

SECOND REGULAR SESSION

SENATE BILL NO. 1137

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BENTLEY.

Read 1st time February 11, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4511S.021

AN ACT

To repeal sections 193.015, 193.045, 193.065, 193.085, 193.087, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697 and 490.620, RSMo, relating to electronic creation and access to birth and death records, and to enact in lieu thereof thirteen new sections relating to the same subject.

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

Section A. Sections 193.015, 193.045, 193.065, 193.085, 193.087, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697 and 490.620, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 193.015, 193.045, 193.065, 193.085, 193.087, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697 and 490.620, 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 medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary care, or to which persons are committed by law;

(5) "**Legitimate research**", research conforming to or in accordance with

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

generally acceptable standards or principles and conducted as a systematic study designed to develop or contribute to generalizable knowledge. The term generalizable means to emphasize the general character rather than specific details of, to formulate general principles or inferences from particulars.

[(5)] **(6)** "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;

[(6)] **(7)** "Physician", a person authorized or licensed to practice medicine or osteopathy pursuant to chapter 334, RSMo;

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

[(8)] **(9)** "State registrar", state registrar of vital statistics of the state of Missouri;

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

[(10)] **(11)** "Vital records", certificates or reports of birth, death, marriage, dissolution of marriage and data related thereto;

[(11)] **(12)** "Vital statistics", the data derived from certificates and reports of birth, death, spontaneous fetal death, marriage, dissolution of marriage and related reports.

193.045. 1. The department director or his **or her** designee shall be the state registrar of vital statistics.

2. The state registrar shall administer the system of vital statistics and shall:

(1) Conduct training programs to promote uniformity of policy and procedures throughout the state;

(2) Prescribe, furnish and distribute such forms as are required by sections 193.005 to 193.325 and the rules and regulations issued hereunder, or prescribe such other means for transmission of data as will accomplish the purposes of complete and accurate reporting and registration of vital records;

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

(4) Provide to the state or local health agencies copies of or data derived from certificates

and reports required under sections 193.005 to 193.325, deemed necessary for state or local health planning and program activities. The state registrar shall establish a schedule for transmittal of such copies or data, but such copies or data shall remain the property of the department and the uses which may be made of them shall be governed by the state registrar.

193.065. The state registrar may appoint local registrars, each of whom shall be a person employed by an official county health agency. Each local registrar shall be authorized under the provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death records. A local registrar, with the approval of the state registrar, may appoint deputies **to carry out some or all of the responsibilities of the local registrar as provided in sections 193.005 to 193.325 or the regulations promulgated pursuant thereto.** The local registrars shall immediately report to the state registrar violations of sections 193.005 to 193.325 or the regulations promulgated pursuant thereto.

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

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

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

- (1) The physician in attendance at or immediately after the birth;
- (2) Any other person in attendance at or immediately after the birth;
- (3) 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.

4. When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and such place shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but

the certificate shall show the actual place of birth insofar as can be determined.

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

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

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

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

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

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

9. The birth certificate of a child born to a married woman as a result of artificial insemination, **or in vitro fertilization** with consent of her husband, shall be completed pursuant to the provisions of subsection 5 of this section.

10. The certificate of birth of a child born to a surrogate mother shall list as mother and contain the personal data of the woman who physically carried and delivered the child. The father's information shall be completed on the certificate of birth as otherwise provided under this section. Upon receipt of an order from a court of competent jurisdiction determining that the actual biological mother is another woman, the department shall establish a new certificate of birth that lists such woman on the certificate. The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the court order shall not be subject to inspection except upon order of a court of competent jurisdiction.

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

193.087. 1. In addition to the requirements of subsection 2 of section 193.085, when a

birth occurs to an unmarried mother, whether in an institution or en route to an institution, the person in charge of the institution or a designated representative shall:

(1) Provide a form or affidavit prescribed by the state registrar that may be completed by the child's mother and father to voluntarily acknowledge paternity of the child pursuant to section 193.215;

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

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

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

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

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

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

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

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

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

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

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

(3) That diligent efforts by the petitioner have failed to obtain the evidence required in accordance with section 193.105, and regulations adopted pursuant thereto;

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

(5) Such other allegations as may be required.

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

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

5. 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 may be required and shall issue an order, on a form prescribed [and furnished] **or approved** by the state registrar, to establish a certificate of birth. This order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

6. The clerk of the court shall forward each such order to the state registrar not later than the tenth day of the calendar month following the month in which it was entered. Such order 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, the court shall require the preparation of a certificate of decree of adoption on a form as prescribed and furnished **or approved** by the state registrar. The certificate of decree of adoption shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted, and shall provide information necessary to establish a new certificate of birth of the person adopted and shall identify the court and county of the adoption and be certified by the clerk of the court. The state registrar shall file the original certificate of birth with the certificate of decree of adoption and such file may be opened by the state registrar only upon receipt of a certified copy of an order as decreed by the court of adoption.

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

3. Whenever an adoption decree is amended or annulled, 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 fifteenth day of each calendar month or more frequently as directed by the state registrar the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulment of adoption and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

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

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

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

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

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

9. If no certificate of birth has been filed for a person twelve years of age or older who has been adopted, a new birth certificate is to be established under this section upon receipt of proof of adoption as required by the department. A new certificate shall be prepared in the name of the adopted person as decreed by the court, registering adopted parents' names. The new certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed 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 with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section.

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

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

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

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

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

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

decedent, provided 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. The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

6. When death occurs from natural causes more than thirty-six hours after the decedent was last treated by a physician, the case shall be referred to the county medical examiner or coroner or physician or local registrar for investigation to determine and certify the cause of death. If the death is determined to be of a natural cause, the medical examiner or coroner or local registrar shall refer the certificate of death to the attending physician for such physician's certification. If the attending physician refuses or is otherwise unavailable, the medical examiner or coroner or local registrar shall sign the certificate of death within thirty-six hours.

7. If the circumstances suggest that the death was caused by other than natural causes, the medical examiner or coroner shall determine the cause of death and shall complete and sign the medical certification within seventy-two hours after taking charge of the case.

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

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

193.225. To preserve vital records, the state registrar is authorized to prepare typewritten, photographic, electronic, **digital images**, or other reproductions of vital statistics certificates or reports. Such reproductions when certified by the state registrar shall be accepted as the original records. The documents from which permanent reproductions have been made and verified may be disposed of as provided by regulation.

193.245. It shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital records or to copy or issue a copy of all or part of any such record except as authorized by this law and by regulation or by order of a court of competent jurisdiction or in the following situations:

(1) A listing of persons who are born or who die on a particular date may be disclosed upon request, but no information from the record other than the name and the date of such birth or death shall be disclosed;

(2) The department may authorize the disclosure of information contained in vital records

for legitimate research purposes;

(3) To a qualified applicant as provided in section 193.255;

(4) Copies of birth records over ninety years old and death records over fifty years old may be disclosed upon request. The department shall make such records and indexes to the records available on the Internet by December 31, 2004.

193.265. 1. For the issuance of a certification or copy of a vital record, the applicant shall pay a fee of [ten] **thirteen** dollars to the state department of revenue. For each vital records fee collected [from August 28, 1992, to June 30, 1996] **after August 28, 2002**, the director of revenue shall credit four dollars to the general revenue fund, [three] **five** dollars to the children's trust fund as established pursuant to section 210.173, RSMo, [two] **three** dollars to the Missouri public health services fund established in section 192.900, RSMo, and one dollar shall be deposited in the "Endowed Care Cemetery Audit Fund", which is hereby created in the state treasury. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery audit fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund pursuant to this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, **provide indexes and records on the Internet according to 193.245(4), support an Internet vital records application process, develop and support an Internet based birth and death registration system** and [allow] **support line costs for** local registrars to issue computer-generated certificates of birth and death records of persons who are born or who die in Missouri. **The Internet birth and death registration system shall be implemented no later than December 31, 2005.** [Beginning July 1, 1996, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund and one dollar shall be credited to the endowed care cemetery audit fund.] For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the

state or United States, the state registrar shall, upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a birth or death record by the local registrar, the applicant shall pay a fee of [ten] **thirteen** dollars to the official county health agency. A certified copy of a death record by the local registrar can only be issued within twenty-four hours of receipt of the record by the local registrar. Computer-generated certifications of death records may be issued by the local registrar after twenty-four hours of receipt of the records. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

473.697. Whenever application shall be made to any probate division for letters of administration upon the estate of any person supposed to be dead, because of the absence of such person for five consecutive years from the place of his last known domicile within this state, **or because such person was exposed to a specific peril of death due to an actual or suspected terrorist event**, or because, having been a resident of this state, such person has heretofore gone from and has not returned to this state for five consecutive years, or, because, having been such resident of this state, such person shall hereafter go from and shall not return to this state for five consecutive years, or, because being a resident of this state, such person shall have so concealed or conducted himself within this state that he shall not have been heard of for five consecutive years by the judge of the probate division having jurisdiction of his estate, or by the persons interested therein, then said court, if satisfied that the applicant would be entitled to such letters if the supposed decedent were in fact dead, shall cause a notice to such supposed deceased person to be published in a newspaper, published in the county, once a week for four consecutive weeks, setting forth the fact that such application has been made, together with notice that on a day certain, which shall be at least two weeks after the last publication of such notice, the court will hear evidence concerning the alleged absence of the supposed decedent, and the circumstances and duration thereof. The persons applying for such letters of administration shall file a petition stating the facts upon which such application is based and the place where such supposed deceased person resided when last heard from by him or by any person within his knowledge.

490.620. If any person who shall have resided in this state go from and do not return to this state for five successive years, he shall be presumed to be dead in any case wherein his death shall come in question, unless proof be made that he was alive within that time. **The fact that such person was exposed to a specific peril of death may be a sufficient basis for determining at any time after such exposure that he or she died less than five years after the date his or her absence commenced.**

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