

CHAPTER 33-04-12
CORRECTION AND AMENDMENT OF VITAL RECORDS

Section

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33-04-12-01. Amendment of minor errors on birth records during the first year.

Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on birth records may be made by the state registrar within the first year after the date of birth either by the state registrar's own observation or query or upon request of a person with a direct and tangible interest in the record as defined in section 33-04-13-01. When such additions or minor amendments are made by the state registrar, a notation as to the source of the information together with the date the change was made and the initials of the authorized agent making the change shall be made on the record in such a way as not to become a part of any record issued. The record is not to be marked as "amended".

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-25(2)

33-04-12-02. Amendments as a result of gender identity change.

1. **Evidence and documents required.** The birth record of a person born in this state who has undergone a sex conversion operation may be amended as follows:
 - a. Upon written request of the person who has undergone the operation;
 - b. An affidavit by a physician that the physician has performed an operation on the person, and that by reason of the operation, the sex designation of such person's birth record should be changed; and
 - c. An order of a court of competent jurisdiction decreeing a legal change in name.
2. **New record.** Pursuant to such amendment, a new record of birth will be created by the state registrar showing original data as transcribed from the original record excepting those items that have been amended. The new record will be clearly marked in the upper margin with the word "amended" and a description of the amended items may be added to the certified copy for clarification.
3. **Sealing of original record.** The original record shall be then placed in a special file and shall not be open to inspection except by order of a court of competent jurisdiction or by the state registrar for purpose of carrying out the provisions of North Dakota Century Code chapter 23-02.1 and properly administering the vital records registration program.

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-04

33-04-12-03. All other amendments.

1. **Provisions for other amendments.** Unless otherwise provided in this chapter or in the statute, all other amendments to vital records shall be supported by:
 - a. A request setting forth:
 - (1) Information to identify the record.
 - (2) The incorrect data as it is listed on the record.
 - (3) The correct data as it should appear.
 - b. One or more items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of the application for amendment and are prior to the applicant's eighteenth birthday.
 - c. If the item to be corrected or amended is the date of birth, the state registrar will require additional documentary evidence established as follows:
 - (1) If the correction is being made to the month or day of birth, the applicant must provide one item of documentary evidence which was established prior to the applicant's eighteenth birthday.
 - (2) If the correction is being made to the year of birth, the applicant must provide two items of documentary evidence which were established prior to the eighth birthday.
 - d. If the item to be corrected or amended is the applicant's legal name, the state registrar will require additional documentary evidence established as follows:
 - (1) If the correction is a minor spelling change to the legal name, the applicant must provide one item of documentary evidence which was established prior to the applicant's eighteenth birthday.
 - (2) If the correction is a legal name change, the applicant must provide two items of documentary evidence, one of which was established prior to the applicant's eighth birthday and a second item that was established prior to the eighteenth birthday.
2. **Validity of evidence.** The state registrar shall evaluate the evidence submitted in support of any amendment, and when the state registrar finds reason to doubt its validity or adequacy the state registrar may reject the amendment and shall advise the applicant of the reasons for this action.

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-25

33-04-12-04. Who may apply.

1. To amend a birth record, application may be made by one of the parents, the guardian, or the registrant if at least eighteen years of age.
2. To amend a death or fetal death record, application may be made by the next of kin or the funeral director or person acting as such. Applications to amend the medical certification of cause of death shall be made by the attending physician or coroner.

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-25(3)

33-04-12-05. Amendment of registrant's given names on birth record within the first year.

Until the registrant's first birthday, given names may be amended upon written request of any of the following:

1. Both parents.
2. The mother, in the case of a child born out of wedlock.
3. The father, in the case of the death or incapacity of the mother.
4. The mother, in the case of the death or incapacity of the father.
5. The guardian or agency having legal custody of the registrant.

A record amended in this manner prior to the first birthday is not to be marked "amended".

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-25(3)

33-04-12-06. Addition of given names.

1. **After the first birthday.** After the registrant's first birthday, given names, for a child whose birth was recorded without given names, may be added to the record upon written request of any of the following:
 - a. Both parents.
 - b. The mother, in the case of a child born out of wedlock.
 - c. The father, in the case of the death or incapacity of the mother.
 - d. The mother, in the case of the death or incapacity of the father.
 - e. The guardian or agency having legal custody of the registrant.

A record amended in this manner after the first birthday shall be marked "amended".

2. **Documentary evidence.** After the first birthday, the applicant must provide two items of documentary evidence, one of which was established prior to the applicant's eighth birthday and a second item that was established prior to the eighteenth birthday.

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-25

33-04-12-07. Medical items.

All items in the medical certification or of a medical nature may be amended only upon receipt of a signed statement from those persons responsible for the completion of such items. The state registrar may require documentary evidence to substantiate the requested amendment.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-04

33-04-12-08. Amendment of the same item more than once.

Once an amendment of an item is made on a vital record, that item shall not be amended again unless a court order is received from a court of competent jurisdiction.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-04

33-04-12-09. Methods of amending records.

1. **Procedures utilized in amending records.** Records of birth, death, and fetal death may be amended by the state registrar in the following manner:

- a. Preparing a new record showing the correct information when the state registrar deems that the nature of the amendment so requires.

In the case of birth, such new records shall be prepared in a manner prescribed by the state registrar. The new record shall contain a space for inclusion of the amended item as it appeared on the existing record. It shall also include a summary of the evidence presented in support of the amendment and a certification statement by the state registrar that the state registrar has evaluated the evidence submitted.

For all other vital events, the new record shall be prepared in a manner used for registering current events at the time of the amendment. The item number or the entry that was amended shall be identified on the new record.

In all cases the new record shall show the date the amendment was made and be given the same state file number as the existing record. Signatures appearing on the existing record shall be typed or digitally recorded on the new record.

- b. Completing the item in any case where the item was left blank on the existing record.
- c. In the case of an actual paper certificate, drawing a single line through the item to be amended and inserting the correct data immediately above or to the side thereof. The line drawn through the original entry must not obliterate such entry.

2. **Notations of amendments to be made.** In all cases, there shall be inserted on the record a statement identifying the affidavit and documentary evidence used as proof of the correct facts, the date the amendment was made, and the initials or user id of the person making the change. As required by statute or regulation, the record shall be marked as "amended".

History: Amended effective January 1, 2008.

General Authority: NDCC 23-02.1-04, 28-32-02

Law Implemented: NDCC 23-02.1-04