

FIRST REGULAR SESSION

HOUSE BILL NO. 799

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHAAF.

Read 1st time March 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2092L.011

AN ACT

To repeal sections 193.015, 193.085, 193.087, 193.115, 193.125, and 193.145, RSMo, and to enact in lieu thereof six new sections relating to birth and death records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 193.015, 193.085, 193.087, 193.115, 193.125, and 193.145, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 193.015, 193.085, 193.087, 193.115, 193.125, and 193.145, to read as follows:

193.015. As used in sections 193.005 to 193.325, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Dead body", a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred;

(2) "Department", the department of health and senior services;

(3) "Final disposition", the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus;

(4) "Institution", any establishment, public or private, which provides inpatient **or outpatient** medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary care, or to which persons are committed by law;

(5) "Live birth", the complete expulsion or extraction from its mother of a child, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (6) "Physician", a person authorized or licensed to practice medicine or osteopathy
17 pursuant to chapter 334, RSMo;

18 (7) "Spontaneous fetal death", a noninduced death prior to the complete expulsion or
19 extraction from its mother of a fetus, irrespective of the duration of pregnancy; the death is
20 indicated by the fact that after such expulsion or extraction the fetus does not breathe or show
21 any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite
22 movement of voluntary muscles;

23 (8) "State registrar", state registrar of vital statistics of the state of Missouri;

24 (9) "System of vital statistics", the registration, collection, preservation, amendment and
25 certification of vital records; the collection of other reports required by sections 193.005 to
26 193.325 and section 194.060, RSMo; and activities related thereto including the tabulation,
27 analysis and publication of vital statistics;

28 (10) "Vital records", certificates or reports of birth, death, marriage, dissolution of
29 marriage and data related thereto;

30 (11) "Vital statistics", the data derived from certificates and reports of birth, death,
31 spontaneous fetal death, marriage, dissolution of marriage and related reports.

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be
2 filed with the local registrar, or as otherwise directed by the state registrar, within [seven] **five**
3 days after such birth and shall be registered if such certificate has been completed and filed
4 pursuant to the provisions of this section.

5 2. When a birth occurs in an institution or en route to an institution, the person in charge
6 of the institution or such person's designated representative shall obtain the personal data,
7 prepare the certificate, [secure the signatures required] **certify that the child was born alive at**
8 **the place and time and on the date stated either by signature or an electronic process**
9 **approved by the department**, and file the certificate pursuant to this section or as otherwise
10 directed by the state registrar within the required [seven] **five** days. The physician or other
11 person in attendance shall provide the medical information required by the certificate and certify
12 to the facts of birth within five days after the birth. If the physician or other person in attendance
13 does not certify to the facts of birth within the five-day period, the person in charge of the
14 institution shall complete [and sign] the certificate.

15 3. When a birth occurs outside an institution, the certificate shall be prepared and filed
16 by one of the following in the indicated order of priority:

17 (1) The physician in attendance at or immediately after the birth;

18 (2) Any other person in attendance at or immediately after the birth;

19 (3) The father, the mother, or, in the absence of the father and the inability of the mother,
20 the person in charge of the premises where the birth occurred.

21 4. When a birth occurs on a moving conveyance within the United States and the child
22 is first removed from the conveyance in this state, the birth shall be registered in this state and
23 such place shall be considered the place of birth. When a birth occurs on a moving conveyance
24 while in international waters or air space or in a foreign country or its air space and the child is
25 first removed from the conveyance in this state, the birth shall be registered in this state but the
26 certificate shall show the actual place of birth insofar as can be determined.

27 5. If the mother was married at the time of either conception or birth, or between
28 conception and birth, the name of the husband shall be entered on the certificate as the father of
29 the child, unless:

30 (1) Paternity has been determined otherwise by a court of competent jurisdiction; or

31 (2) The mother executes an affidavit attesting that the husband is not the father and the
32 putative father is the father, and the putative father executes an affidavit attesting that he is the
33 father, and the husband executes an affidavit attesting that he is not the father. If such affidavits
34 are executed, the putative father shall be shown as the father on the birth certificate and the
35 signed acknowledgment of paternity shall be considered a legal finding of paternity. The
36 affidavits shall be as provided for in section 193.215.

37 6. In any case in which paternity of a child is determined by a court of competent
38 jurisdiction, the name of the father and surname of the child shall be entered on the certificate
39 of birth pursuant to the finding and order of the court.

40 7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents,
41 the name of the father and other required information shall be entered on the certificate of birth
42 only if an acknowledgment of paternity pursuant to section 193.215 is completed, or if paternity
43 is determined by a court of competent jurisdiction or by an administrative order of the **family**
44 **support** division [of child support enforcement].

45 8. If the father is not named on the certificate of birth, no other information about the
46 father shall be entered on the certificate.

47 9. The birth certificate of a child born to a married woman as a result of artificial
48 insemination, with consent of her husband, shall be completed pursuant to the provisions of
49 subsection 5 of this section.

50 10. Either of the parents of the child, or other informant, shall attest to the accuracy of
51 the personal data entered on the certificate in time to permit the filing of the certificate within
52 the required [seven] **five** days.

193.087. 1. In addition to the requirements of subsection 2 of section 193.085, when a
2 birth occurs to an unmarried mother, whether in an institution or en route to an institution, the
3 person in charge of the institution or a designated representative shall:

4 (1) Provide a form or affidavit prescribed by the state registrar that may be completed

5 by the child's mother and father to voluntarily acknowledge paternity of the child pursuant to
6 section 193.215;

7 (2) File the form, when completed, along with the certificate required by this section; and

8 (3) Provide oral and written notice to the affiant required by section 193.215.

9 2. Any institution, the person in charge or a designated representative shall be immune
10 from civil or criminal liability for providing the form or affidavit required by subsection 1 of this
11 section, the information developed pursuant to that subsection, or otherwise fulfilling the duties
12 required by subsection 1 of this section.

13 3. The **family support** division [of child support enforcement] may contract with the
14 department of health and senior services to provide assistance and training to the hospital staff
15 assigned responsibility for providing the information, as appropriate, to carry out duties pursuant
16 to this section. The **family support** division [of child support enforcement] shall develop and
17 distribute free of charge the information on the rights and responsibilities of parents that is
18 required to be distributed pursuant to this section. The department of health and senior services
19 shall provide free of charge to hospitals the acknowledgment of paternity affidavit, and
20 instructions on the completion of the affidavit.

21 4. If no contract is developed with the department of health and senior services, then the
22 **family support** division [of child support enforcement] shall provide the assistance and training
23 activities to hospitals pursuant to subsection 3 of this section.

24 5. Any affiant who intentionally misidentifies another person as a parent may be
25 prosecuted for perjury, pursuant to section 575.040, RSMo.

26 6. Due to lack of cooperation by public assistance recipients, the **family support**
27 division shall either suspend the entire public assistance cash grant, or remove the needs of the
28 adult recipient of public assistance from the cash grant, subject to good cause exceptions
29 pursuant to federal law or regulations.

193.115. 1. If a delayed certificate of birth is rejected under the provisions of section
2 193.105, a petition signed and sworn to by the petitioner may be filed with a court of competent
3 jurisdiction for an order establishing a record of the date and place of the birth and the parentage
4 of the person whose birth is to be registered.

5 2. Such petition shall be made on a form prescribed [and furnished] **or approved** by the
6 state registrar and shall allege:

7 (1) That the person for whom a delayed certificate of birth is sought was born in this
8 state;

9 (2) That no certificate of birth of such person can be found in the department or the
10 office of any local custodian of birth certificates;

11 (3) That diligent efforts by the petitioner have failed to obtain the evidence required in

12 accordance with section 193.105, and regulations adopted pursuant thereto;

13 (4) That the state registrar has refused to register a delayed certificate of birth;

14 (5) Such other allegations as may be required.

15 3. The petition shall be accompanied by a statement of the state registrar made in
16 accordance with section 193.105 and all documentary evidence which was submitted to the state
17 registrar in support of such registration.

18 4. The court shall fix a time and place for hearing the petition and shall give the state
19 registrar thirty days' notice of said hearing. The state registrar or his authorized representative
20 may appear and testify in the proceeding.

21 5. If the court finds, from the evidence presented, that the person for whom a delayed
22 certificate of birth is sought was born in this state, it shall make findings as to the place and date
23 of birth, parentage, and such other findings as may be required and shall issue an order, on a form
24 prescribed [and furnished] **or approved** by the state registrar, to establish a certificate of birth.
25 This order shall include the birth data to be registered, a description of the evidence presented,
26 and the date of the court's action.

27 6. The clerk of the court shall forward each such order to the state registrar not later than
28 the tenth day of the calendar month following the month in which it was entered. Such order
29 shall be registered by the state registrar and shall constitute the certificate of birth.

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state,
2 the court shall require the preparation of a certificate of decree of adoption on a form as
3 prescribed [and furnished] **or approved** by the state registrar. The certificate of decree of
4 adoption shall include such facts as are necessary to locate and identify the certificate of birth
5 of the person adopted, and shall provide information necessary to establish a new certificate of
6 birth of the person adopted and shall identify the court and county of the adoption and be
7 certified by the clerk of the court. The state registrar shall file the original certificate of birth
8 with the certificate of decree of adoption and such file may be opened by the state registrar only
9 upon receipt of a certified copy of an order as decreed by the court of adoption.

10 2. Information necessary to prepare the report of adoption shall be furnished by each
11 petitioner for adoption or the petitioner's attorney. The social welfare agency or any person
12 having knowledge of the facts shall supply the court with such additional information as may be
13 necessary to complete the report. The provision of such information shall be prerequisite to the
14 issuance of a final decree in the matter by the court.

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

19 4. Not later than the fifteenth day of each calendar month or more frequently as directed
20 by the state registrar the clerk of the court shall forward to the state registrar reports of decrees
21 of adoption, annulment of adoption and amendments of decrees of adoption which were entered
22 in the preceding month, together with such related reports as the state registrar shall require.

23 5. When the state registrar shall receive a report of adoption, annulment of adoption, or
24 amendment of a decree of adoption for a person born outside this state, he or she shall forward
25 such report to the state registrar in the state of birth.

26 6. In a case of adoption in this state of a person not born in any state, territory or
27 possession of the United States or country not covered by interchange agreements, the state
28 registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in
29 the name of the adopted person, as decreed by the court. The state registrar shall file the
30 certificate of the decree of adoption, and such documents may be opened by the state registrar
31 only by an order of court. The birth certificate prepared under this subsection shall have the
32 same legal weight as evidence as a delayed or altered birth certificate as provided in section
33 193.235.

34 7. The department, upon receipt of proof that a person has been adopted by a Missouri
35 resident pursuant to laws of countries other than the United States, shall prepare a birth
36 certificate in the name of the adopted person as decreed by the court of such country. If such
37 proof contains the surname of either adoptive parent, the department of health and senior services
38 shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of
39 the name of the adopted person shall be made by a court of competent jurisdiction. The proof
40 of adoption required by the department shall include a copy of the original birth certificate and
41 adoption decree, an English translation of such birth certificate and adoption decree, and a copy
42 of the approval of the immigration of the adopted person by the Immigration and Naturalization
43 Service of the United States government which shows the child lawfully entered the United
44 States. The authenticity of the translation of the birth certificate and adoption decree required
45 by this subsection shall be sworn to by the translator in a notarized document. The state registrar
46 shall file such documents received by the department relating to such adoption and such
47 documents may be opened by the state registrar only by an order of a court. A birth certificate
48 pursuant to this subsection shall be issued upon request of one of the adoptive parents of such
49 adopted person or upon request of the adopted person if of legal age. The birth certificate
50 prepared pursuant to the provisions of this subsection shall have the same legal weight as
51 evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

52 8. If no certificate of birth is on file for the person under twelve years of age who has
53 been adopted, a belated certificate of birth shall be filed with the state registrar as provided in
54 sections 193.005 to 193.325 before a new birth record is to be established as result of adoption.

55 A new certificate is to be established on the basis of the adoption under this section and shall be
56 prepared on a [standard] certificate of live birth form.

57 9. If no certificate of birth has been filed for a person twelve years of age or older who
58 has been adopted, a new birth certificate is to be established under this section upon receipt of
59 proof of adoption as required by the department. A new certificate shall be prepared in the name
60 of the adopted person as decreed by the court, registering adopted parents' names. The new
61 certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed
62 in a sealed file and shall not be subject to inspection except upon an order of the court.

193.145. 1. A certificate of death for each death which occurs in this state shall be filed
2 with the local registrar, or as otherwise directed by the state registrar, within five days after death
3 and shall be registered if such certificate has been completed and filed pursuant to this section.

4 2. If the place of death is unknown but the dead body is found in this state, the certificate
5 of death shall be completed and filed pursuant to the provisions of this section. The place where
6 the body is found shall be shown as the place of death. The date of death shall be the date on
7 which the remains were found.

8 3. When death occurs in a moving conveyance in the United States and the body is first
9 removed from the conveyance in this state, the death shall be registered in this state and the place
10 where the body is first removed shall be considered the place of death. When a death occurs on
11 a moving conveyance while in international waters or air space or in a foreign country or its air
12 space and the body is first removed from the conveyance in this state, the death shall be
13 registered in this state but the certificate shall show the actual place of death if such place may
14 be determined.

15 4. The funeral director or person [acting as such] in charge of final disposition of the
16 dead body shall file the certificate of death. The funeral director **or person in charge of the**
17 **final disposition of the dead body** shall obtain **or verify**:

18 (1) The personal data from the next of kin or the best qualified person or source
19 available; and

20 (2) The medical certification from the person responsible for such certification.

21 5. The medical certification shall be completed, [signed] **attested to its accuracy either**
22 **by signature or an electronic process approved by the department**, and returned to the
23 funeral director or person [acting as such] **in charge of final disposition** within seventy-two
24 hours after death by the physician in charge of the patient's care for the illness or condition which
25 resulted in death. In the absence of the physician or with the physician's approval the certificate
26 may be completed and [signed] **attested to its accuracy either by signature or an approved**
27 **electronic process** by the physician's associate physician, the chief medical officer of the
28 institution in which death occurred, or the physician who performed an autopsy upon the

29 decedent, provided such individual has access to the medical history of the case, views the
30 deceased at or after death and death is due to natural causes. **The state registrar may approve**
31 **alternate methods of obtaining and processing the medical certification and filing the death**
32 **certificate.** The Social Security number of any individual who has died shall be placed in the
33 records relating to the death and recorded on the death certificate.

34 6. When death occurs from natural causes more than thirty-six hours after the decedent
35 was last treated by a physician, the case shall be referred to the county medical examiner or
36 coroner or physician or local registrar for investigation to determine and certify the cause of
37 death. If the death is determined to be of a natural cause, the medical examiner or coroner or
38 local registrar shall refer the certificate of death to the attending physician for such physician's
39 certification. If the attending physician refuses or is otherwise unavailable, the medical
40 examiner or coroner or local registrar shall [sign] **attest to the accuracy of** the certificate of
41 death **either by signature or an approved electronic process** within thirty-six hours.

42 7. If the circumstances suggest that the death was caused by other than natural causes,
43 the medical examiner or coroner shall determine the cause of death and shall complete and [sign]
44 **attest to the accuracy either by signature or an approved electronic process** the medical
45 certification within seventy-two hours after taking charge of the case.

46 8. If the cause of death cannot be determined within seventy-two hours after death, the
47 attending medical examiner or coroner or attending physician or local registrar shall give the
48 funeral director, or person [acting as such] **in charge of final disposition of the dead body,**
49 notice of the reason for the delay, and final disposition of the body shall not be made until
50 authorized by the medical examiner or coroner, attending physician or local registrar.

51 9. When a death is presumed to have occurred within this state but the body cannot be
52 located, a death certificate may be prepared by the state registrar upon receipt of an order of a
53 court of competent jurisdiction which shall include the finding of facts required to complete the
54 death certificate. Such a death certificate shall be marked "Presumptive", show on its face the
55 date of registration, and identify the court and the date of decree.