska at the time they entered the military or armed forces of the United States, and died while in the service of their country while outside the continental limits of the United States may be recorded with the department.

**Source:** Laws 1947, c. 233, § 1, p. 739; Laws 1949, c. 203, § 1, p. 588; Laws 1996, LB 1044, § 518; Laws 2007, LB296, § 406.

**71-605.02. Death certificate; death in military service outside continental limits of United States; fees.**

The department shall preserve permanently and index all such certificates and shall charge and collect in advance the fee prescribed in section 71-612, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department. All fees so collected shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund as provided in section 71-612.

**Source:** Laws 1947, c. 233, § 2, p. 739; Laws 1965, c. 419, § 1, p. 1342; Laws 1967, c. 442, § 1, p. 1382; Laws 1973, LB 583, § 7; Laws 1991, LB 703, § 29; Laws 1992, LB 1019, § 48; Laws 1996, LB 1044, § 519; Laws 2007, LB296, § 407.

**71-605.03. Repealed. Laws 1985, LB 42, § 26.**

**71-605.04. Death; autopsy; sudden infant death syndrome; report by county attorney or coroner; to whom.**

The county attorney or coroner shall, within two days of the issuance of the autopsy results showing death suspected due to the sudden infant death syndrome, notify a representative of the Nebraska Sudden Infant Death Syndrome Foundation or the appropriate area community mental health center of the name of the parents of the sudden infant death syndrome victim.

**Source:** Laws 1978, LB 605, § 2; Laws 1990, LB 954, § 1.

**71-606. Stillborn child; death certificate; how registered; duties; certificate of birth resulting in stillbirth.**

(1) A stillborn child shall be registered as a fetal death on a certificate form furnished by the department. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the department by the funeral director and embalmer in charge of the funeral and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-20,121, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

(2)(a) The parent of a stillborn child may request a certificate of birth resulting in stillbirth for such child, regardless of the date of filing of the corresponding fetal death certificate. The department shall provide such certificate upon request and payment of the required fee. For purposes of this section, certificate of birth resulting in stillbirth means a birth certificate issued to record the birth of a stillborn child.

(b) The person responsible for filing a fetal death certificate under this section shall notify the parent or parents of the stillborn child that such parent may request a certificate of birth resulting in stillbirth and shall provide the necessary information for making such request.

(c) The parent requesting a certificate of birth resulting in stillbirth may provide a name for the stillborn child. If no name is provided, the department shall enter upon the certificate the name "baby boy" or "baby girl" and the last name of the requesting parent. The name on the original or amended certificate of birth resulting in stillbirth shall be the same as that entered on the original or amended fetal death certificate and shall include the state file number of the corresponding fetal death certificate for such child.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 7, p. 782; C.S.1922, § 8237; C.S.1929, § 71-2409; R.S.1943, § 71-606; Laws 1965, c. 418, § 4, p. 1337; Laws 1985, LB 42, § 4; Laws 1989, LB 344, § 11; Laws 1993, LB 187, § 9; Laws 1996, LB 1044, § 520; Laws 1997, LB 307, § 138; Laws 2003, LB 95, § 34; Laws 2007, LB296, § 408; Laws 2008, LB1048, § 1.

**71-607. Nonviable birth; commemorative certificate; department; duties; fee.**

(1)(a) A health care practitioner licensed pursuant to the Uniform Credentialing Act who attends or diagnoses a nonviable birth or a health care facility licensed pursuant to the Health Care Facility Licensure Act at which a nonviable birth occurs shall advise a patient who experiences a nonviable birth that the patient may request a commemorative certificate as provided in this section and, upon request by the patient, shall provide a letter verifying the nonviable birth to the patient. The health care practitioner may delegate this duty to his or her designee. In lieu of a letter, the health care practitioner or his or her designee

may provide the patient with a form provided by the department pursuant to subdivision (b) of this subsection and executed by the health care practitioner or his or her designee.

(b) The department shall provide on its web site a form to be executed by a health care practitioner or his or her designee affirming that a patient experienced a nonviable birth that the health care practitioner attended or diagnosed.

(2) Upon the request of the patient and submission of the letter or executed form, the department shall issue a commemorative certificate within sixty days after receipt of such request. The department shall charge a fee not to exceed its actual cost for issuing the commemorative certificate.

(3)(a) The commemorative certificate shall contain the name of the fetus and the gender, if known. If the name is not furnished by the patient, the department shall fill in the commemorative certificate with the name Baby Boy or Baby Girl and the last name of the patient, and if the gender of the child is also unknown, the department shall fill in the commemorative certificate with the name Baby and the last name of the patient.

(b) The following statement shall appear on the front of the commemorative certificate: This commemorative certificate is not proof of a live birth.

(4) The department shall not register the birth associated with a commemorative certificate issued under this section or use it to calculate live birth statistics. The commemorative certificate is commemorative in nature and has no legal effect.

(5) A commemorative certificate issued under this section shall not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a nonviable birth.

**Source:** Laws 2018, LB1040, § 3.

#### **Cross References**

- **Health Care Facility Licensure Act**, see section 71-401.
- **Uniform Credentialing Act**, see section 38-101.

#### **71-608. Repealed. Laws 1985, LB 42, § 26.**

##### **71-608.01. Birth and death certificates; local registration; where filed; exemption.**

Persons in any county containing a city of the metropolitan or primary class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established birth and death registration system shall be exempt from the requirements of direct filing of birth and death certificates required by sections 71-604, 71-605, and 71-606. The certificates for the births and deaths occurring in any such county shall be filed with the vital statistics office of the city-county or county health department within five business days of the date of the birth or death. The city-county or county health department shall forward the certificates to the department within ten business days of the date of the birth or death.

**Source:** Laws 1985, LB 42, § 6; Laws 1997, LB 307, § 139; Laws 2007, LB296, § 409.

##### **71-609. Caskets; sale by retail dealer; record; report.**

Every retail dealer in caskets shall keep a record of sales, which record shall include the name and post office address of the purchaser and the name and date and place of death of the deceased. A report of sales or no sales shall be forwarded to the department on the first day of each month. This requirement shall not apply to persons selling caskets only to dealers or funeral directors and embalmers. Every seller of a casket at retail who does not have charge of the disposition of the body shall enclose within the casket a notice calling attention to the requirements of the law and a blank certificate of death.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 11, p. 783; C.S.1922, § 8241; Laws 1927, c. 166, § 6, p. 450; C.S.1929, § 71-2413; R.S.1943, § 71-609; Laws 1993, LB 187, § 10; Laws 1996, LB 1044, § 521; Laws 2007, LB296, § 410.

##### **71-610. Maternity homes; hospitals; birth reports.**

Maternity homes and lying-in hospitals, and places used as such, shall report to the department on the first day of each month the sex and date of birth of all children born in their respective institutions during the preceding month. The report shall also show the names and addresses of the parents and attending physicians.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 12, p. 783; C.S.1922, § 8242; Laws 1927, c. 166, § 7, p. 451; C.S.1929, § 71-2414; R.S.1943, § 71-610; Laws 1996, LB 1044, § 522; Laws 2007, LB296, § 411.

**71-611. Department; forms; duty to supply; use of computer-generated forms; authorized.**

The department shall supply all necessary blanks, forms, and instructions pertaining to the recording of births and deaths to physicians, hospitals, and funeral directors and embalmers. Upon written request, the department may authorize a funeral director and embalmer licensed in Nebraska to use computer-generated death certificate forms on paper supplied by the department which is of the same quality and identical in form established in department regulations for death certificates which are not computer-generated.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 13, p. 783; C.S.1922, § 8243; Laws 1927, c. 166, § 8, p. 451; C.S.1929, § 71-2415; R.S.1943, § 71-611; Laws 1953, c. 242, § 1, p. 832; Laws 1959, c. 322, § 1, p. 1179; Laws 1985, LB 42, § 5; Laws 1992, LB 1019, § 49; Laws 1993, LB 187, § 11; Laws 1996, LB 1044, § 523; Laws 2007, LB296, § 412.

**71-612. Department; certificates; copies; fees; waiver of fees, when; search of death certificates; fee; access; petty cash fund; authorized.**

(1) The department, as the State Registrar, shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage or an abstract of marriage. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), and (7) of this section, the department shall be entitled to charge and collect in advance a fee of sixteen dollars to be paid by the applicant for each certified copy or abstract of marriage supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record or abstract of marriage, whether or not the record or abstract is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record or abstract of marriage is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

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

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies or abstracts of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

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

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and data base and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an

established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates or abstracts of marriage. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 14, p. 784; Laws 1921, c. 73, § 1, p. 272; C.S.1922, § 8244; Laws 1927, c. 166, § 9, p. 451; C.S.1929, § 71-2416; Laws 1941, c. 140, § 10, p. 554; C.S.Supp.,1941, § 71-2416; Laws 1943, c. 147, § 1, p. 532; R.S.1943, § 71-612; Laws 1951, c. 229, § 1, p. 830; Laws 1959, c. 323, § 1, p. 1180; Laws 1963, c. 410, § 1, p. 1330; Laws 1965, c. 418, § 6, p. 1338; Laws 1965, c. 419, § 2, p. 1342; Laws 1973, LB 583, § 8; Laws 1983, LB 617, § 14; Laws 1985, LB 42, § 7; Laws 1986, LB 333, § 9; Laws 1989, LB 344, § 12; Laws 1991, LB 703, § 30; Laws 1992, LB 1019, § 50; Laws 1993, LB 536, § 63; Laws 1995, LB 406, § 32; Laws 1996, LB 1044, § 524; Laws 1997, LB 307, § 140; Laws 2002, Second Spec. Sess., LB 48, § 3; Laws 2004, LB 1005, § 56; Laws 2006, LB 994, § 86; Laws 2006, LB 1115, § 39; Laws 2007, LB296, § 413; Laws 2014, LB994, § 1.

#### **71-613. Violation; penalty.**

Except as otherwise provided in section 71-649, any person violating any of the provisions of sections 71-601.01 to 71-616 shall be deemed guilty of a Class III misdemeanor.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 15, p. 784; C.S.1922, § 8245; C.S.1929, § 71-2417; R.S.1943, § 71-613; Laws 1977, LB 39, § 153; Laws 2005, LB 301, § 26.

#### **71-614. Marriage licenses; monthly reports; county clerk; duties; failure; penalty.**

(1) On or before the fifth day of each month, the county clerk of each county shall return to the department upon suitable blank forms, to be provided by the department, a statement of all marriages recorded by him or her during the preceding calendar month. If no marriages were performed in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such returns, such county clerk shall, for each such neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the proper county, to be collected as debts of like amount are now collectible.

(2) As soon as possible after completion of an amendment to a marriage license by the department, the department shall forward a noncertified copy of the marriage license reflecting the amendment to the county clerk of the county in which the license was filed. Upon receipt of the amended copy, the county clerk shall make the necessary changes on the marriage license on file in his or her office to reflect the amendment.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 16, p. 784; C.S.1922, § 8246; Laws 1927, c. 166, § 10, p. 452; C.S.1929, § 71-2418; R.S.1943, § 71-614; Laws 1959, c. 323, § 2, p. 1180; Laws 1967, c. 443, § 1, p. 1383; Laws 1967, c. 444, § 1, p. 1385; Laws 1977, LB 73, § 1; Laws 1986, LB 525, § 13; Laws 1992, LB 1019, § 53; Laws 1996, LB 1044, § 525; Laws 1997, LB 307, § 141; Laws 2007, LB296, § 414.

#### **71-615. Annulments or dissolutions of marriage; monthly reports; duty of clerk of district court.**

On or before the fifth day of each month, the clerk of the district court of each county shall make and return to the department, upon suitable forms furnished by the department, a statement of each action for annulment or dissolution of marriage granted in the court of which he or she is clerk during the preceding calendar month. The information requested by the department shall be furnished by the plaintiff or his or her legal representative and presented to the clerk of the court with the complaint. If, after reasonable attempts are made by the plaintiff or his or her legal representative to attain such information, the information is unavailable, the designation unknown shall be accepted by the department. If no annulments or dissolutions of marriage were granted in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department.

**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 18, p. 785; C.S.1922, § 8248; Laws 1927, c. 166, § 11, p. 452; C.S.1929, § 71-2419; R.S.1943, § 71-615; Laws 1959, c. 323, § 3, p. 1181; Laws 1967, c. 443, § 2, p. 1384; Laws 1967, c. 444, § 2, p. 1386; Laws 1977, LB 73, § 2; Laws 1989, LB 344, § 13; Laws 1996, LB 1044, § 526; Laws 1996, LB 1296, § 28; Laws 1997, LB 229, § 40; Laws 2007, LB296, § 415; Laws 2012, LB904, § 1.

#### **71-616. Reports; department to tabulate.**

The department shall preserve permanently and index all births, deaths, marriages, and divorces received, and shall tabulate statistics therefrom.



**Source:** Laws 1919, c. 190, tit. VI, art. II, div. IX, § 19, p. 785; C.S.1922, § 8249; Laws 1927, c. 166, § 12, p. 453; C.S.1929, § 71-2420; R.S.1943, § 71-616; Laws 1996, LB 1044, § 527; Laws 2007, LB296, § 416.

**71-616.01. Match birth and death certificates; viewing records; department; powers.**

To protect the integrity of vital records and to prevent the fraudulent use of birth certificates of deceased persons, the department is authorized to match birth and death certificates and to post the facts of death to the appropriate birth certificate. To assist in the matching process, the department is authorized to enter into agreements with offices of vital records outside the state to exchange the birth or death records or reports of each state's citizens. Copies of birth certificates issued of deceased persons shall be marked deceased.

The department may also maintain applications for viewing vital records and match the same against requests for certified copies or adopt such other security measures as may serve to identify requests to view vital records made for unlawful or fraudulent purposes.

**Source:** Laws 1992, LB 1019, § 51.

**71-616.02. Filing and registering of information; additional methods authorized.**

Information required in certificates or reports authorized by sections 71-605.02, 71-612, and 71-616.01 may be filed and registered by electronic or other means if authorized by the department and as prescribed by department regulation.

**Source:** Laws 1992, LB 1019, § 52.

**71-616.03. Filing and issuing vital records; additional methods authorized.**

The department may accept for filing and issue certified copies of vital records generated from microfilm, imaging, electronic means, or any other medium as designated by the department.

**Source:** Laws 1994, LB 886, § 5; Laws 1996, LB 1044, § 528; Laws 2007, LB296, § 417.

**71-616.04. Preservation of vital records; methods authorized.**

To preserve vital records, the department may prepare typewritten, photographic, electronic, or other reproductions of certificates or reports of vital records. Such reproductions, when verified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

**Source:** Laws 1994, LB 886, § 6; Laws 1996, LB 1044, § 529; Laws 1997, LB 307, § 142; Laws 2007, LB296, § 418.

**71-616.05. Repealed. Laws 2004, LB 1005, § 143.**

**71-617. Repealed. Laws 1985, LB 42, § 27.**

**71-617.01. Delayed Birth Registration Act, how cited.**

Sections 71-617.01 to 71-617.15 shall be known and may be cited as the Delayed Birth Registration Act.

**Source:** Laws 1985, LB 42, § 8.

**71-617.02. Delayed birth registration; application; fee; certificate registered; documentary evidence, defined.**

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

**Source:** Laws 1985, LB 42, § 9; Laws 1997, LB 307, § 144; Laws 2007, LB296, § 419.

**71-617.03. Delayed birth certificate; contents.**

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

**Source:** Laws 1985, LB 42, § 10.

**71-617.04. Delayed birth certificate; persons applying.**

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

**Source:** Laws 1985, LB 42, § 11.

**71-617.05. Delayed birth certificate; application; fee; records required.**

Each application for a certificate of delayed birth registration shall be accompanied by the fees required by subsection (1) of section 71-617.15 and three independent supporting records as provided in section 71-617.06, only one of which may be an affidavit of personal recollection from a person at least five years older than the applicant and having a personal knowledge of the facts at the time of birth. Any evidence used shall relate to the date and place of birth and at least one item of documentary evidence shall correctly establish parentage.

**Source:** Laws 1985, LB 42, § 12; Laws 2004, LB 1005, § 57.

**71-617.06. Delayed birth certificate; independent supporting records; enumerated.**

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

- (1) A recorded certificate of baptism performed under age four;
- (2) An insurance policy application personal history sheet;
- (3) A federal census record;
- (4) A school census record;
- (5) A military service record;
- (6) A family Bible record when proved beyond a reasonable doubt that the record was made before the child reached age four;
- (7) Other evidence on file in the department taken from other registrations;
- (8) A record at least five years old or established within seven years of the date of birth such as a physician's certificate or an affidavit taken from physician, hospital, nursing, or clinic records;
- (9) An affidavit from a parent or longtime acquaintance;
- (10) A printed notice of birth;
- (11) A record from a birthday or baby book;
- (12) A school record; or
- (13) A church record.

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

**Source:** Laws 1985, LB 42, § 13; Laws 1997, LB 307, § 145; Laws 2007, LB296, § 420.

**71-617.07. Refusal to issue delayed birth certificate; reasons; appeal.**

If an applicant for a certificate of delayed birth registration fails to submit the minimum documentation required for the delayed registration or if the department has reasonable cause to question the validity or adequacy of either the applicant's sworn statement or the documentary evidence due to conflicting evidence submitted and if the deficiencies are not corrected, the department shall not issue and register a delayed certificate of birth and shall advise the applicant of the reasons for such action. The department shall further advise the applicant of his or her right of appeal to the department and then, if not satisfied, to the county court as provided in section 71-617.08.

**Source:** Laws 1985, LB 42, § 14; Laws 1996, LB 1044, § 531; Laws 1997, LB 307, § 146; Laws 2007, LB296, § 421.

**71-617.08. Delayed birth certificate; denial; appeal; procedure.**

- (1) If a delayed certificate of birth is denied by the department, a petition signed and sworn to by the petitioner may be filed with the county court of Lancaster County, of the county of the petitioner's residence, or of the county in which the birth is claimed to have occurred.
- (2) The petition shall be made on a form prescribed and furnished by the department and shall allege:
  - (a) That the person for whom a delayed certificate of birth is sought was born in this state;
  - (b) That no certificate of birth of such person can be found in the files or records of the department;
  - (c) That diligent efforts by the petitioner have failed to obtain evidence required by sections 71-617.05 and 71-617.06 that is considered acceptable by the department;
  - (d) That the department has refused to register a delayed certificate of birth; and
  - (e) Such other allegations as may be required.

**Source:** Laws 1985, LB 42, § 15; Laws 1996, LB 1044, § 532; Laws 1997, LB 307, § 147; Laws 2007, LB296, § 422.

**71-617.09. Delayed birth certificate; petition; accompanying documents.**

A statement of the department indicating why a delayed certificate of birth was not issued and registered and all documentary evidence which was submitted to the department in support of such registration shall accompany a petition filed under section 71-617.08.

**Source:** Laws 1985, LB 42, § 16; Laws 1996, LB 1044, § 533; Laws 1997, LB 307, § 148; Laws 2007, LB296, § 423.

**71-617.10. Delayed birth certificate; hearing; notice; witnesses.**

The court shall fix a time and place for a hearing upon a petition filed under section 71-617.08 and shall give the department ten calendar days' notice of such hearing. Authorized representatives of the department may appear and testify in the proceeding.

**Source:** Laws 1985, LB 42, § 17; Laws 1996, LB 1044, § 534; Laws 1997, LB 307, § 149; Laws 2007, LB296, § 424.

**71-617.11. Delayed birth certificate; hearing; findings; order; contents.**

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

**Source:** Laws 1985, LB 42, § 18; Laws 1997, LB 307, § 150; Laws 2007, LB296, § 425.

**71-617.12. Delayed birth certificate; court order; clerk of the court; duties.**

The clerk of the court shall forward any order made under section 71-617.11 to the department not later than the tenth day of the calendar month following the month in which it was entered. The order shall be registered by the department and shall constitute the certificate of birth.

**Source:** Laws 1985, LB 42, § 19; Laws 1997, LB 307, § 151; Laws 2007, LB296, § 426.

**71-617.13. Delayed birth certificate; department; duties.**

The department shall certify on a delayed registration of birth that no other record of the birth is on file with the department.

**Source:** Laws 1985, LB 42, § 20; Laws 1997, LB 307, § 152; Laws 2007, LB296, § 427.

**71-617.14. Repealed. Laws 2004, LB 1005, § 143.**

**71-617.15. Delayed birth certificate; fees.**

(1) The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 when an application for a delayed birth certificate is filed. All such fees shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall collect an additional fee of one dollar when a delayed birth certificate is issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of a delayed birth certificate shall be furnished by the department. All fees for a certified copy shall be handled as provided in section 71-612.

**Source:** Laws 1985, LB 42, § 22; Laws 1986, LB 333, § 10; Laws 1991, LB 703, § 31; Laws 1992, LB 1019, § 54; Laws 1995, LB 406, § 33; Laws 1996, LB 1044, § 535; Laws 1997, LB 307, § 154; Laws 2002, Second Spec. Sess., LB 48, § 4; Laws 2004, LB 1005, § 58; Laws 2006, LB 994, § 87; Laws 2007, LB296, § 428.

**71-618. Repealed. Laws 1985, LB 42, § 27.**

**71-619. Repealed. Laws 1985, LB 42, § 27.**

**71-620. Repealed. Laws 1985, LB 42, § 27.**

**71-621. Repealed. Laws 1985, LB 42, § 27.**

**71-622. Repealed. Laws 1985, LB 42, § 27.**

**71-623. Repealed. Laws 1985, LB 42, § 27.**

**71-624. Repealed. Laws 1985, LB 42, § 27.**

**71-625. Repealed. Laws 1985, LB 42, § 27.**

**71-626. Adoptive birth certificate; adoption decree; court; report of adoption; contents.**

(1) For each adoption of a Nebraska-born or foreign-born person decreed by any court of this state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the

department. The report shall (a) include the original name, date, and place of birth and the name of the parent or parents of such person; (b) provide information necessary to establish a new certificate of birth of the person adopted; (c) provide the name and address of the child placement agency, if any, which placed the child for adoption; and (d) identify the decree of adoption and be certified by the clerk of the court.

(2) Information in the possession of the petitioner necessary to prepare the report of adoption shall be furnished with the petition for adoption by each petitioner or his or her attorney. The social or welfare agency or other person concerned shall supply the court with such additional information in his or her possession as may be necessary to complete the report. The supplying of such information shall be a prerequisite to the issuance of a decree.

(3) Whenever an adoption decree is amended or set aside, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

(4) Not later than the tenth day after the decree has been entered, the clerk of such court shall forward the report to the department whenever an adoptive birth certificate is to be filed or has already been filed.

**Source:** Laws 1941, c. 143, § 1, p. 571; C.S.Supp., 1941, § 43-113; R.S. 1943, § 71-626; Laws 1945, c. 168, § 1, p. 540; Laws 1959, c. 323, § 5, p. 1182; Laws 1961, c. 342, § 1, p. 1093; Laws 1965, c. 418, § 9, p. 1339; Laws 1971, LB 246, § 1; Laws 1980, LB 681, § 2; Laws 1980, LB 992, § 30; Laws 1996, LB 1044, § 536; Laws 1997, LB 307, § 155; Laws 2007, LB296, § 429.

### **Cross References**

- **For proceedings for adoption of children**, see Chapter 43, article 1.

### **71-626.01. Adopted person; new birth certificate; conditions; contents; rules and regulations.**

(1) The department shall establish a new certificate of birth for a person born in the State of Nebraska whenever it receives any of the following:

(a) A report of adoption as provided in section 71-626 on a form supplied by the department or a certified copy of the decree of adoption together with the information required in such report, except that a new certificate of birth shall not be established if so requested in writing by the court decreeing the adoption, the adoptive parents, or the adopted person; or

(b) A report of adoption or a certified copy of the decree of adoption entered in a court of competent jurisdiction of any other state or nation declaring adopted a person born in the State of Nebraska, together with the information necessary to identify the original certificate of birth and to establish the new certificate of birth, except that a new certificate of birth shall not be established when so requested by the court decreeing the adoption, the adoptive parents, or the adopted person.

(2) The new certificate of birth for a person born in the State of Nebraska shall be on the form in use at the time of its preparation and shall include the following items in addition to such other information as may be necessary to complete the form:

(a) The adoptive name of the person;

(b) The names and personal particulars of the adoptive parents;

(c) The date and place of birth as transcribed from the original certificate;

(d) The name of the attendant, printed or typed;

(e) The same birth number as was assigned to the original certificate; and

(f) The original filing date.

The data necessary to locate the existing certificate and the data necessary to complete the new certificate shall be submitted to the department.

(3) When an adoptive certificate of birth is established, the actual place of birth and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption shall not be subject to inspection except (a) upon order of a court of competent jurisdiction, (b) as provided in sections 43-138 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13, or (d) as provided by rules and regulations of the department. Upon receipt of notice that an adoption has been set aside, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

(4) Whenever a new certificate of birth is established by the department, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this state shall be sealed from inspection.

(5) The department may adopt and promulgate such rules and regulations as are necessary and proper to assist it in the implementation and administration of section 71-626 and this section.

**Source:** Laws 1971, LB 246, § 2; Laws 1980, LB 992, § 31; Laws 1988, LB 372, § 24; Laws 1996, LB 1044, § 537; Laws 1997, LB 307, § 156; Laws 2007, LB296, § 430.

**71-627. Adoptive birth certificates; filing; copies; issuance.**

(1) The certificate of birth of adopted children shall be filed as other certificates of birth. The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall charge and collect an additional fee of one dollar for each certificate issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of an adoptive birth certificate shall be furnished by the department. All fees for a certified copy shall be handled as provided in section 71-612.

**Source:** Laws 1941, c. 143, § 2, p. 572; C.S.Supp.,1941, § 43-114; R.S.1943, § 71-627; Laws 1953, c. 243, § 1, p. 833; Laws 1959, c. 323, § 6, p. 1183; Laws 1961, c. 342, § 2, p. 1094; Laws 1965, c. 418, § 10, p. 1340; Laws 1965, c. 419, § 4, p. 1343; Laws 1971, LB 246, § 3; Laws 1973, LB 583, § 10; Laws 1983, LB 617, § 16; Laws 1986, LB 333, § 11; Laws 1991, LB 703, § 32; Laws 1992, LB 1019, § 55; Laws 1995, LB 406, § 34; Laws 1996, LB 1044, § 538; Laws 1997, LB 307, § 157; Laws 2002, Second Spec. Sess., LB 48, § 5; Laws 2004, LB 1005, § 59; Laws 2006, LB 994, § 88; Laws 2007, LB296, § 431.

**71-627.01. Adoptive birth certificate; decree of adoption of child born in another state; notice of entry of decree.**

Whenever a decree of adoption is entered in any court of competent jurisdiction in the State of Nebraska, as to a child born in another state, the judge of the court in which such decree is entered shall, on forms to be furnished by the department, notify the agency having authority to issue adoptive birth certificates in the state in which such child was born for the purpose of securing the issuance of an adoptive birth certificate from the state of birth.

**Source:** Laws 1961, c. 342, § 3, p. 1094; Laws 1996, LB 1044, § 539; Laws 1997, LB 307, § 158; Laws 2007, LB296, § 432.

**71-627.02. Adoption of foreign-born person; birth certificate; contents.**

Upon receipt of a Report of Adoption or a certified copy of a decree of adoption issued by any court of competent jurisdiction in the State of Nebraska as to any foreign-born person, the department shall prepare a birth certificate in the new name of the adopted person. The birth certificate shall show specifically (1) the new name of the adopted person, (2) the date of birth and sex of the adopted person, (3) statistical information concerning the adoptive parents in place of the natural parents, and (4) the true or probable place of birth including the city or town and country.

**Source:** Laws 1961, c. 342, § 4, p. 1094; Laws 1980, LB 681, § 3; Laws 1980, LB 992, § 32; Laws 1994, LB 886, § 7; Laws 1996, LB 1044, § 540; Laws 1997, LB 307, § 159; Laws 2007, LB296, § 433.

**71-628. Children born out of wedlock; birth certificate; issuance; when authorized.**

In case of the legitimation of any child born in Nebraska by the subsequent marriage of such child's parents as provided in section 43-1406, the department, upon the receipt of a certified copy of the marriage certificate or abstract of marriage of the parents and a statement of the parents acknowledging paternity, shall prepare a new certificate of birth in the new name of the child so legitimated, in substantially the same form as that used for other live births. The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612. All such fees shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall charge and collect an additional fee of one dollar for each new certificate of birth filed. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

**Source:** Laws 1945, c. 173, § 1, p. 552; Laws 1959, c. 323, § 7, p. 1183; Laws 1983, LB 617, § 17; Laws 1986, LB 333, § 12; Laws 1992, LB 1019, § 56; Laws 1994, LB 886, § 8; Laws 1994, LB 1224, § 83; Laws 1995, LB 406, § 35; Laws 1997, LB 307, § 160; Laws 2002, Second Spec. Sess., LB 48, § 6; Laws 2004, LB 1005, § 60; Laws 2006, LB 994, § 89; Laws 2006, LB 1115, § 40; Laws 2007, LB296, § 434.

**71-629. Children born out of wedlock; legitimized; birth certificate; copies; issuance; inspection; when authorized.**

A certified copy or copies of the certificate of birth of any such legitimized child may be furnished upon request by the department. The evidence upon which the new certificate is made may be furnished upon request to a parent of such legitimized child or to the legitimized child if such child is nineteen years of age or older. The evidence upon which the new certificate is made shall be available for inspection by any other person only upon the order of a court of competent jurisdiction, and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

**Source:** Laws 1945, c. 173, § 2, p. 553; Laws 1996, LB 1044, § 541; Laws 1997, LB 307, § 161; Laws 2007, LB185, § 4; Laws 2007, LB296, § 435.

**71-630. Birth or death certificate; erroneous or incomplete; correction; department; duties.**

(1) A birth or death certificate filed with the department may be amended only in accordance with this section and sections 71-635 to 71-644 and rules and regulations adopted pursuant thereto by the department as necessary and proper to protect the integrity and accuracy of records of vital statistics.

(2) A certificate that is amended under this section shall have a properly dated reference placed on the face of the certificate and state that it is amended, except as provided in subsection (4) of this section.

(3) Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his or her parent, guardian, or legal representative, the department shall amend the certificate of birth to reflect the change in name.

(4) Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents, the department shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Such certificate shall not be marked amended.

**Source:** Laws 1947, c. 234, § 1, p. 740; Laws 1959, c. 323, § 8, p. 1183; Laws 1971, LB 245, § 1; Laws 1996, LB 1044, § 542; Laws 1997, LB 307, § 162; Laws 2007, LB296, § 436.

**71-631. Repealed. Laws 1971, LB 245, § 13.**

**71-632. Repealed. Laws 1971, LB 245, § 13.**

**71-633. Repealed. Laws 1971, LB 245, § 13.**

**71-634. Birth or death certificate; correction.**

The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 for each proceeding under sections 71-630 and 71-635 to 71-644. All fees so collected shall be remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The department shall collect the fees required by section 71-612 for a certified copy of the amended record. All fees for a certified copy shall be handled as provided in section 71-612.

If a certificate is amended pursuant to sections 71-630 and 71-635 to 71-644 as the result of an error committed by the department in the issuance of such certificate, the department may waive any fee required under this section.

**Source:** Laws 1947, c. 234, § 5, p. 741; Laws 1953, c. 244, § 1, p. 834; Laws 1959, c. 323, § 9, p. 1184; Laws 1965, c. 418, § 11, p. 1340; Laws 1965, c. 419, § 5, p. 1344; Laws 1971, LB 245, § 2; Laws 1973, LB 483, § 11; Laws 1978, LB 671, § 1; Laws 1983, LB 617, § 18; Laws 1991, LB 703, § 33; Laws 1992, LB 1019, § 57; Laws 1995, LB 406, § 36; Laws 1996, LB 1044, § 543; Laws 2001, LB 209, § 18; Laws 2004, LB 1005, § 61; Laws 2006, LB 994, § 90; Laws 2007, LB296, § 437.

**71-635. Birth or death certificate; amendments; application; by whom made.**

(1) To amend a birth certificate, application may be made by one of the parents, the guardian, the registrant if of legal age, or the individual responsible for filing the certificate.

(2) To amend a death or fetal death certificate, except the medical certification, application may be made by the next of kin or the funeral director and embalmer or person acting as such. Amendments to the medical certification of cause of death section of the certificate shall be requested by the attending physician or person certifying such section.

**Source:** Laws 1971, LB 245, § 2; Laws 1993, LB 187, § 12.

**71-636. Birth certificates; amendments.**

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

**Source:** Laws 1971, LB 245, § 3; Laws 1985, LB 42, § 23; Laws 1992, LB 1019, § 58; Laws 1997, LB 307, § 163; Laws 2007, LB296, § 438.

**71-637. Birth or death certificates; amendment; evidence required.**

All other amendments to vital records made during the first year, unless otherwise provided in sections 71-630 and 71-635 to 71-644, shall be supported by (1) an affidavit setting forth information to identify the certificate, the incorrect data as it is listed on the certificate, and the correct data as it should appear; and

(2) one item of documentary evidence supporting the amendment. Certificates amended by this procedure shall be marked amended.

**Source:** Laws 1971, LB 245, § 4.

**71-638. Birth or death certificates; application for amendment; made one year after date; evidence required.**

Applications for amendments to vital records made one year or more after the event, unless otherwise provided in the regulations or by law, shall be supported by (1) an affidavit setting forth information to identify the certificate, the incorrect data as it is listed on the certificate, and the correct data as it should appear; and (2) two or more items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event.

**Source:** Laws 1971, LB 245, § 5.

**71-639. Birth or death certificate; amendments; evaluation of evidence.**

The department shall evaluate all evidence submitted for amendments to vital records and when it finds reason to question its validity or adequacy it may reject the amendment and shall advise the applicant of the reasons for this action.

**Source:** Laws 1971, LB 245, § 6; Laws 1997, LB 307, § 164; Laws 2007, LB296, § 439.

**71-640. Birth certificates; given names; change; procedure.**

(1) Until the registrant's first birthday, given names may be changed upon written request of (a) both parents, (b) the mother in the case of a child born out of wedlock or the death or incapacity of the father, (c) the father in the case of the death or incapacity of the mother, or (d) the guardian or agency having legal custody of the registrant in the case of the death or incapacity of both parents.

(2) At any time after the registrant's first birthday and until the seventh birthday, given names may be changed upon written request as specified in subsection (1) of this section and submission of one or more items of documentary evidence to support the change.

(3) These procedures may be employed to change a given name only once. Thereafter, and at any time after the seventh birthday, given names may be changed only upon submission of a court order.

**Source:** Laws 1971, LB 245, § 7.

**71-640.01. Birth certificates; identification of father.**

The information pertaining to the identification of the father at the time of birth of an infant born in this state and reported on a birth certificate, filled out and filed pursuant to the Vital Statistics Act, shall comply with the following:

(1) If the mother was married at the time of either conception or birth or at any time between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless (a) paternity has been determined otherwise by a court of competent jurisdiction, (b) the mother and the mother's husband execute affidavits attesting that the husband is not the father of the child, in which case information about the father shall be omitted from the certificate, or (c) the mother executes an affidavit attesting that the husband is not the father and that the putative father is the father, the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. In such event, the putative father shall be shown as the father on the certificate. For affidavits executed under subdivision (b) or (c) of this subdivision, each signature shall be individually notarized;

(2) If the mother was not married at the time of either conception or birth or at any time between conception and birth, the name of the father shall not be entered on the certificate without the written consent of the mother and the person named as the father;

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father shall be entered on the certificate in accordance with the finding of the court; and

(4) If the father is not named on the certificate, no other information about the father shall be entered thereon.

The identification of the father as provided in this section shall not be deemed to affect the legitimacy of the child or duty to support as set forth in sections 42-377 and 43-1401.

**Source:** Laws 1977, LB 72, § 1; Laws 1994, LB 886, § 9; Laws 2005, LB 301, § 27.

**71-640.02. Children born out of wedlock; birth certificate; enter name of father; when.**

The department shall enter on the birth certificate of any child born out of wedlock the name of the father of the child upon receipt of (1) a certified copy of a court order showing that paternity has been established or a statement in writing by the father that he is the father of the child and (2) the written request of (a) the

parent having legal custody of the child or (b) the guardian or agency having legal custody of the child. The surname of the child shall be determined in accordance with section 71-640.03.

**Source:** Laws 1978, LB 671, § 2; Laws 1994, LB 886, § 10; Laws 1997, LB 307, § 165; Laws 2007, LB296, § 440.

**71-640.03. Birth certificate; surname of child.**

(1) In any case in which paternity of a child is determined by a court of competent jurisdiction, the surname of the child may be entered on the record the same as the surname of the father.

(2) The surname of the child shall be the parents' prerogative, except that the department shall not accept a birth certificate with a child's surname that implies any obscene or objectionable words or abbreviations.

**Source:** Laws 1994, LB 886, § 11; Laws 1996, LB 1044, § 544; Laws 2007, LB296, § 441.

**Annotations**

- Under subsection (1) of this section, a district court, exercising jurisdiction in a paternity action, has discretionary power to decide whether a child's surname should be changed to the surname of the father. Under the plain language of subsection (1) of this section, after paternity is established by a district court, the district court has the discretion to decide only paternity-related issues, i.e., whether to change the child's previous surname to the father's surname. Pursuant to subsection (1) of this section, in a paternity action, a court, in deciding whether a child's surname should be changed to the father's surname, must consider the best interests of the child regarding a change of name. *Jones v. Paulson*, 261 Neb. 327, 622 N.W.2d 857 (2001).
- Under former law, a court, exercising jurisdiction in a filiation proceeding, has the discretionary power to decide whether a child's surname shall be changed from the legal surname of the child's mother to the surname of the child's father, and must consider the best interests of the child regarding a change of name. *Lancaster v. Brenneis*, 227 Neb. 371, 417 N.W.2d 767 (1988).
- Under former law, determination as to the name to be borne by a minor child of parties to a dissolution action is a matter initially entrusted to the sound discretion of the trial judge, which matter, on appeal, will be reviewed de novo on the record and affirmed in the absence of an abuse of the trial judge's discretion, keeping in mind that the Supreme Court will give weight to the fact that the trial judge observed and heard the witnesses and accepted one version of the facts rather than the other. *Cain v. Cain*, 226 Neb. 203, 410 N.W.2d 476 (1987).
- Under former law, in deciding what the surname of a child conceived in wedlock but born during dissolution proceedings should be, each subsection of this section should be given equal weight, with the best interests of the child as the paramount interest. Each parent has an equal right and interest in determining the surname of the child. *Cohee v. Cohee*, 210 Neb. 855, 317 N.W.2d 381 (1982).

**71-640.04. Birth certificate; name of father changed; when.**

The name of the father as shown on the birth certificate may be changed and a new certificate issued only when a determination of paternity is made by a court of competent jurisdiction. The evidence from which the new certificate is prepared and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

**Source:** Laws 1994, LB 886, § 12.

**71-641. Birth certificates; without given name; legal change of name; procedure.**

(1) Until the registrant's seventh birthday, the given name, for a child whose birth was recorded without a given name, may be added based upon an affidavit signed by (a) both parents, (b) the mother in the case of a child born out of wedlock or the death or incapacity of the father, (c) the father in the case of the death or incapacity of the mother, or (d) the guardian or agency having legal custody of the registrant in the case of the death or incapacity of both parents. A certificate amended in this manner prior to the first birthday shall not be marked amended.

(2) After the seventh birthday, one or more items of documentary evidence must be submitted to substantiate the name being added.

(3) For a legal change of name, a certified copy of the court order changing the name must be presented to the department along with data to identify the birth certificate and a request that it be amended to show the new name.

**Source:** Laws 1971, LB 245, § 8; Laws 1997, LB 307, § 166; Laws 2007, LB296, § 442.



**71-642. Birth or death certificates; medical certification; amendment; requirements.**

All items in the medical certification or of a medical nature in a vital record may be amended only upon receipt of a signed statement from those responsible for completion of the entries involved as provided in the Vital Statistics Act. The department may, at its discretion, require documentary evidence to substantiate the requested amendment.

**Source:** Laws 1971, LB 245, § 9; Laws 1997, LB 307, § 167; Laws 2005, LB 301, § 28.

**71-643. Birth or death certificate; additional amendment; requirements.**

When an entry on a vital record has been amended, that entry shall not be amended again unless (1) it can be shown that the first amendment was made through mistake, or (2) a court order is received from a court of competent jurisdiction.

**Source:** Laws 1971, LB 245, § 10.

**71-644. Birth or death certificate; amendment; requirements.**

A certificate or report that is amended under sections 71-635 to 71-644 shall indicate that it has been amended as provided by rules and regulations of the department. A record shall be maintained which identifies the evidence upon which the amendment was based, the date of the amendment, and the identity of the person making the amendment.

**Source:** Laws 1971, LB 245, § 11; Laws 1985, LB 42, § 24; Laws 1992, LB 1019, § 59; Laws 1994, LB 886, § 13; Laws 1996, LB 1044, § 545; Laws 2007, LB296, § 443.

**71-645. Birth defects; findings and duties.**

It is hereby found that the occurrence of malformation or inherited disease at the time of birth is a tragedy for the child, the family, and the community, and a matter of vital concern to the public health. In order to provide for the protection and promotion of the health of the citizens of the state, the department shall have the responsibility for the implementation and development of scientific investigations and research concerning the causes, methods of prevention, treatment, and cure of birth defects.

**Source:** Laws 1972, LB 1203, § 1; Laws 1996, LB 1044, § 546; Laws 2007, LB296, § 444.

**71-646. Birth defects; registry; purpose; information released.**

The department shall establish a birth defects registry for the purpose of initiating and conducting investigations of the causes, mortality, methods of prevention, treatment, and cure of birth defects and allied diseases. Any information released from the registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

**Source:** Laws 1972, LB 1203, § 2; Laws 1993, LB 536, § 64; Laws 1996, LB 1044, § 547; Laws 2007, LB296, § 445.

**71-647. Birth defects; department; powers and duties; information released.**

(1) The department shall have and may exercise the following powers and duties:

- (a) To conduct scientific investigations and surveys of the causes, mortality, methods of prevention, treatment, and cure of birth defects;
- (b) To publish at least annually the results of such investigations and surveys for the benefit of the public health and to annually collate such publications for distribution to scientific organizations and qualified scientists and physicians;
- (c) To carry on programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes, methods of prevention, treatment, and cure of birth defects;
- (d) To conduct and support clinical counseling services in medical facilities; and
- (e) To secure necessary scientific, educational, training, technical, administrative, and operational personnel and services including laboratory facilities by contract or otherwise from public or private entities in order to carry out the purposes of this section.

(2) Any information released from the birth defects registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

**Source:** Laws 1972, LB 1203, § 3; Laws 1993, LB 536, § 65; Laws 1996, LB 1044, § 548; Laws 2007, LB296, § 446.

**71-648. Birth defects; reports.**

Birth defects and allied diseases shall be reported by physicians, hospitals, and persons in attendance at births in the manner and on such forms as may be prescribed by the department. Such reports may be included in the monthly report to the department on births as required by section 71-610. Such reports shall be forwarded to the department no later than the tenth day of the succeeding month after the birth. When objection is made by either parent to furnishing information relating to the medical and health condition of

a live-born child because of conflict with religion, such information shall not be required to be entered as provided in this section.

**Source:** Laws 1972, LB 1203, § 4; Laws 1992, LB 1019, § 60; Laws 1993, LB 536, § 66; Laws 1996, LB 1044, § 549; Laws 2007, LB296, § 447.

#### **Cross References**

- **Medically handicapped child**, report of birth, see section 71-1405.

#### **71-649. Vital statistics; unlawful acts; enumerated; violations; penalties; warning statement.**

(1) Any person who (a) willfully and knowingly makes any false statement in a certificate, record, or report required to be filed pursuant to the Vital Statistics Act, in an application for an amendment thereof, or in an application for a certified copy of a vital record or willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, certificate, or amendment thereof; (b) without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required to be filed pursuant to the act or a certified copy of such certificate, record, or report; (c) willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy thereof so made, counterfeited, altered, amended, or mutilated; (d) with the intention to deceive, willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that such certificate or certified copy was issued upon a certificate which is false in whole or in part or which relates to the birth of another person, whether living or deceased; (e) willfully and knowingly furnishes or possesses a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purposes of deception by a person other than the person to whom the certificate of birth relates; (f) without lawful authority possesses any certificate, record, or report required by the act or a copy or certified copy of such certificate, record, or report knowing the same to have been stolen or otherwise unlawfully obtained; or (g) willfully and knowingly tampers with an electronic signature authorized under section 71-603.01 shall be guilty of a Class IV felony.

(2) Any person who (a) willfully and knowingly refuses to provide information required by the Vital Statistics Act or rules and regulations adopted under the act or (b) willfully and knowingly neglects or violates any of the provisions of the act or refuses to perform any of the duties imposed upon him or her under the act shall be guilty of a Class I misdemeanor.

(3) The department may include on any appropriate certificate or document a statement warning of the consequences for any such violation.

**Source:** Laws 1977, LB 72, § 2; Laws 1978, LB 748, § 37; Laws 1994, LB 886, § 14; Laws 1996, LB 1044, § 550; Laws 1997, LB 307, § 168; Laws 2005, LB 301, § 29.