

## 1 HOUSE BILL NO. 32

2 INTRODUCED BY J. COHENOUR

3 BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CONFLICTS IN VITAL RECORDS STATUTES;  
6 ELIMINATING THE REQUIREMENT THAT LOCAL REGISTRARS RETAIN CERTIFICATE COPIES IF  
7 CERTIFICATES ARE FILED ELECTRONICALLY; ALLOWING A NEW BIRTH CERTIFICATE TO BE ISSUED  
8 FOR A FOREIGN PERSON ADOPTED IN MONTANA REGARDLESS OF CITIZENSHIP; AMENDING  
9 SECTIONS 50-15-109, 50-15-223, AND 50-15-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
10 DATE."  
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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14 **Section 1.** Section 50-15-109, MCA, is amended to read:  
15 **"50-15-109. Certificates.** (1) All certificates ~~shall~~ must include information required by the department.  
16 (2) Local registrars shall forward original certificates to the department, file a duplicate copy with the  
17 county clerk and recorder, and, unless the certificate is filed electronically, retain a triplicate copy.  
18 (3) Local registrars ~~shall~~ may not issue certified copies of certificates.  
19 (4) Certificates filed within ~~6 months~~ 1 year after the time prescribed by the department ~~shall be~~ are  
20 prima facie evidence of the facts stated in the certificates. Data pertaining to the father of a child is prima facie  
21 evidence only if the alleged father is the husband of the mother. If the alleged father is not the husband of the  
22 mother, data pertaining to the alleged father is not evidence in any proceedings adverse to ~~his~~ the alleged  
23 father's interests, ~~his~~ heirs, next of kin, devisees, legatees, or other successors in interest."  
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25 **Section 2.** Section 50-15-223, MCA, is amended to read:  
26 **"50-15-223. Certificates of birth following adoption, legitimation, or determination or**  
27 **acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person born  
28 in this state when the department receives the following:  
29 (a) a certificate of adoption, as provided in 50-15-311, a certificate of adoption prepared and filed in  
30 accordance with the laws of another state or foreign country, or a certified copy of the decree of adoption,

1 together with the information necessary to identify the original certificate of birth and to establish a new certificate  
2 of birth; or

3 (b) a request that a new certificate be established if the request shows that:

4 (i) a district court, court of appropriate jurisdiction in another state, or administrative agency in this state  
5 or another state with appropriate jurisdiction has determined the paternity of the person and information  
6 necessary to identify the original certificate of birth is provided; or

7 (ii) both parents have acknowledged the paternity of the person and request that the surname be  
8 changed from that shown on the original certificate.

9 (2) The date of birth and the city and county of birth must be stated in the newly established certificate  
10 of birth. The department shall substitute the new certificate of birth for the original certificate of birth in the files.  
11 The original certificate of birth and the evidence of adoption, legitimation, court determination of paternity, or  
12 paternity acknowledgment are only subject to inspection, except upon order of a district court, as provided by  
13 rule, as provided in Title 42, chapter 6, part 1, or as otherwise provided by state law.

14 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the  
15 certificate of birth as provided in rules adopted by the department.

16 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the original  
17 certificate of birth issued before the adoption to its place in the files and the certificate of birth issued upon  
18 adoption and evidence pertaining to the adoption proceeding may not be open to inspection, except upon order  
19 of a district court or as provided by rule adopted by the department.

20 (5) Upon written request of both parents and receipt of a sworn acknowledgment and other credible  
21 evidence of paternity signed by both parents of a child born outside of marriage, the department shall reflect the  
22 paternity on the child's certificate of birth if paternity is not already shown on the certificate of birth.

23 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth is to be  
24 established under this section and the date and place of birth have not been determined in the adoption or  
25 paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with the department, as  
26 provided in 50-15-204, before a new certificate of birth may be established. The new certificate of birth must be  
27 prepared on a form prescribed by the department.

28 (7) When a new certificate of birth is established by the department, the department ~~may~~ shall direct  
29 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this state  
30 ~~either be sealed from inspection or be forwarded~~ immediately to the department ~~for sealing from inspection.~~

1 (8) (a) The department shall, upon request of the adopting parents, prepare and register a certificate  
2 of birth in this state for a person who was born in a foreign country ~~who is not a citizen of the United States~~ and  
3 ~~who was~~ adopted through a district court in this state.

4 (b) The certificate of birth must be established by the department upon receipt of a certificate of  
5 adoption, conforming to the requirements of 50-15-311, from the court that reflects entry of an order of adoption,  
6 proof of the date and place of the child's birth, and a request for the establishment of a certificate of birth from  
7 the court, the adopting parents, or the adopted person, if the person is 18 years of age or older.

8 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual  
9 country of birth. A statement must be included on the certificate indicating that it is not evidence of United States  
10 citizenship for the child for whom it is issued.

11 (d) After registration of the certificate of birth in the new name of the adopted person, the department  
12 shall seal and file the certificate of adoption, which is not subject to inspection, except upon order of the district  
13 court, as provided by rule, or as otherwise provided by state law.

14 (9) The department may promulgate rules necessary to implement this section."  
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16 **Section 3.** Section 50-15-304, MCA, is amended to read:

17 **"50-15-304. Substitute birth certificate for person adopted.** (1) The procedure for issuing a substitute  
18 birth certificate for a person born in Montana and adopted is as follows:

19 (a) Before the 16th day of the month following the order of adoption, the clerk of the district court shall  
20 forward a certified copy of the final order of adoption to the department or the department may accept a certified  
21 copy of a final order of adoption from a court of competent jurisdiction of another state of the United States or  
22 a tribal court of competent jurisdiction.

23 (b) The department shall prepare a substitute certificate containing:

24 (i) the new name of the adopted person;

25 (ii) the true date and place of birth and the sex of the adopted person;

26 (iii) statistical facts concerning the adoptive parents in place of the natural parents;

27 (iv) the words "department of public health and human services" substituted for the words "attendant's  
28 own signature"; and

29 (v) dates of recording as shown on the original birth certificate.

30 (2) The procedure for recording a substitute birth certificate for a person born in Montana and adopted

1 is as follows:

2 (a) The department shall send copies of the substitute birth certificate to the local registrar and to the  
3 county clerk and recorder.

4 (b) The local registrar and county clerk and recorder shall immediately enter the substitute birth  
5 certificate in their files and forward copies of the original birth record to the department.

6 (c) The department shall seal original birth records and open them only ~~on order of a court~~ as provided  
7 in 50-15-223(2).

8 (3) On receipt of a certified copy of a court order annulling an adoption, the department shall restore  
9 the original birth certificate to its place in its files and notify the local registrar and county clerk and recorder."  
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11 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

12 - END -