

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 208

By: Garvin

AS INTRODUCED

An Act relating to vital statistics; amending 63 O.S. 2011, Section 1-311, which relates to birth certificates; modifying certain conditions; amending 63 O.S. 2011, Section 1-311.2, which relates to provision of documentation to the Department of Human Services; modifying requirements related to provision of certain documents and information; prohibiting certain release of information, data or records and requiring certain protection; directing certain data sharing agreement; amending 63 O.S. 2011, Section 1-321, as amended by Section 1, Chapter 96, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-321), which relates to amendment of certificate or record; requiring certain amendments under certain conditions; amending 63 O.S. 2011, Section 1-323, as last amended by Section 1, Chapter 108, O.S.L. 2019 (63 O.S. Supp. 2020, Section 1-323), which relates to confidentiality of vital statistics records; adding exception; updating and clarifying terms; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-311, is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the State Registrar, within seven (7) days after the birth.

1 B. When a birth occurs in an institution, the person in charge  
2 of the institution or a designated representative shall obtain the  
3 personal data, prepare the certificate, and secure the signatures  
4 required by the certificate. The physician in attendance shall  
5 certify to the facts of birth and provide the medical information  
6 required by the certificate within five (5) days after the birth.

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

10 1. The physician in attendance at or immediately after the  
11 birth;

12 2. Any other person in attendance at or immediately after the  
13 birth; or

14 3. The father, the mother, or, in the absence or inability of  
15 the father or mother, the person in charge of the premises where the  
16 birth occurred and present at the birth.

17 D. 1. If the mother was married at the time of ~~conception and~~  
18 birth, or married at any time during the three hundred (300)  
19 calendar days before the birth, the name of the husband shall be  
20 entered on the certificate as the father of the child unless  
21 paternity has been determined otherwise by a court of competent  
22 jurisdiction or a husband's denial of paternity form has been filed  
23 along with an affidavit acknowledging paternity, in which case the  
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1 name of the father as determined by the court or affidavit  
2 acknowledging paternity shall be entered.

3 2. If the mother was not married at the time of ~~conception and~~  
4 birth, nor married at any time during the three hundred (300)  
5 calendar days before the birth, the name of the father shall be  
6 entered on the certificate of birth only if:

- 7 a. a determination of paternity has been made by an  
8 administrative action through the Department of Human  
9 Services or a court of competent jurisdiction, in  
10 which case the name of the father shall be entered, or  
11 b. the mother and father have signed an ~~affidavit~~  
12 ~~acknowledging~~ acknowledgement of paternity pursuant to  
13 Section 1-311.3 of this title, or substantially  
14 similar affidavit from another state and filed it with  
15 the State Registrar of Vital Statistics.

16 E. Either of the parents of the child shall sign the  
17 certificate of live birth worksheet to attest to the accuracy of the  
18 personal data entered thereon, in time to permit its filing within  
19 the seven (7) days prescribed in this section.

20 F. If the live birth results from a process in which the  
21 delivering mother was carrying the child of another woman by way of  
22 a prearranged legal contract, the original birth certificate shall  
23 be filed with the personal information of the woman who delivered  
24 the child. A new birth certificate will be placed on file once the

1 State Registrar receives both a court order and a completed form  
2 prescribed by the State Registrar which identifies the various  
3 parties and documents the personal information of the intended  
4 parents necessary to complete the new birth certificate.

5 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-311.2, is  
6 amended to read as follows:

7 Section 1-311.2. ~~The State Registrar of Vital Statistics shall~~  
8 ~~provide to the Department of Human Services the verifications of~~  
9 ~~birth certificates, affidavits acknowledging paternity and such~~  
10 ~~other documents or information necessary to comply with this act~~

11 The State Commissioner of Health shall authorize the secure  
12 electronic transmission of any birth, death, paternity or adoption  
13 data and such other documents or information necessary to comply  
14 with the Uniform Parentage Act or for the purpose of assisting with  
15 programs administered by the Department of Human Services. The  
16 Department of Human Services shall not release information, data or  
17 records received from the State Department of Health for these  
18 purposes in response to an Open Records Act request and shall  
19 protect the integrity of the vital records data to the extent  
20 required of the State Department of Health by Section 1-323 of this  
21 title. The State Department of Health and the Department of Human  
22 Services shall enter into a data sharing agreement for the purpose  
23 of implementing the provisions of this section.  
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1       SECTION 3.       AMENDATORY       63 O.S. 2011, Section 1-321, as  
2 amended by Section 1, Chapter 96, O.S.L. 2019 (63 O.S. Supp. 2020,  
3 Section 1-321), is amended to read as follows:

4       Section 1-321. ~~(a)~~ A. A certificate or record registered under  
5 this article may be amended only in accordance with this article and  
6 regulations thereunder adopted by the State ~~Board~~ Commissioner of  
7 Health to protect the integrity and accuracy of vital statistics  
8 records.

9       ~~(b)~~ B. A certificate that is amended under this section shall  
10 be marked "amended", except as provided in subsection (d) of this  
11 section. The date of amendment and a summary description of the  
12 evidence submitted in support of the amendment shall be endorsed on  
13 or made a part of the record. The ~~Board~~ Commissioner shall  
14 prescribe by regulation the conditions under which additions or  
15 minor corrections shall be made to birth certificates within one (1)  
16 year after the date of birth without the certificate being  
17 considered as amended.

18       ~~(c)~~ C. Upon receipt of a certified copy of a court order, from  
19 a court of competent jurisdiction, changing the name of a person  
20 born in this state and upon request of such person or his parent,  
21 guardian, or legal representative, the State Commissioner of Health  
22 shall amend the certificate of birth to reflect the new name.

23       ~~(d)~~ D. When a child is born out of wedlock, the Commissioner  
24 shall amend a certificate of birth to show paternity, if paternity  
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1 is not currently shown on the birth certificate, in the following  
2 situations:

3 ~~(1)~~ 1. Upon request and receipt of a sworn acknowledgment of  
4 paternity of a child born out of wedlock signed by both parents; ~~or~~

5 ~~(2)~~ 2. Upon receipt of a certified copy of a court order  
6 ~~establishing~~ adjudicating paternity; or

7 3. Upon receipt of an electronic record from the Department of  
8 Human Services indicating that an acknowledgement of paternity has  
9 been signed by both parents or a court order adjudicating paternity.

10 ~~(e)~~ E. For a child born out of wedlock, the Commissioner shall  
11 also change the surname of the child on the certificate:

12 ~~(1)~~ 1. To the specified surname upon receipt of acknowledgment  
13 of paternity signed by both parents ~~or~~, upon receipt of a certified  
14 copy of a court order directing such name be changed or upon receipt  
15 of an electronic record from the Department of Human Services  
16 indicating that an acknowledgement of paternity has been signed by  
17 both parents or a court order directs such name change. Such  
18 certificate amended pursuant to this subsection shall not be marked  
19 "amended"; or

20 ~~(2)~~ 2. To the surname of the mother on the birth certificate in  
21 the event the acknowledgment of paternity is rescinded.

22 ~~(f)~~ F. The ~~State Board of Health~~ Commissioner shall have the  
23 power and duty to promulgate rules for situations in which the State  
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1 Registrar of Vital Statistics receives false information regarding  
2 the identity of a parent.

3 ~~(g)~~ G. If within sixty (60) days of the initial issuance of a  
4 certificate of death, a funeral director, or a person acting as  
5 such, requests a correction to any portion of the death record  
6 except the information relating to the medical certification  
7 portion, due to a scrivener's error, misspelling or other correction  
8 of information, the Commissioner of Health, through the State  
9 Registrar of Vital Statistics, shall amend the record, provided said  
10 request is made in writing or through an electronic system and is  
11 accompanied by documentation disclosing the correct information or  
12 by a sworn statement of the funeral director. The funeral director,  
13 or person acting as such, shall be responsible for any and all  
14 amendment fees that may be imposed by the Commissioner of Health for  
15 said correction. Up to ten certified copies containing the  
16 erroneous original information may be exchanged for certified copies  
17 containing the corrected information at no additional cost.

18 SECTION 4. AMENDATORY 63 O.S. 2011, Section 1-323, as  
19 last amended by Section 1, Chapter 108, O.S.L. 2019 (63 O.S. Supp.  
20 2020, Section 1-323), is amended to read as follows:

21 Section 1-323. A. To protect the integrity of vital statistics  
22 records, to ensure their proper use, and to ensure the efficient and  
23 proper administration of the vital statistics system, it shall be  
24 unlawful for any person to permit inspection of, or to disclose  
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1 information contained in, vital statistics records, or to copy or  
2 issue a copy of all or part of any such record except to:

- 3 1. The person who is the subject of the record;
- 4 2. A parent named on the record or a person acting with the  
5 parent's permission unless that parent is currently incarcerated;
- 6 3. Someone acting with permission of the person who is the  
7 subject of the record;
- 8 4. Someone acting as a legal representative of the estate of  
9 the person who is the subject of the record;
- 10 5. Someone acting as a legal representative of a person  
11 involved in a probate of the estate of the person who is the subject  
12 of the record, as demonstrated by affidavit;
- 13 6. An attorney licensed to practice in the United States who  
14 demonstrates by affidavit that the record is necessary in order to  
15 administer a client's estate;
- 16 7. Someone in receipt of a court order from a court of  
17 competent jurisdiction ordering access to the record;
- 18 8. The Attorney General or to any district attorney upon  
19 request in the course of a criminal investigation;
- 20 9. Only in the case of a death certificate, a funeral director;
- 21 10. A representative of the Department of Corrections, when the  
22 subject of the record is under supervision of the Department of  
23 Corrections; ~~or~~



1        11. A representative of the Department of Human Services acting  
2 in accordance with Section 1-311.2 of this title; or

3        12. Any other person working in the best interest of the  
4 subject of the record, as determined by regulations of the State  
5 ~~Board~~ Commissioner of Health.

6        Provided, that death certificates shall be considered publicly  
7 available records fifty (50) years after the death and birth  
8 certificates shall be considered publicly available records one  
9 hundred twenty-five (125) years after the birth.

10        B. The State Department of Health shall, by July 1, 2017, make  
11 available an online public index that includes, as is applicable,  
12 the name, gender, date of birth, date of death, county of birth, and  
13 county of death of all persons in its records. Birth data shall not  
14 be added to the index until twenty (20) years after the birth.  
15 Death data shall not be added to the index until five (5) years  
16 after the death. The index shall be made available online at no  
17 cost to users.

18        Private entities may request assistance from the Department in  
19 receiving digital files including all or part of the index described  
20 in this subsection. Such private entities may be assessed a fee  
21 that shall not exceed the cost of creating and transmitting the  
22 digital file. The ~~Board~~ Commissioner may promulgate rules regarding  
23 access to such digital files and applicable fees.  
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1 C. The Department may grant applications for electronic  
2 verification of the existence of birth and death certificates for  
3 legal and administrative purposes at any time following the birth or  
4 death when such applications are made by:

5 1. A government agency in conduct of its official business;

6 2. A benefit-paying party, including but not limited to an  
7 annuity company, pension plan or life insurance company in order to  
8 determine benefit status;

9 3. A physician licensed to practice in the United States to  
10 determine if a patient has been lost to care; or

11 4. Other entities for fraud protection, subject to verification  
12 of the entity's purpose by the Department.

13 The recipient of a record verification as provided for in this  
14 subsection may not disclose to a party not involved in the issue for  
15 which the verification was sought.

16 The Department ~~of Health~~ may charge up to Four Dollars (\$4.00)  
17 for each electronic birth or death verification, although such fee  
18 may be waived when such request is received by an Oklahoma state or  
19 local government agency. The recipient of a record verification as  
20 provided for in this subsection may also be subject to fees levied  
21 by a contractor retained by the ~~Board~~ Commissioner to provide such  
22 service.

23 The ~~Board~~ Commissioner may promulgate rules necessary to  
24 implement the provisions of this subsection.

1 D. The State Commissioner of Health may authorize the  
2 disclosure of data contained in vital statistics records for public  
3 health surveillance or research purposes.

4 E. The State Department of Health shall transmit to the  
5 Department of Public Safety:

6 1. At the end of each quarter year, a list of all registered  
7 deaths which have occurred during such period of time. Upon receipt  
8 of such list the Department of Public Safety shall use such list  
9 solely to update Department of Public Safety records and to cancel  
10 the driver license for those deceased individuals with a valid  
11 Oklahoma driver license at the time of death;

12 2. At the end of each month, a report of all registered deaths  
13 that resulted from a motor vehicle collision which have occurred  
14 during such period of time. The report shall be used by the  
15 Department solely for the purpose of statistical analysis and  
16 reporting; and

17 3. Upon written request from the Department, a death  
18 certificate. The certificate shall be used solely by the Fatality  
19 Analysis Reporting System (FARS) Analyst of the Oklahoma Highway  
20 Safety Office to populate the federal FARS database.

21 F. Each month, the Commissioner shall authorize the  
22 transmission to the Oklahoma Health Care Authority of a certified  
23 list of all registered deaths of residents of this state that have  
24 occurred within the state for the immediately preceding month. The

Oklahoma Health Care Authority shall use the transmitted list to ascertain the names of those individuals participating in the state Medicaid program who are deceased, and shall thereafter terminate such deceased person's enrollment in the state Medicaid program.

G. For the purpose of assisting in the location and recovery of missing children, information pertaining to birth certificates and requests for copies of birth certificates shall be provided to the Oklahoma State Bureau of Investigation pursuant to the provisions of Section 1-323.1 of this title and Section 150.12A of Title 74 of the Oklahoma Statutes.

H. The Commissioner shall authorize the transmission of death certificates to the Department of Labor for the purpose of the Department of Labor conducting a census of total occupational injuries and illnesses. The Department shall transmit to the Department of Labor statistics of fatal occupational injuries that shall include the following:

1. Name of the deceased;
2. Date of death;
3. Sex;
4. Race;
5. Age;
6. Birth date;
7. Social Security number;
8. Whether an autopsy was conducted;

1        9. Month of the accident; and

2        10. Whether decedent was of Hispanic origin.

3        I. The Department of Labor shall be required to protect the  
4 integrity of the vital statistics records to the same extent  
5 required of the Department pursuant to this section.

6        SECTION 5. This act shall become effective November 1, 2021.

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