

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0220

SENATE BILL NO. 55

Introduced by: The Committee on Health and Human Services at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to birth records.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 34-25-8 be amended to read as follows:

4 34-25-8. The birth of every child born in this state shall be registered as provided in this
5 chapter. Within seven days after the date of each live birth, there shall be filed with the
6 department by electronic means if a facility has such capabilities, or otherwise if electronic means
7 are not available, a certificate of such birth, which certificate shall be upon the form prescribed
8 by the department. For certificates of birth filed after seven days, but within one year from the
9 date of birth, the department may, by rules promulgated pursuant to chapter 1-26, require
10 additional evidence in support of the facts of birth.

11 Certified copies of birth records shall be available to any person who can identify the birth
12 record by providing the name of the person on the birth record, the date of birth, the mother's
13 maiden name, and any additional information required to locate the record. Nothing in this
14 section prohibits the release of information contained on a birth record which would not identify
15 any person named in the record.

1 If one hundred years have elapsed after the date of birth, the records of the birth in the
2 custody of the department shall become available to the public without restriction. The
3 department shall promulgate rules, pursuant to chapter 1-26, to provide for the continued
4 safekeeping of these records.

5 Section 2. That § 34-25-9.1 be amended to read as follows:

6 34-25-9.1. ~~When~~ If a birth occurs outside an institution, the certificate shall be prepared and
7 filed by one of the following in the indicated order of priority:

- 8 (1) The physician in attendance at or immediately after the birth, or in the absence of such
9 a person,
- 10 (2) Any other person in attendance at or immediately after the birth, or in the absence of
11 such a person,
- 12 (3) The father or mother, or, in the absence of the father and the inability of the mother,
13 the person in charge of the premises where the birth occurred.

14 The department shall promulgate rules, pursuant to chapter 1-26, to establish the evidence
15 necessary to establish the facts of birth.

16 Section 3. That § 34-25-13.1 be amended to read as follows:

17 34-25-13.1. If the mother was married at the time of conception or birth, or at any time
18 between conception and birth, the name of the husband shall be entered on the certificate as the
19 father of the child unless ~~paternity has otherwise been determined by a court of competent~~
20 ~~jurisdiction, in which case the name of the father as determined by the court shall be entered.~~
21 ~~However, if the mother executes an affidavit attesting that her husband is not the biological~~
22 ~~father and providing the name of the alleged biological father, the husband executes an affidavit~~
23 ~~attesting that he is not the biological father and the alleged biological father executes an affidavit~~
24 ~~attesting that he is the biological father, the attesting biological father shall be shown as the father~~
25 ~~on the certificate. Affidavits may be joint or individual, and each signature shall be individually~~

1 notarized;

2 (1) Paternity has otherwise been determined by a court of competent jurisdiction, in
3 which case the name of the father as determined by the court shall be entered;

4 (2) The mother and the mother's husband execute joint or separate affidavits attesting that
5 the husband is not the father of the child, in which case information about the father
6 shall be omitted from the certificate; or

7 (3) The mother executes an affidavit attesting that her husband is not the biological father
8 and providing the name of the alleged biological father, the husband executes an
9 affidavit attesting that he is not the biological father, and the alleged biological father
10 executes an affidavit attesting that he is the biological father, then the attesting
11 biological father shall be shown as the father on the certificate

12 Affidavits may be joint or individual, and each signature shall be individually notarized.

13 Section 4. That § 34-25-15 be amended to read as follows:

14 34-25-15. In cases of legitimation, the ~~state department of health~~, upon receipt of proof of
15 the marriage of the parents after the birth of the child together with an affidavit of paternity
16 signed by both parents of the child, shall prepare a new certificate of birth in the new name of
17 the legitimated child.

18 Within ten days after the filing of an affidavit of acknowledgment of paternity, signed by both
19 putative parents who are not married, the ~~state department of health~~ shall add the name of the
20 father to the certificate of birth if paternity is not shown on the record. Upon request of the
21 parents, the surname of the child may be changed to that of the father, in which case the
22 department of ~~health~~ shall prepare a new birth certificate. A change in paternity, which is already
23 shown on a birth certificate, may be made only upon receipt of a court order determining
24 paternity.

25 Upon receipt of a court order or affidavits determining the paternity of a child ~~born out of~~

1 ~~wedlock~~ pursuant to § 34-25-13.1, the department of health shall prepare a new certificate of
2 birth. Each applicant for a new birth record ~~following notice of legitimation~~ shall submit a five
3 dollar fee to the department of health for the preparation and filing of the record.