

Senate Bill 478

By: Senators Thomas of the 54th, Hamrick of the 30th, Smith of the 52nd, Unterman of the 45th, Levetan of the 40th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 10 of Title 31 of the Official Code of Georgia Annotated, relating to vital
2 records, so as to revise certain definitions; to provide for the establishment of the State Office
3 of Vital Records within the Department of Human Resources; to revise certain powers of the
4 state registrar; to revise certain provisions relating to registration of births; to require
5 immediate transmittal of a death certificate to the state; to provide for certain changes
6 relating to amendment of certificates or reports; to provide that temporary guardians may
7 receive certified copies of vital records; to revise certain provisions relating to fees for copies
8 and services related to vital records; to change references to "vital records registration
9 system" to "State Office of Vital Records" throughout Chapter 10 of Title 31; to provide for
10 related matters; to provide an effective date; to repeal conflicting laws; and for other
11 purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Chapter 10 of Title 31 of the Official Code of Georgia Annotated, relating to vital records,
15 is amended by striking paragraphs (5), (13), and (16) of Code Section 31-10-1, relating to
16 definitions, and inserting in lieu thereof the following, respectively:

17 "(5) 'File' means the presentation of a vital record provided for in this chapter for
18 registration by the ~~vital records registration system~~ State Office of Vital Records."

19 "(13) 'Registration' means the acceptance by the ~~vital records registration system~~ State
20 Office of Vital Records and the incorporation of vital records provided for in this chapter
21 into ~~its official records~~ the vital records registration system."

22 "(16) 'State registrar' means the person responsible for the State Office of Vital Records
23 and the state vital records registration system, ~~including the registration, collection,~~
24 ~~preservation, amendment, and certification of vital records.~~"

SECTION 2.

Said chapter is further amended by striking Code Section 31-10-2, relating to maintenance and operation of the vital records registration system, and inserting in lieu thereof the following:

"31-10-2.

~~The~~ There is hereby established within the department the State Office of Vital Records which shall maintain and operate the state's official vital records registration system. The system shall be in effect in all areas of the state, and the State Office of Vital Records shall provide for proper administration of the system and preservation of its records."

SECTION 3.

Said chapter is further amended by striking Code Section 31-10-5, relating to duties and powers of state registrar, and inserting in lieu thereof the following:

"31-10-5.

(a) The state registrar shall:

(1) Administer and enforce the provisions of this chapter and the rules and regulations issued under this chapter and issue instructions for the efficient administration of the ~~vital records registration system~~ State Office of Vital Records;

(2) Direct and supervise the ~~system of vital records~~ State Office of Vital Records and be custodian of its records;

(3) Direct, supervise, and control the activities of all persons when they are engaged in activities pertaining to the operation of the ~~vital records registration system~~ State Office of Vital Records;

(4) Conduct training programs to promote uniformity of policy and procedures throughout the state in matters pertaining to the ~~vital records registration system~~ State Office of Vital Records;

(5) Prescribe, furnish, and distribute such forms as are required by this chapter and the rules and regulations issued under this chapter or prescribe such other means for transmission of data as will accomplish the purpose of complete and accurate reporting and registration;

(6) Prepare and publish reports of vital statistics of this state and such other reports as may be required by the department; and

(7) Provide to local health agencies copies of or data derived from certificates and reports required under this chapter, as the state registrar shall determine are necessary for local health planning and program activities. The state registrar shall establish a schedule with each local health agency for transmittal of the copies or data. The copies or data

1 shall remain the property of the department, and the uses which may be made of them
2 shall be governed by the state registrar.

3 (b) The state registrar may establish or designate offices in the state to aid in the efficient
4 administration of the ~~vital records registration system~~ State Office of Vital Records.

5 (c) The state registrar may delegate such functions and duties vested in the state registrar
6 to employees of the ~~vital records registration system~~ State Office of Vital Records and to
7 employees of any office established or designated under subsection (b) of this Code
8 section."

9 SECTION 4.

10 Said chapter is further amended by striking subsection (a) of Code Section 31-10-6, relating
11 to local registrars, local custodians, special abstracting agents, and duties, and inserting in
12 lieu thereof the following:

13 "(a) The state registrar may appoint a local registrar and local custodian for each county
14 and a special abstracting agent as necessary. Appointees must meet the qualifications and
15 perform the duties required by this chapter and regulations of the department. The state
16 registrar may appoint local deputy registrars as necessary. A local registrar, subject to the
17 approval of the state registrar, may appoint a deputy or deputies. A local custodian, subject
18 to the approval of the state registrar, may appoint a clerk or clerks of records."

19 SECTION 5.

20 Said chapter is further amended by striking Code Section 31-10-9, relating to registration of
21 births, and inserting in lieu thereof the following:

22 "31-10-9.

23 (a) A certificate of birth for each live birth which occurs in this state shall be filed with the
24 ~~local registrar of the county in which the birth occurs~~ State Office of Vital Records within
25 ~~ten~~ five days after such birth and filed in accordance with this Code section and regulations
26 of the department.

27 (b) When a birth occurs in an institution or enroute thereto, the person in charge of such
28 institution or that person's designated representative shall obtain the personal data, prepare
29 the birth certificate, ~~secure the signatures required for the certificate, and file it with the~~
30 ~~local registrar~~ certify that the child was born alive at the place and time and on the date
31 stated either by signature or by an electronic process established or approved by the State
32 Office of Vital Records, and file the certificate with the State Office of Vital Records. The
33 physician or other person in attendance shall ~~certify to the facts of birth and~~ provide the
34 medical information required by the certificate within 72 hours after the birth occurs. ~~If the~~
35 ~~physician in attendance does not certify to the facts of birth within the 72 hour period, the~~

1 ~~person in charge of the institution or that person's designated representative shall complete~~
2 ~~and sign the certificate.~~

3 (c) Except as provided in subsection (b) of this Code section, when a birth occurs outside
4 an institution, the certificate shall be prepared and filed by one of the following in the
5 indicated order of priority:

6 (1) The physician or certified nurse midwife in attendance at or immediately after the
7 birth, or in the absence of such person;

8 (2) Any other person in attendance at or immediately after the birth, or in the absence of
9 such a person;

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

12 (d) When a birth occurs on a moving conveyance within the United States and the child
13 is first removed from the conveyance in this state, the birth shall be registered in this state
14 and the place where it is first removed shall be considered the place of birth. When a birth
15 occurs on a moving conveyance while in international waters or airspace or in a foreign
16 country or its airspace and the child is first removed from the conveyance in this state, the
17 birth shall be registered in this state but the certificate shall show the actual place of birth
18 insofar as can be determined.

19 (e) The name of the natural father or putative father shall be entered on the certificate of
20 live birth as follows:

21 (1) If the mother was married either at the time of conception or at the time of birth, the
22 name of the husband shall be entered on the certificate as the father of the child unless
23 paternity has been determined otherwise by a court having jurisdiction, in which case the
24 name of the father as determined by the court shall be entered;

25 (2) If the mother is not married ~~to the father~~ at either the time of conception or at the time
26 of birth, the name of the putative father shall not be entered on the certificate of birth
27 without the written consent of the mother and the person to be named as father;

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

31 (4) If the father is not named on the certificate of birth, no other information about the
32 father shall be entered on the certificate; or

33 (5) Except as provided in paragraph (3) of this subsection, in all other cases, the
34 surname of the child shall be the legal surname of the mother at the time of the birth
35 entered on the certificate as designated by the mother. When a paternity acknowledgment
36 is completed, the surname of the child shall be entered as designated by both parents.

(f) The birth certificate of a child born to a married woman as a result of artificial insemination, with consent of her husband, shall be completed in accordance with the provisions of subsection (e) of this Code section.

(g) Either of the parents of the child, or other informant, shall ~~attest to~~ verify the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within the ~~ten days~~ time period prescribed in subsection (a) of this Code section.

(h) All birth certificates filed and registered must identify the recorded person by name and the name of each legal parent of such person and the name of all other persons required by this Code section or by regulation. No obscenities, numbers, symbols, or other such nonidentifying name information will be accepted. If a legal parent has not decided upon a first or middle name for the child before the time limits established in this Code section, the birth record shall be registered without the child's first or middle name, or both, unless a court order provides otherwise."

SECTION 6.

Said chapter is further amended by striking subsections (c) and (d) of Code Section 31-10-15, relating to death certificates, and inserting in lieu thereof the following:

"(c) The medical certification as to the cause and circumstances of death shall be completed, signed, and returned to the funeral director or person acting as such within 72 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by ~~the 'Georgia Post-mortem Examination Act.'~~ Article 2 of Chapter 16 of Title 45, the 'Georgia Death Investigation Act.' In the absence of said physician or with that physician's approval the certificate may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided that such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

(d) When death occurs without medical attendance as set forth in subsection (c) of this Code section or when inquiry is required by ~~the 'Georgia Post-mortem Examination Act,'~~ Article 2 of Chapter 16 of Title 45, the 'Georgia Death Investigation Act,' the proper person shall investigate the cause of death and shall complete and sign the medical certification portion of the death certificate within 30 days after being notified of the death."

SECTION 7.

Said chapter is further amended by striking Code Section 31-10-17, relating to state registration of death certificates and certified copies, and inserting in lieu thereof the following:

1 "31-10-17.

2 (a) When a death certificate is filed with a local registrar, it shall be transmitted to the ~~vital~~
3 ~~records registration system~~ State Office of Vital Records for state registration ~~within ten~~
4 ~~days of~~ immediately upon receipt. After registration and the assignment of a state file
5 number, an authorized copy of the death certificate shall be returned to the local custodian.
6 Certified copies of such death certificates may then be issued from the authorized copy by
7 the local custodian.

8 (b) After a death certificate is filed with a local registrar, but before the death certificate
9 has been registered by the ~~vital records registration system~~ State Office of Vital Records,
10 the local custodian shall be authorized to issue copies of the death certificate to be known
11 as a 'certificate of record.' Each certificate of record shall have printed thereon the
12 following: 'This is an exact copy of the death certificate received for filing in
13 _____ County.' Such certificate of record shall be signed by the local custodian
14 and have the correct seal affixed thereto."

15 SECTION 8.

16 Said chapter is further amended by striking Code Section 31-10-23, relating to amendment
17 of certificates or reports, and inserting in lieu thereof the following:

18 "31-10-23.

19 (a) Unless otherwise specified by law, a certificate or report registered under this chapter
20 may be amended in accordance with this chapter and regulations adopted by the department
21 to protect the integrity and accuracy of vital records. Such regulations shall specify the
22 minimum evidence required for a change in any certificate or report. Amendments to birth
23 certificates, death certificates, and application supplement-marriage reports shall be
24 completed by the department and a copy mailed to the proper local custodian, if any.
25 Amendments to applications for a marriage license or the license shall be completed by the
26 judge of the probate court of the county in which the license was issued. An amendment
27 to divorce reports shall be completed by the clerk of the superior court of the county in
28 which the decree was granted.

29 (b) A certificate or report that is amended under this Code section shall be marked
30 'amended,' except as otherwise provided in this Code section. The date of amendment and
31 a summary description of the evidence submitted in support of the amendment shall be
32 endorsed on or made a part of the record. The department shall prescribe by regulation the
33 conditions under which additions or minor corrections may be made to certificates or
34 records within one year after the date of the event without the certificate or record being
35 marked 'amended.'

1 (c)(1) Upon receipt of a certified copy of an order to legitimate a child, or an affidavit
2 signed by the natural parents whose marriage had legitimated a child, the director shall
3 register a new birth certificate if paternity was not shown on the original certificate. Such
4 certificate shall not be marked 'amended.'

5 (2) If paternity was shown on the original certificate, the record can be changed only by
6 an order from ~~the superior court~~ a court of competent jurisdiction or the Office of State
7 Administrative Hearings to remove the name of the person shown on the certificate as the
8 father and to add the name of the natural father and to show the child as the legitimate
9 child of the person so named. The order must specify the name to be removed and the
10 name to be added.

11 (d) Upon receipt of a certified copy of an order from a superior court, probate court, or
12 other court of competent jurisdiction changing the name of a person born in this state and
13 upon request of such person or such person's parents, guardian, temporary guardian, or
14 legal representative, the state registrar shall amend the certificate of birth to show the new
15 name. When the names of the parent or parents and the child are changed, the state registrar
16 may register a new certificate if requested by the parents, guardian, temporary guardian,
17 or legal representative. Such new certificate shall be marked 'amended.'

18 (e) Upon receipt of a certified copy of a court order indicating the sex of an individual
19 born in this state has been changed by surgical procedure and that such individual's name
20 has been changed, the certificate of birth of such individual shall be amended as prescribed
21 by regulation.

22 (f) An order from a superior court or probate court shall be required to change the year of
23 birth shown on the original birth certificate by more than one year or to correct any item
24 on a delayed birth certificate, or to remove the name of a father from a birth certificate on
25 file. The person seeking such change, correction, or removal shall institute the proceeding
26 by filing a petition with the appropriate court in the county of residence for an order
27 changing the year of birth, correcting a delayed birth certificate, or removing the name of
28 the father from a birth certificate on file. Such petition shall set forth the reasons therefor
29 and shall be accompanied by all available documentary evidence. The court shall set a date
30 for hearing the petition and shall give the state registrar at least ten days' notice of said
31 hearing. The state registrar or the authorized representative thereof may appear and testify
32 in the proceeding. If the court from the evidence presented finds that such change,
33 correction, or removal should be made, the judge shall issue an order setting out the change
34 to be made and the date of the court's action. The clerk of such court shall forward the
35 petition and order to the state registrar not later than the tenth day of the calendar month
36 following the month in which said order was entered. Such order shall be registered by the
37 state registrar and the change so ordered shall be made.

(g) When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right of judicial appeal.

(h) When a certificate or report is amended under this Code section, the state registrar shall report the amendment to the proper local custodian and their record shall be amended accordingly."

SECTION 9.

Said chapter is further amended by striking subsection (a) of Code Section 31-10-26, relating to certified copies of vital records, and inserting in lieu thereof the following:

"(a) In accordance with Code Section 31-10-25 and the regulations adopted pursuant thereto:

(1) The state registrar or local custodian of vital records appointed by the state registrar to issue certified copies upon receipt of a written application shall issue a certified copy of a vital record in that registrar's or custodian's custody or abstract thereof to any applicant having a direct and tangible interest in the vital record, except that certified copies of certificates shall only be issued to:

(A) The person whose record of birth is registered;

(B) Either parent, ~~or guardian, or temporary guardian~~ of the person whose record of birth or death is registered;

(C) The living legal spouse or next of kin or the legal representative or the person who in good faith has applied and produced a record of such application to become the legal representative of the person whose record of birth or death is registered;

(D) The court of competent jurisdiction upon its order or subpoena; or

(E) Any governmental agency, state or federal, provided that such certificate shall be needed for official purposes.

(2) Each certified copy issued shall show the date of registration and copies issued from records marked 'delayed' or 'amended' shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate of birth shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar."

SECTION 10.

Said chapter is further amended by striking Code Section 31-10-27, relating to fees for copies or services, and inserting in lieu thereof the following:

"31-10-27.

(a) The department shall prescribe ~~the uniform~~ fees to be paid to the State Office of Vital Records, local registrars, and local custodians for certified copies of certificates or records, for a search of the files or records, for copies or information provided for research, statistical, or administrative purposes, or for other services. The fee for each search or service, ~~shall not exceed \$10.00 nor shall the fee for a certified copy of said certificate, record, and certification exceed the total sum of \$10.00~~ certified copy, or record shall be determined by the board.

(b) Fees collected by the department under this Code section shall be deposited in the general funds of the state.

(c) Fees for copies or searches by local custodians of vital records shall be retained by them whether the local custodian is paid on a fee basis, a salary basis, or a combination of both, except in counties where the local custodian of vital records is an employee of the county board of health, in which case said fees shall be remitted monthly to the county health department."

SECTION 11.

Said chapter is further amended by striking from the following Code sections the words "vital records registration system" wherever the same shall occur and inserting in lieu thereof the words "State Office of Vital Records":

(1) Code Section 31-10-6, relating to local registrars, local custodians, and special abstracting agents;

(2) Code Section 31-10-10, relating to registration of live born infants of unknown parentage;

(3) Code Section 31-10-12, relating to judicial procedure to establish facts of birth;

(4) Code Section 31-10-24, relating to preservation or disposition of vital records; and

(5) Code Section 31-10-31, relating to penalties for making false statements in records and for other violations.

SECTION 12.

This Act shall become effective July 1, 2004.

SECTION 13.

All laws and parts of laws in conflict with this Act are repealed.