

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2327  
(Senators Fischer, Flakoll, Watne)  
(Representatives Devlin, Fairfield, Porter)

AN ACT to amend and reenact sections 23-02.1-09, 23-02.1-10, and 23-02.1-13, subsection 1 of section 23-02.1-14, sections 23-02.1-19, 23-02.1-20, and 23-02.1-21, and paragraph 2 of subdivision a of subsection 3 of section 50-09-08.2 of the North Dakota Century Code, relating to birth, death, and fetal death certificates.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 23-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-09. Compensation of local registrars.**

1. Each local registrar must be paid the sum of twenty-five cents for each certificate of ~~birth, death, or fetal death~~ registered by ~~him~~ the registrar and transmitted to the state registrar ~~in accordance with the rules and regulations issued hereunder.~~
2. If no ~~birth, death, or fetal death~~ is registered by ~~him~~ the registrar during any calendar month, the local registrar shall report that fact to the state registrar and be paid the sum of twenty-five cents.

**SECTION 2. AMENDMENT.** Section 23-02.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-10. Payment of fees to the local registrar.** The state registrar shall certify to the county auditors the number of ~~birth, death, and fetal death~~ certificates registered by each local registrar, with the names of the local registrars and the amount due. Upon ~~such~~ the certification, the fees due the local registrar must be paid by the auditor of the county out of the general fund of the county.

**SECTION 3. AMENDMENT.** Section 23-02.1-13 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-13. Birth registration.**

1. A certificate of birth for each live birth ~~which that~~ occurs in this state must be filed with the ~~local state registrar of the district in which the birth occurs within seven days after such birth and must be registered by such registrar if it has been completed and filed in accordance with this section; provided, that when a birth occurs on a moving conveyance, a birth certificate must be filed in the district in which the child is first removed from the conveyance.~~
2. When a birth occurs in an institution, the person in charge of the institution or ~~his~~ a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file it with the ~~local~~ state registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within six days after the birth.
3. When a birth occurs outside an institution, the certificate must be prepared and filed by one of the following in the indicated order of priority:
  - a. The physician in attendance at or immediately after the birth, or in the absence of such a person; ;

- b. Any other person in attendance at or immediately after the birth, or in the absence of such a person; \_
  - c. 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. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of ~~such~~ the man must be entered on the certificate as the father of the child unless the presumption of paternity has been rebutted by a court decree.
  5. If the child is not born during the marriage of the mother, or within three hundred days after ~~any such~~ a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth certificate unless:
    - a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
      - (1) He has acknowledged his paternity of the child in writing filed with the state registrar;
      - (2) With his consent, he is named as the child's father on the child's birth certificate; or
      - (3) He is obligated to support the child under a written voluntary promise or by court order;
    - b. While the child is under the age of majority, he received the child into his home and openly holds out the child as his natural child;
    - c. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity in a writing signed by both and filed with the state registrar; or
    - d. A court or other entity of competent jurisdiction has adjudicated paternity.
  6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the certificate of birth, the child's surname must be shown on the birth certificate as the legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is received stating the surname to be that of the father.
  7. ~~In the case of a child born out of wedlock, the certificate must be filed directly with the state registrar.~~

**SECTION 4. AMENDMENT.** Subsection 1 of section 23-02.1-14 of the North Dakota Century Code is amended and reenacted as follows:

1. Whoever assumes custody of a living infant of unknown parentage shall report on a form and in the manner prescribed by the state registrar within seven days to the ~~local~~ state registrar ~~of the district in which the child was found~~, the following information:
  - a. The date and place of finding.
  - b. Sex, color, or race, and approximate age of child and approximate date of birth.

- c. Name and address of the persons or institution with whom the child has been placed for care.
- d. Name given to the child by the custodian.
- e. Other data required by the state registrar.

**SECTION 5. AMENDMENT.** Section 23-02.1-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-19. Death registration.**

1. A death certificate for each death which occurs in this state must be filed with the local registrar of the district in which the death occurred within fifteen days after ~~such~~ the death and must be registered by ~~such~~ the registrar if it has been completed and filed in accordance with this section, provided:
  - a. That if the place of death is unknown, a death certificate must be filed in the registration district in which a dead body is found within fifteen days after ~~such~~ the occurrence.
  - b. That if a death occurs on a moving conveyance, a death certificate must be filed in the registration district in which the dead body was first removed from the conveyance.
2. Notwithstanding subsection 1, if the state registrar has implemented an automated system that allows each local registrar to produce certified copies of death certificates in the local registrar's offices within two working days of filing, death certificates must be filed with the state registrar.
3. The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. He The funeral director shall obtain the personal data from the next of kin or the best qualified person or source available. He The funeral director shall obtain the medical certification of cause of death from the person responsible therefor for the medical certification.
- ~~3.~~ 4. The medical certification must be completed and signed within fifteen days after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
- ~~4.~~ 5. When death occurred without medical attendance ~~as set forth in subsection 3~~ or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death and shall complete and sign the medical certification within fifteen days after taking charge of the case.
- ~~5.~~ 6. If the cause of death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period, ~~as required by and~~ in accordance with ~~regulations promulgated~~ rules adopted by the state department of health. The attending physician or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician or coroner.
- ~~6.~~ 7. 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 findings of a court of competent jurisdiction, including the personal data and medical data required to complete the death certificate. ~~Such a~~ The death certificate must be marked "presumptive" and must show on its face the date of registration and must identify the court and the date of the decree.

- ~~7.~~ 8. Each death certificate must include the social security number of the decedent, if the information is available. A social security number included on a death certificate is exempt from section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

**SECTION 6. AMENDMENT.** Section 23-02.1-20 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-20. Fetal death registration.**

1. A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or more or of less than twenty completed weeks of gestation where provided by rules ~~and regulations~~ of the state department of health must be filed with the ~~local state registrar of the district in which the delivery occurred within fifteen days after such delivery, and must be registered by such registrar if it has been completed and filed in accordance with this section, provided:~~
  - a. ~~That if the place of fetal death is unknown, a fetal death certificate must be filed in the registration district in which the dead infant is found within fifteen days after the time of finding.~~
  - b. ~~That if a fetal death occurs in a moving conveyance, a fetal death certificate must be filed in the registration district in which the fetus was first removed from the conveyance.~~
2. The funeral director ~~or person acting as such~~ who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after delivery shall file the certificate of fetal death. ~~He~~ The person filing the certificate of death shall obtain the personal data from the next of kin or the best qualified person or source available. ~~He~~ The person filing the certificate of death shall obtain the medical certification of cause of death from the person responsible ~~therefor~~ for the medical certification.
3. The medical certification must be completed and signed by the physician in attendance at the delivery within fifteen days after the delivery except when inquiry is required by the local health officer or coroner.
4. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death and sign the medical certification within fifteen days after taking charge of the case.
5. If the cause of fetal death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period of time, ~~as required by and~~ in accordance with rules ~~and regulations promulgated~~ adopted by the state department of health. The attending physician or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician or coroner.
6. The provision for entering the name of the father of the fetus on the fetal death certificate and the reporting of out of wedlock fetal deaths concur exactly with those set forth in ~~subsections 4 through 7 of section 23-02.1-13.~~

**SECTION 7. AMENDMENT.** Section 23-02.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-21. Permits.**

1. The funeral director ~~or person acting as such~~ who first obtains custody of a dead body or fetus shall obtain a burial-transit permit ~~prior to~~ before final disposition or removal from this state of the body or fetus.

2. ~~Such~~ The burial-transit permits must be issued by the state registrar or the local registrar or subregistrar of the district where the certificate of death or fetal death will be filed in accordance with the requirements of sections 23-02.1-19 and 23-02.1-20.
3. A burial-transit permit issued under the laws of another state which accompanies a dead body or fetus brought into this state is authority for final disposition of the body or fetus in this state.
4. A permit for disinterment and reinterment is required ~~prior to~~ before disinterment of a dead body or fetus except as authorized by ~~regulations~~ rules or otherwise provided by law. ~~Such~~ The permit must be issued by the state registrar to a licensed embalmer upon proper application.

**SECTION 8. AMENDMENT.** Paragraph 2 of subdivision a of subsection 3 of section 50-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

- (2) For encumbering or surrendering any assets held by a financial institution in response to a notice of lien or an execution issued by the state agency as provided in ~~subsection 7~~ of section 23-02.1-19 and chapter 34-15; or

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2327.

Senate Vote:    Yeas    47        Nays    0        Absent    2

House Vote:    Yeas    87        Nays    0        Absent    11

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State