

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1112
Committee Substitute Favorable 4/29/09
Committee Substitute #2 Favorable 5/12/09

Short Title: Amend Birth Registration Requirements.

(Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING BIRTH REGISTRATION REQUIREMENTS TO ALLOW A CHILD'S PUTATIVE FATHER TO BE ENTERED ON THE BIRTH CERTIFICATE OF THE CHILD IF THE MOTHER HAS BEEN LIVING SEPARATE AND APART FROM HER HUSBAND AT THE TIME OF THE CHILD'S CONCEPTION OR BETWEEN CONCEPTION AND BIRTH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-101 reads as rewritten:

"§ 130A-101. Birth registration.

(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within 10 days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar within five days after the birth. The physician or other person in attendance shall provide the medical information required by the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth, or in the absence of such a person;
- (2) Any other person in attendance at or immediately after the birth, or in the absence of such a person;
- (3) The father, the mother or, in the absence or inability of the father and the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first moved from the conveyance in this State, the birth shall be registered in the county where the child is first removed from the conveyance, and that place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen. one of the following conditions exists:



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- 1 (1) Paternity has been otherwise determined by a court of competent
2 jurisdiction, in which case the name of the father as determined by the court
3 shall be entered. The surname of the child shall be the same as that of the
4 husband, except that upon agreement of the husband and mother, or upon
5 agreement of the mother and father if paternity has been otherwise
6 determined, any surname may be chosen.
- 7 (2) If the mother was married but living separate and apart from her husband at
8 the time of conception, or between conception and birth, the name of the
9 putative father shall be entered on the certificate only after the child's
10 mother, mother's husband, and putative father complete an affidavit
11 acknowledging paternity which contains the following:
- 12 a. A sworn statement by the mother consenting to the assertion of
13 paternity by the putative father and declaring that the putative father
14 is the child's natural father.
- 15 b. A sworn statement by the putative father declaring that he believes
16 he is the natural father of the child.
- 17 c. A sworn statement by the mother's husband consenting to the
18 assertion of paternity by the putative father.
- 19 d. Information explaining in plain language the effect of signing the
20 affidavit, including a statement of parental rights and responsibilities
21 and an acknowledgment of the receipt of this information.
- 22 e. The social security numbers of the putative father, mother, and
23 mother's husband.
- 24 f. That a DNA test has confirmed the paternity of the putative father.
- 25 (f) If the mother was unmarried at all times from date of conception through date of
26 birth, the name of the father shall not be entered on the certificate unless the child's mother and
27 father complete an affidavit acknowledging paternity which contains the following:
- 28 (1) A sworn statement by the mother consenting to the assertion of paternity by
29 the father and declaring that the father is the child's natural ~~father;~~ father and
30 that the mother was unmarried at all times from the date of conception
31 through the date of birth;
- 32 (2) A sworn statement by the father declaring that he believes he is the natural
33 father of the child;
- 34 (3) Information explaining in plain language the effect of signing the affidavit,
35 including a statement of parental rights and responsibilities and an
36 acknowledgment of the receipt of this information; and
- 37 (4) The social security numbers of both parents.

38 The State Registrar, in consultation with the Child Support Enforcement Section of the
39 Division of Social Services, shall develop and disseminate a form affidavit for use in
40 compliance with this section, together with an information sheet that contains all the
41 information required to be disclosed by subdivision (3) of this subsection.

42 Upon the execution of the affidavit, the declaring father shall be listed as the father on the
43 birth certificate, subject to the declaring father's right to rescind under G.S. 110-132. The
44 executed affidavit shall be filed with the registrar along with the birth certificate. In the event
45 paternity is properly placed at issue, a certified copy of the affidavit shall be admissible in any
46 action to establish paternity. The surname of the child shall be determined by the mother,
47 except if the father's name is entered on the certificate, the mother and father shall agree upon
48 the child's surname. If there is no agreement, the child's surname shall be the same as that of the
49 mother.

1 The execution and filing of this affidavit with the registrar does not affect rights of
2 inheritance unless the affidavit is also filed with the clerk of court in accordance with
3 G.S. 29-19(b)(2).

4 (g) Each parent shall provide his or her social security number to the person responsible
5 for preparing and filing the certificate of birth."

6 **SECTION 2.** This act is effective when it becomes law.