

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0314

SENATE BILL NO. 41

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 regarding access to vital
2 records.

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

4 Section 1. That § 34-25-1.1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Authorized representative," an attorney, physician, funeral director, or other designated
7 agent acting on behalf of the family.

8 Section 2. That § 34-25-8 be amended to read as follows:

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



1 ~~—Certified copies of birth records shall be available to any person who can identify the birth~~
2 ~~record by providing the name of the person on the birth record, the date of birth, the mother's~~
3 ~~maiden name, or additional information required to locate the record. Nothing in this section~~
4 ~~prohibits the release of information contained on a birth record which would not identify any~~
5 ~~person named in the record.~~

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

10 Section 3. That § 34-25-52 be amended to read as follows:

11 34-25-52. ~~The Department of Health shall upon request supply to any applicant a certified~~
12 ~~copy of the record of any birth, death, fetal death, marriage, or divorce registered under the~~
13 ~~provisions of this chapter, for the making and certification of which he shall be entitled to a fee~~
14 ~~based upon administrative cost as established by the department pursuant to chapter 1-26 to be~~
15 ~~paid by the applicant. Information in vital records indicating that a birth occurred out of wedlock~~
16 ~~shall not be disclosed except as provided by regulation or upon order of a court of competent~~
17 ~~jurisdiction. Any record or a certified copy thereof shall be prima facie evidence in all of the~~
18 ~~courts of this state of the facts therein stated~~ The department or authorized local registrars shall,
19 upon receipt of an application, issue a certified copy of a vital record to the registrant or the
20 registrant's spouse, children, parents, guardian, next of kin, or authorized representative. The
21 department may authorize others to obtain certified copies in response to a demonstration that
22 the record is needed for the determination or protection of a personal or property right. The
23 department shall be entitled to a fee based upon administrative cost as established by the
24 department pursuant to chapter 1-26 for each search of the files and records. The fee shall be

1 paid in advance by the applicant and shall not be in addition to the fee hereinbefore provided
2 for the making and certification of the record but shall be applied in payment thereof if the
3 record is found.

4 Section 4. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 All forms and procedures used in the issuance of certified copies of vital records shall be
7 uniform and shall be provided or approved by the state registrar. The department shall
8 promulgate rules pursuant to chapter 1-26 to determine application requirements for a certified
9 copy of a vital record, acceptable proof of identity, and the security features required in a
10 certified copy.

11 Section 5. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Nothing in this chapter may be construed to permit disclosure of information contained in
14 the "Information for Medical and Health Use Only" section of the birth certificate or the
15 "Information for Statistical Purposes Only" section of the certificate of marriage or certificate
16 of divorce unless specifically authorized by the department for statistical or research purposes.
17 Such data is not subject to subpoena or court order and is not admissible before any court,
18 tribunal, or judicial body.

19 Section 6. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 To protect the integrity of vital records, ensure their proper use, and to ensure the efficient
22 and proper administration of the vital records system, no person may permit inspection of any
23 vital record, disclose information contained in any vital record, or copy or issue a copy of all or
24 part of any such record unless authorized by this chapter or a court of competent jurisdiction.

1 Section 7. That chapter 34-25 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 If one hundred years have elapsed after the date of birth or fifty years have elapsed after the
4 date of death, marriage, or divorce, dissolution of marriage, or annulment, the records of these
5 events in the custody of the state registrar shall be available to the public without restriction.
6 Records available for public access can be issued from the vital records system as genealogist
7 copies and are subject to the provisions set forth in § 34-25-52. The department shall
8 promulgate rules pursuant to chapter 1-26 to provide for the continued safekeeping of these
9 records.

10 Section 8. That § 34-25-57 be amended to read as follows:

11 34-25-57. No person, officer, agent, or employee of any other person or of any corporation
12 or partnership may:

- 13 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or
14 permit the same to be done or remove the body from the state without authority of
15 a burial or removal permit;
- 16 (2) Refuse or fail to furnish any information in such person's possession or furnish false
17 information affecting any certificate or record required by this chapter;
- 18 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any
19 record required by this chapter;
- 20 (4) Being required by this chapter to fill out a certificate of birth or death and file the
21 certificate with the local registrar or deliver it upon request to any person charged
22 with the duty of filing the certificate, fail, neglect, or refuse to perform;
- 23 (5) Being an employee of the state vital records office, a local registrar or deputy
24 registrar, fail, neglect, or refuse to perform the duty as required by this chapter or by

1 the rules adopted by the secretary of health or by the instructions and directions of the
2 department;

3 (6) Intentionally make, counterfeit, alter, amend, or mutilate any certificate, record, or
4 report required by this chapter or a certified copy of the certificate, record, or report
5 for the purpose of deception;

6 (7) Obtain, possess, use, sell, or furnish to another, or attempt to obtain, possess, use,
7 sell, or furnish to another, any certificate, record, or report, or certified copy thereof,
8 required by this chapter, whether altered in any manner or not, for any purpose of
9 deception; or

10 (8) Possess any certificate, record, or report, or copy thereof, required by this chapter,
11 knowing that the certificate, record, or report, or copy thereof, was stolen or
12 otherwise obtained unlawfully.

13 A violation of this section is a Class 1 misdemeanor.