

## Filing Certificates of Birth Chapter 4

Filing requirements vary depending upon the place of birth and the attendant at birth. The birth certificate must be filed with the appropriate local registrar within five days from the date of birth. [HSC §192.003(d)]

### Institutional Births

The attendant at birth is responsible for the filing of the birth certificate. If the birth occurs in a hospital or licensed birthing center, the administrator or designee may file the certificate. [HSC §192.003(a–b)] Births occurring within licensed institutions may be registered by mailing the completed certificate to the appropriate local registrar for filing.

### Non-institutional Births

Most births that occur outside of licensed hospitals or licensed birthing centers are attended by midwives. Senate Bill 346, Acts of the 72nd Legislature, 1991, established a midwifery documentation program within the Department of Health. Any person that practices midwifery must meet certain requirements and be documented through the Texas Department of Health before he or she may practice midwifery legally in Texas.

In an effort to control fraudulent filings of birth records and to place control over blank forms, the Bureau of Vital Statistics and the Texas Board of Health have developed and approved rules for filing birth certificates for children born outside licensed institutions. [25 TAC §181.26] To insure uniform compliance throughout the state, we have developed the following administrative comments and instructions.

#### Definitions:

**Certified Nurse-midwife**—a registered nurse licensed in Texas, recognized by the Board of Nurse Examiners as an advanced nurse practitioner, and certified by the American College of Nurse-Midwives.

**Licensed Institutions**—hospitals or birthing centers licensed by the Texas Department of Health.

**Midwife**—a person who practices midwifery under the Texas Midwifery Act and has met the requirements and standards of the Midwifery Board as established by their rules.

**Midwifery**—the practice by a midwife of giving the necessary supervision, care, and advice to a woman during normal pregnancy, labor, and the post partum period; conducting a normal delivery of a child; and providing newborn care.

**Physician**—a physician licensed to practice medicine in Texas by the Board of Medical Examiners.

**Non-Institutional Birth**—any birth occurring outside a licensed institution.

**Registered, Certified, or Documented Health Care Provider**—any physician, nurse, EMT, or midwife that is licensed, registered, or documented to practice in Texas.

#### Birth Certificate Filings by Documented Midwives

Once each year, the Bureau of Vital Statistics will send a current roster of documented midwives to each local registrar. The local registrar may not distribute blank birth certificate forms to anyone other than a registered, certified, documented health care provider. Every local registrar shall maintain a record of the quantity and form numbers of blank birth certificates issued to each individual. [25 TAC §181.26(j)]

1. In order to be a documented midwife, the individual must meet certain eligibility requirements and standards and must register with the Texas Department of Health, Professional Licensing

Division, Midwifery Program, each year. There is a \$200.00 fee for documentation. [22 TAC §831.11] You may call the Midwifery Program at (512) 834-4523 for details of documentation.

2. The initial documentation can be accomplished anytime during the year. A documented midwife must apply for redocumentation after January 1 and prior to March 1 each year. [22 TAC §831.11]
3. Every midwife must send or take a copy of his or her current documentation form to each local registrar where he or she intends to provide services. The local registrar will file the copy of the midwife's current documentation form. This copy includes the midwife's signature for comparison. [25 TAC §181.26(b)(d)]
4. A midwife who has provided a copy of the annual documentation to a local registrar may file birth records with that registrar without providing any additional verifying birth documentation.
5. A midwife who has provided a copy of the annual documentation to a local registrar may mail completed certificates to the registrar and obtain blank forms by mail. The registrar should verify the midwife's signatures with what is on file in his or her office.
6. A midwife who normally does not practice in a registrar's district and has no annual documentation on file may still file a birth record in the registrar's district. The midwife must send to the registrar a copy of his or her documentation and a photocopy of her or his picture ID, along with the birth record for filing.

#### **Birth Certificate Filings by Certified Nurse-midwives**

1. A Certified Nurse-midwife is not covered by the midwifery documentation program. At this time there are no provisions for any documentation that can be provided to registrars on an annual basis.
2. If a Certified Nurse-midwife provides a copy of his or her certification from the Board of Nurse Examiners, then the local registrar should make a copy for his or her file and the Certified Nurse-midwife should be allowed to file a birth record by mail as outlined for a documented midwife.

#### **Birth Certificate Filings by Other Registered, Certified, or Documented Health Care Providers for Births Occurring Outside an Institution**

1. Birth filings for births outside an institution by health care providers who are not certified nurse-midwives are rare. In the event of such a filing, the registrar may require proof of the license or registration before the birth record is filed.
2. Once the verification of the license or registration is obtained, the registrar will file the certificate without need of any further proof of birth facts.
3. Licenses and registrations from foreign counties are not to be accepted.

#### **Birth Certificate Filings by All Other Persons**

1. The birth certificate must be filed with the appropriate local registrar, and must be presented to the local registrar by the person in attendance at the birth in the following order of preference:
  - (1) The father or mother of the child; or
  - (2) The owner or householder of the premises where the birth occurs.
2. The registrar should provide only one blank birth form at a time to any person attempting to file a record.
3. The birth certificate shall be filed only upon personal presentation of the following evidence:

- a) **Proof of pregnancy, presented in the following order of preference;**
    - 1) An affidavit (notarized) presented from a licensed, registered, or certified health care provider who is qualified to determine pregnancy as part of the scope of his or her license or registration, or certification; or
    - 2) An affidavit (notarized) along with a photocopy of an ID (for example, a driver's license or government ID) presented from one person, other than the parents, having knowledge of the pregnancy/birth.
  - b) **Proof that the infant was born alive;**
    - 1) A medical record or a letter from a licensed, registered, or certified health care provider or medical institution; or
    - 2) An affidavit (notarized) along with a photocopy of an ID (for example, a driver's license or government ID) presented from one person, other than the parents, having knowledge of the pregnancy/birth.
  - c) **Proof the infant was born in the registration district;**
    - 1) If the birth occurred outside the mother's primary place of residence, proof shall consist of an affidavit (notarized) along with a photocopy of an ID from a person having knowledge of the mother's presence in the registration district on the date of the birth.
    - 2) If the birth occurred in the mother's primary place of residence, proof of the residence in the following order of preference:
      - A) A utility bill, telephone, or other bill which includes the mother's name and address;
      - B) A rent receipt which includes the mother's name, address, and signature of the mother's landlord;
      - C) A driver's license, or state issued identification card, which includes the mother's current address on the face of the license or card;
      - D) An envelope addressed to the mother at her place of residence, and postmarked prior to the date of birth; or
      - E) An affidavit (notarized) attesting to the mother's place of residence along with a photocopy of an ID from a person, other than the father, who was either living with the mother at the time of the alleged birth, or has other knowledge of the mother's residency.
  - d) **Proof that the infant was born on the date stated.**
    - 1) A medical record or a letter from a licensed, registered, or certified health care provider or medical institution; or
    - 2) An affidavit (notarized) along with a photocopy of an ID presented from one person, other than the parents, having knowledge of the pregnancy/birth.
4. The registrar should require identification from the person(s) personally presenting the evidence required to file the certificate, in the following order of preference:
- a) A passport or certificate of naturalization;

- b) A military service or military dependent identification card;
  - c) A United States government identification card, or national identification card issued by another country;
  - d) A current driver's license or other state identification card;
  - e) An alien registration receipt card (Form I-551); or
  - f) An employee or student identification card, with photograph.
5. At the discretion of the local registrar, these procedures may be supplemented with any additional requirements which may be needed to verify the circumstances of the birth. Additional requirements may include, but are not limited to, one or more of the following:
- a) An unannounced visit by a public health nurse, or other health professional, registrar staff, or other person including city, county, state, or federal law enforcement officer, prior to registering the birth. The person making the visit does not have the authority to enter the premises unless permission is obtained from the occupant at the time of the visit.
  - b) Multiple forms of identifying documents, with or without photographs, when the documents described in this section are unavailable.
  - c) Personal appearance of both parents, either together or separately; or
  - d) Personal appearance of the infant whose birth certificate the parents are attempting to file.
6. Any person who cannot meet the documentation requirements should be referred to the State Registrar. See the information under "Persons and/or Records Not Meeting Requirements for Filing," later in this section.
7. The documentation that has been submitted as proof should be returned to the person filing the record after the birth record is accepted.
8. Each local registrar shall notify the State Registrar's office of any suspicious documents or records submitted or filed with his or her office.

#### **Persons and/or Records Not Meeting Requirements for Filing**

If the individual(s) attempting to file the birth record of a child not born in an institution cannot meet the four essential elements required for filing (proof of pregnancy, proof the infant was born alive, proof the infant was born in the registration district, and proof the infant was born on the date stated), the local registrar will forward the record and all documentation to the State Registrar for his or her determination.

- 1. The local registrar will send a cover letter with the documentation explaining why he or she cannot accept the record for filing.
- 2. The local registrar will give a letter to the parent(s) and/or person trying to file the record telling them why he or she cannot accept the record for filing and that the request and documentation have been sent to Austin for the State Registrar's determination.
- 3. Upon receipt of the birth record from the local registrar within one year of the date of birth, the State Registrar will further verify or investigate as necessary to determine to accept or not accept the documentation sent. If the documentation is deemed unacceptable, the State Registrar will send a letter referring the parent(s) to a Texas district court for a judicial determination and order to file a Certificate of Birth. If the birth occurred more than one year

before the parent(s) attempt to file a delayed birth certificate, and the documentation is deemed unacceptable, the State Registrar may refer the case to the county judge of the alleged county of birth for a judicial decision. [HSC §192.027]

### **Administrative Filing of Birth Records**

The local registrar shall complete an administrative record of birth for the purpose of Infant Birth/Death Matching when an infant death occurs, a birth certificate has not been filed, and a record is not available from the attendant. The local registrar shall obtain the required information from the medical examiner/coroner, law enforcement agency, funeral director, hospital, or any individual with knowledge of the facts of birth.

1. The local registrar will obtain as much information as possible to complete the birth record.
2. Information blocks on the record for information that is not available or cannot be obtained shall be marked “unknown” or “not available.” This includes information related to the attendant at birth.
3. The local registrar will file the birth record in his or her records, assigning a registrar’s file number. The date the record is received or filed by the local registrar will be shown as the date filed, and the local registrar shall sign the certificate as both certifier and registrar.

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**Note:** The local registrar’s copy of the record will be marked with the words “Administrative Filing” in the left margin and the record will be properly marked as “deceased.”

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4. The certificate will be forwarded to the State Registrar with a letter of explanation stating the reason for the administrative filing.
5. Upon receipt, the State BVS will date, number, and file the certificate as a current record. The record will be permanently stamped “Administrative Filing” in the upper left side margin.
6. The Birth/Death Cross-Match Unit will mark both the paper and electronic records “deceased” and make the proper notations.

### **Delayed Filing of Birth Records**

If a certificate of birth is not filed within one year of the date of birth, the certificate will have to be filed as a delayed record. A person wanting to file a delayed birth certificate should first send an application or written request along with a fee of \$11.00 to the Bureau of Vital Statistics in Austin. If a record is found, the Bureau will send a certified copy; if no record is found, the Bureau will send forms and instructions for filing a delayed birth certificate. The cost of the search is \$11.00, whether or not a record is found.

The person should then complete the Delayed Certificate of Birth form and send it with the necessary documentation to the Bureau. The cost for filing a Delayed Certificate of Birth is \$25.00, and the person will need to send an additional \$11.00 for a certified copy of the delayed certificate.

### **Instructions for Filing Delayed Certificates of Birth**

#### **Registration by State Registrar**

Any birth certificate not filed within one year of the date of birth, may only be filed by the State Registrar using form VS-122, Delayed Certificate of Birth.

#### **Example:**

### **For a Child over 1 Year but Less than 4 Years**

#### **Born in a licensed institution, we require:**

1. The Delayed Certificate of Birth (VS-122) signed by the parent; and
2. The certification of a hospital or licensed birthing center record relating to this birth; and
3. The filing fee of \$25.00 and if desired, the \$11.00 fee for a certified copy.

#### **Not born in licensed institution, we require:**

1. The Delayed Certificate of Birth (VS-122) signed by a parent; and
2. Proof of pregnancy and proof of mother's residence in the registration district at the time of birth are the minimum requirements; and
3. The filing fee of \$25.00 and if desired, the \$11.00 fee for a certified copy.

### **For a Child 4 Years Old, but Less than 15 Years Old**

1. Delayed Certificate of Birth form (VS-122) signed by a parent, legal guardian, or legal representative; and
2. At least two (2) documents attesting to the date and place of birth, one of which must verify parents' names, and only one document may be a notarized affidavit of personal knowledge; and
3. The filing fee of \$25.00 and if desired, the \$11.00 fee for a certified copy.

### **For a Person 15 Years or Older**

1. Delayed Certificate of Birth (VS-122) signed by the individual, if competent and 18 years old or over; otherwise by a parent, legal guardian, or legal representative.
2. Three records are required to prove date of birth or age and place of birth. One of these records must also include parents' names. Any record, other than an affidavit, must be five (5) years old or older.
3. The filing fee of \$25.00 and if desired, the \$11.00 fee for a certified copy.

### **Instructions for Completing the VS-122, Delayed Certificate of Birth**

Complete Items 1–13. Do not write below the double line.

The form must be typewritten, or printed in permanent blue or black ink. If information for an item is unknown, write the word "unknown." [HSC §191.025]

If the birth occurred in a rural area, enter "rural" in item 5a and the county of birth in item 5b.

The name of the registrant and the names of the father and mother must be shown as they were at the time of this birth. Show only the full maiden name of the mother in item 8. Do not show the married surname.

The person who signs the certificate in item 10 must sign his or her present legal name. The certificate must be signed before a notary public or other person authorized to administer oaths.

#### **Documentary Evidence for Delayed Registration of Birth**

The documentation submitted must verify the date and place of birth. At least one record must show the names of parents. Except for the affidavit of personal knowledge, all other records must be at least five years old. Only one affidavit can be accepted. As a general rule, documents made at or near the time of birth are considered to be the best evidence.

An affidavit of personal knowledge must be notarized and show the full name of the registrant, the date of birth, the place of birth, and the names of the parents. The person making the affidavit must show his or her relationship to the registrant and must have known about the birth at the time the birth occurred.

Records submitted should include:

- 1) the name of the registrant,
- 2) date of birth or age,
- 3) place of birth, and
- 4) at least one record must show names of parents.

If a copy, or certification from an original record is submitted, it must include:

- 1) The name and address of the agency, organization, or person having possession of the original record,
- 2) The date the original record was made,
- 3) The date the copy or certification was made, and
- 4) The signature, title, and address of the person preparing the copy or issuing the certification.

#### **Suggested Types of Supporting Documents**

- A) **Affidavit of Personal Knowledge:** Only one notarized affidavit can be accepted. The affidavit must be notarized and show the full name of the registrant, the date of birth, place of birth, and names of the parents. The affidavit must show the affiant's signature, current address, and relationship to the registrant. The affiant must have known about the birth at the time the birth occurred.
- B) **Birth Certificate of Registrant's Child:** For each child born in Texas, send in the name of the child, date and place of birth, and full names of parents. For each child born outside of Texas, send a certified copy of his or her birth certificate.
- C) **Baptismal Certificate:** Either the **original** certificate given to the parents or a statement signed by the present custodian of the church record.
- D) **School Record:** A statement or certification signed by the custodian of school records. The record should be based on the earliest attendance.
- E) **Social Security Record:** A copy of an original application for the social security number. This may be obtained only by the person named in the SSA account. Contact the Social Security Administration, Baltimore, Maryland, 21235.
- F) **Military Discharge (DD-214):** A copy of official discharge papers of the Army, Navy, Air Force, Marine Corps, Coast Guard, etc.
- G) **Registration of World War II and Since:** For persons who registered before April 1, 1975, a statement can be obtained from the Federal Records Center, GSA, P. O. Box 6216, Fort Worth, TX, 76115. The statement should include date and place of birth, and date of registration.
- H) **Marriage and Divorce Records:** If a marriage license was issued in Texas since January 1, 1966, send names of both parties, and the county in which the license was

issued. If a divorce decree was granted in Texas since January 1, 1968, send names of both parties, the date of the divorce, and the county in which it was granted.

- I) **Hospital Record of Birth:** A statement signed by the custodian of the hospital records.
- J) **Physician's Office Record:** A statement signed by the physician and based on the office record.
- K) **Insurance Policy Application:** An original copy of an application for an insurance policy showing the date and place of birth. If a photocopy of the application is not attached to the policy, one may generally be obtained from the company issuing the policy. Be sure to request information concerning the date and place of birth, policy number, and the date the policy was issued.
- L) **Voter Registration Application:** Send a copy issued by the county tax assessor-collector. The copy must show the exact date on which the certificate was issued.
- M) **Application for Texas Driver's License:** Initial applications after January 1, 1968, show the place of birth as well as the date of birth. Certified copies of the original application may be obtained from the Texas Department of Public Safety, LIDR Bureau, P.O. Box 15999, Austin, Texas, 78761-5999. You may call (512) 465-2000 for additional information and to determine the current fee charged for this service. This information does not apply to renewal applications.

#### **Registration by Judicial Order (Births)**

If the State Bureau of Vital Statistics determines that the documentation submitted with the Delayed Certificate of Birth (VS-122) is unacceptable, a petition for a Court Ordered Delayed Certificate of Birth must be presented to the county court for probate matters of the county in which the birth allegedly occurred.

The county probate court may not consider any petition for a delayed registration of birth unless the applicant first attempted to file a delayed registration with the State Registrar.

The petition must be made on a Court Petition for Delayed Certificate of Birth (VS-123.1) and accompanied by a statement from the State Registrar explaining why he or she could not accept the application and documentation presented.

Prepare the Court Ordered Delayed Certificate of Birth (VS-123) in duplicate. One original should be forwarded to State BVS and the other original filed by the county clerk.

A delayed birth record is only as valid as the documentation upon which it is based. An abstract of the supporting documents should be carefully entered and annotated on the record filed.

The statutes that govern registration by judicial order (births) can be found in HSC §191.027.