

SENATE BILL NO. 217

INTRODUCED BY K. HANSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING VITAL STATISTICS LAWS; REQUIRING AN  
5 INTERVENING LEGISLATIVE SESSION BETWEEN THE ADOPTION OF A RULE RELATED TO VITAL  
6 STATISTICS AND THE RULE'S IMPLEMENTATION; REQUIRING THAT FORMS FOR THE COLLECTION OF  
7 VITAL STATISTICS CLEARLY STATE WHICH INFORMATION IS REQUIRED AND WHICH INFORMATION IS  
8 OPTIONAL; CLARIFYING THAT CERTAIN INFORMATION ON BIRTH CERTIFICATES IS OPTIONAL AND  
9 REQUIRING A PARENT'S CONSENT BEFORE THAT INFORMATION IS PROVIDED ON THE PARENT'S  
10 BEHALF; AND AMENDING SECTIONS 50-15-103, 50-15-124, AND 50-15-221, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 50-15-103, MCA, is amended to read:

15 **"50-15-103. Duties of department.** The department shall:

- 16 (1) divide the state into registration districts and change districts as necessary;
- 17 (2) promulgate rules necessary to implement this chapter in accordance with the provisions of the  
18 Montana Administrative Procedure Act pursuant to Title 2, chapter 4, except that any rules adopted for this  
19 chapter may not be implemented until July 1 following the next regular legislative session;
- 20 (3) administer and enforce the provisions of this chapter and rules adopted to implement this chapter;
- 21 (4) conduct training programs to promote uniformity of policy and procedures throughout the state in  
22 matters pertaining to the system of vital statistics;
- 23 (5) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant to this  
24 chapter or prescribe other means for the transmission of data that will accomplish complete and accurate  
25 reporting and registration; and
- 26 (6) prepare and publish reports of vital statistics of this state."

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28 **Section 2.** Section 50-15-124, MCA, is amended to read:

29 **"50-15-124. Content of certificates, records, and reports.** (1) In order to promote and maintain  
30 nationwide uniformity in the system of vital statistics, the department, in the preparation of the forms of



1 certificates, vital records, or reports required by this chapter or rules adopted under this chapter, may include the  
2 elements in forms and the forms recommended by the national center for health statistics for implementing a  
3 system of vital statistics.

4 (2) Each certificate, record, report, and other document required by this chapter must be prepared in a  
5 format approved by the department. Any document for collecting information required by this chapter must clearly  
6 state which information is required and which information is optional. All vital records must contain the date of  
7 filing.

8 (3) Information required in certificates, forms, records, or reports authorized by this chapter may be filed,  
9 verified, registered, and stored by photographic, electronic, or other means as prescribed by the department."  
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11 **Section 3.** Section 50-15-221, MCA, is amended to read:

12 **"50-15-221. Birth registration.** (1) A certificate of birth must be filed as specified in this section with the  
13 department for each live birth that occurs in this state. Unless otherwise directed by the department, the certificate  
14 must be filed within the time prescribed by the department by rule after the birth. The birth certificate must be  
15 registered if it has been completed and filed in accordance with this section and rules adopted to implement this  
16 section.

17 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by the  
18 attending physician or the physician's designee.

19 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or the  
20 person's authorized designee shall obtain the personal data concerning the newborn child, prepare the certificate,  
21 and certify that the child was born alive at the place, at the time, and on the date stated. Certification may be by  
22 signature or by an approved electronic process. The person referenced in this subsection shall file the certificate  
23 as directed in subsection (1). The physician or other person in attendance at the birth shall provide the medical  
24 information required by the certificate within 72 hours after the birth.

25 (4) The department shall, by rule, determine what evidence may be required to establish the facts of birth  
26 if the birth occurs at a place other than a health care facility. In accordance with rules promulgated by the  
27 department, the certificate must be prepared and filed by one of the following persons in the indicated order of  
28 priority in subsections (4)(a) through (4)(e):

29 (a) the physician or the physician's designee or a midwife licensed pursuant to Title 37, chapter 27, in  
30 attendance at or immediately after the birth;

- 1 (b) a person in attendance at or immediately after the birth;
- 2 (c) the father or the mother;
- 3 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
- 4 where the birth occurred; or
- 5 (e) the local registrar, if 50-15-202 applies.
- 6 (5) When a birth occurs on a moving conveyance within the United States and the newborn child is first
- 7 removed from the conveyance in this state, the birth must be registered in this state by a person listed in
- 8 subsection (4) and the place where the child is first removed from the conveyance is considered the place of birth.
- 9 When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country
- 10 or its air space and the child is first removed from the conveyance in this state, the birth must be registered by
- 11 a person listed in subsection (4) in this state, but the certificate must indicate the actual place of birth insofar as
- 12 the place can be determined.
- 13 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to be the
- 14 mother, unless otherwise provided by state law or determined by a court of competent jurisdiction prior to the filing
- 15 of the birth certificate. Information about the father must be entered as provided in subsection (7).
- 16 (7) (a) If the mother was married at the time of conception or birth or between conception and birth, the
- 17 name of the husband must be entered on the certificate as the father of the child, unless:
- 18 (i) other paternity has been determined by a court of competent jurisdiction;
- 19 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is not the
- 20 father of the child. Affidavits must be notarized, and signatures of the mother and of the husband must be
- 21 individually notarized on any joint affidavit. If affidavits are filed, information about the father must be omitted from
- 22 the certificate.
- 23 (iii) the mother executes an affidavit attesting that the husband is not the father and names a putative
- 24 father, the putative father executes an affidavit attesting paternity, and the husband executes an affidavit denying
- 25 paternity. Affidavits may be joint or individual or a combination of joint and individual affidavits. Each signature
- 26 on an affidavit must be individually notarized. If all affidavits are filed, the putative father must be shown as the
- 27 father on the certificate.
- 28 (b) If the mother was not married at the time of conception or birth or between conception and birth, the
- 29 name of the father may not be entered on the certificate without an affidavit of paternity signed by the mother and
- 30 the person to be named as the father.

1 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father and  
2 surname of the child must be entered on the certificate of birth in accordance with the finding and order of the  
3 court.

4 (d) If the father is not named on the certificate of birth, information about the father may not be entered  
5 on the certificate.

6 (e) Affidavits required under this subsection (7) must be filed with the department.

7 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data to be  
8 entered on the certificate in order to permit the filing of the certificate within the time prescribed in subsection (1).

9 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the date  
10 of birth must be registered by the natural parents, the adoptive parents, or the person having legal custody of the  
11 child, on the standard form of live birth certificate in the manner prescribed in this section and by rule. The  
12 certificate may not be designated as delayed. The department may require additional evidence in support of the  
13 facts of birth.

14 (10) The information in the section of a birth certificate designated as information for medical, health, or  
15 administrative use only is provided only to the department, is optional, and is neither considered to be nor certified  
16 as part of the legal birth certificate. A person filling out the information in the section of a birth certificate  
17 designated as information for medical, health, or administrative use only may do so only after securing the  
18 parent's consent."

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