

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1116

Introduced by

Human Services Committee

(At the request of the State Department of Health)

1 A BILL for an Act to amend and reenact sections 23-02.1-01, 23-02.1-13, 23-02.1-15,  
2 23-02.1-19, 23-02.1-20, 23-02.1-25, and 23-02.1-27, and subsection 5 of section 23-02.1-30 of  
3 the North Dakota Century Code, relating to the Health Statistics Act; and to provide for  
4 application.

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

6 **SECTION 1. AMENDMENT.** Section 23-02.1-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **23-02.1-01. Definitions.**

9 As used in this chapter:

- 10 1. "Authorized representative" means a person who has the legal authority to act on  
11 behalf of the person named on a record, including a personal representative or  
12 guardian.
- 13 2. "Certified" means a copy of the original record on file with the state department of  
14 health that is signed and sealed by the state registrar or deputy state registrar.
- 15 3. "Dead body" means a lifeless human body or parts of such body or bones thereof from  
16 the state of which it may reasonably be concluded that death recently occurred.
- 17 4. "Electronic birth registration system" means the electronic birth registration system  
18 maintained by the state department of health.
- 19 5. "Electronic death registration system" means the electronic death registration system  
20 maintained by the state department of health.
- 21 6. "Facts of death" means the demographic and personal information pertaining to a  
22 person's death.
- 23 7. "Fetal death" or "birth resulting in stillbirth" means death prior to the complete  
24 expulsion or extraction from its mother of a product of human conception, ~~irrespective~~

1           of the duration of pregnancy; the death is indicated by the fact that after such  
2           expulsion or extraction the fetus does not breathe or show any evidence of life such as  
3           beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary  
4           muscles.

5           8. "Filing" means the presentation of a record, report, or other information provided for in  
6           this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event  
7           as specified by the state health officer for registration by the state registrar.

8           9. "Final disposition" means the burial, interment, cremation, removal from the state, or  
9           other disposition of a dead body or fetus.

10          10. "Health statistics" means data derived from records of birth, death, fetal death,  
11          marriage, divorce, or other records relating to the health of the populace or the state of  
12          the environment.

13          11. "Institution" means any establishment, public or private, which provides inpatient  
14          medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary  
15          care to two or more individuals unrelated by blood, or to which persons are committed  
16          by law.

17          12. "Live birth" means the complete expulsion or extraction from its mother of a product of  
18          human conception, irrespective of the duration of pregnancy, which after such  
19          expulsion or extraction, breathes or shows any other evidence of life such as beating  
20          of the heart, pulsation of the umbilical cord, or definite movement of voluntary  
21          muscles, whether or not the umbilical cord has been cut or the placenta is attached.

22          13. "Medical certification" means the medical information pertaining to a person's death,  
23          including the cause and manner of death.

24          14. "Personal or real property interests" means ownership or other legal rights or duties  
25          concerning personal or real property.

26          15. "Physician" means a person authorized or licensed to practice medicine or osteopathy  
27          pursuant to chapter 43-17.

28          ~~15-16.~~ "Registration" means the acceptance by the state registrar and incorporation into  
29          official records, reports, or other records provided for in this chapter, of birth, death,  
30          fetal death, marriage, divorce, or other records as may be determined by the state  
31          health officer.

1 ~~16-17.~~ "Relative" means a person's current or surviving spouse, a parent or legal guardian, a  
2 child, a grandparent, or a grandchild. The state registrar may require proof of the  
3 relationship.

4 ~~17-18.~~ "Subregistrar" means a funeral director or other suitable person from a licensed  
5 funeral home who is appointed by the state registrar for the purpose of issuing  
6 burial-transit permits.

7 ~~18-19.~~ "System of health statistics tabulation and analysis" includes the tabulation, analysis,  
8 and presentation or publication of statistical data derived from health statistics.

9 ~~19-20.~~ "System of vital records registration" includes the registration, collection, preservation,  
10 amendment, and certification of birth, death, fetal death, marriage, divorce, or other  
11 records as may be determined necessary by the state health officer or the state health  
12 officer's designee.

13 **SECTION 2. AMENDMENT.** Section 23-02.1-13 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **23-02.1-13. Birth registration.**

- 16 1. A birth record for each live birth that occurs in this state must be filed with the state  
17 registrar.
- 18 2. When a birth occurs in an institution, the person in charge of the institution or a  
19 designated representative must use the state department of health's electronic birth  
20 registration system to report the birth, including all personal and medical facts, to the  
21 state registrar within five days after the birth.
- 22 3. When a birth occurs outside an institution, the required forms prescribed by the state  
23 department of health must be prepared and filed with the state registrar, within thirty  
24 days of the birth by one of the following in the indicated order of priority:
- 25 a. The physician in attendance at or immediately after the birth, or in the absence of  
26 such a ~~person~~ individual;
- 27 b. Any other ~~person~~ individual in attendance at or immediately after the birth, or in  
28 the absence of such a ~~person~~ individual; or
- 29 c. The father, the mother, or in the absence of the father and the inability of the  
30 mother, the ~~person~~ individual in charge of the premises where the birth occurred.

- 1           4. If a man and the mother are or have been married or have attempted to marry each  
2           other in apparent compliance with law, although the attempted marriage is or could be  
3           declared invalid, and the child is born during the marriage or attempted marriage, or  
4           within three hundred days after the termination of cohabitation or after the marriage or  
5           attempted marriage is terminated by death, annulment, declaration of invalidity, or  
6           divorce, or after a decree of separation is entered by a court, the name of the man  
7           must be entered on the record as the father of the child unless the presumption of  
8           paternity has been rebutted by a court decree.
- 9           5. If the child is not born during the marriage of the mother, or within three hundred days  
10          after a marriage is terminated by death, annulment, declaration of invalidity, or divorce,  
11          or after a decree of separation is entered by a court, the name of the father may not  
12          be entered on the birth record unless:
- 13          a. After the child's birth, the father and the child's natural mother have married, or  
14          attempted to marry, each other by a marriage solemnized in apparent compliance  
15          with law, although the attempted marriage is or could be declared invalid, and:  
16          (1) He has acknowledged his paternity of the child in writing filed with the state  
17          registrar; or  
18          (2) He is obligated to support the child under a written voluntary promise or by  
19          court order;
- 20          b. After the child's birth, the child's natural mother and the father voluntarily  
21          acknowledge the child's paternity in a writing on a form prescribed by the state  
22          department of health, signed by both the child's natural mother and biological  
23          father, and filed with the state registrar; or
- 24          c. A court or other entity of competent jurisdiction has adjudicated paternity.
- 25          6. If, in accordance with subsections 4 and 5, the name of the father of the child is not  
26          entered on the birth record, the child's surname must be shown on the birth record as  
27          the current legal surname of the mother at the time of birth unless an affidavit or an  
28          acknowledgment of paternity signed by both parents is ~~received stating the surname~~  
29          ~~to be that of the father~~ filed with the state department of health.

30           **SECTION 3. AMENDMENT.** Section 23-02.1-15 of the North Dakota Century Code is  
31    amended and reenacted as follows:

1       **23-02.1-15. Delayed registration of birth.**

2       1. When the birth of a person born in this state has not been registered, a record may be  
3       filed in accordance with the regulations of the state department of health. Such record  
4       must be registered subject to such evidentiary requirements as the state department  
5       of health shall prescribe to substantiate the alleged facts of birth.

6       2. Records of birth registered one year or more after the date of occurrence must be  
7       marked "delayed" and show on their face the date of delayed registration.

8       3. A summary statement of the evidence submitted in support of the delayed registration  
9       must be endorsed on the record.

10      4. a. When an applicant does not submit the minimum documentation required in the  
11         regulations for delayed registration or when the state registrar finds reason to  
12         question the validity or adequacy of the record or documentary evidence, the  
13         state registrar may not register the delayed record and shall advise the applicant  
14         of the reasons for this action. In the event that the deficiencies are not corrected,  
15         the state registrar shall advise the applicant of the right of appeal to a court of  
16         competent jurisdiction for a judicial determination of the birth facts.

17         b. The state department of health may by regulation provide for the dismissal of an  
18         application which is more than ~~two years~~one year old and is not being actively  
19         pursued.

20      5. A report of live birth may not be registered for a deceased person one year or more  
21         after that person's date of birth.

22      **SECTION 4. AMENDMENT.** Section 23-02.1-19 of the North Dakota Century Code is  
23      amended and reenacted as follows:

24      **23-02.1-19. Death registration.**

25      1. A death record for each death that occurs in this state must be filed with the state  
26         registrar in accordance with the rules and regulations set forth by the state department  
27         of health using the electronic death registration system. All registration and issuing of  
28         copies of death records will be completed by the state department of health.

29      2. The funeral director shall obtain the facts of death from the next of kin or the best  
30         qualified person or source available and must file the facts of death information using  
31         the electronic death registration system within three days after assuming custody of

1 the dead body. The funeral director shall obtain the medical certification of death from  
2 the person responsible for the medical certification.

3 3. The medical certification must be completed and filed using the electronic death  
4 registration system within ~~fifteen~~ten days after death by the physician, physician  
5 assistant, or nurse practitioner in charge of the patient's care for the illness or  
6 condition which resulted in death except when inquiry is required by the local health  
7 officer or coroner.

8 4. When death occurred without medical attendance or when inquiry is required by the  
9 local health officer or coroner, the county coroner shall investigate the cause of death,  
10 and shall obtain medical information about the individual from the individual's medical  
11 records or last-known physician or physician assistant, and shall complete and file the  
12 medical certification within ~~fifteen~~ten days after taking charge of the case using the  
13 electronic death registration system.

14 5. If the cause of death cannot be determined within ~~fifteen~~ten days after death, the  
15 medical certification may be filed after the prescribed period, in accordance with rules  
16 adopted by the state department of health. The attending physician, physician  
17 assistant, nurse practitioner, or coroner shall give the funeral director in custody of the  
18 body notice of the reason for the delay and final disposition may not be made until  
19 authorized by the attending physician, physician assistant, nurse practitioner, or  
20 coroner.

21 6. When a death is presumed to have occurred within this state but the body cannot be  
22 located, a death record may be prepared by the state registrar upon receipt of findings  
23 of a court of competent jurisdiction, including the facts of death and medical  
24 certification required to complete the death record. The death record must be marked  
25 "presumptive" and must show on its face the date of registration and must identify the  
26 court and the date of the decree.

27 7. Each death record ~~record~~registration must include the social security number of the  
28 decedent, if the information is available. A social security number included on a death  
29 record is confidential and may be disclosed only to a relative or authorized  
30 representative of the individual named on the record, to a person with personal or real

1           property interests that depend upon information contained in the death record, or by  
2           an order of a court of competent jurisdiction.

3           **SECTION 5. AMENDMENT.** Section 23-02.1-20 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **23-02.1-20. Fetal death registration.**

- 6           1. A fetal death record for each fetal death which occurs in this state after a gestation  
7           period of twenty completed weeks or more ~~or of less than twenty completed weeks of~~  
8           gestation when provided by rules of the state department of health must be filed with  
9           the state registrar.
- 10          2. ~~The funeral director who first assumes custody of a fetus shall file the fetal death~~  
11          ~~record. In the absence of such a person, the physician or other person in attendance~~  
12          ~~at or after delivery shall file the fetal death record. The person filing the fetal death~~  
13          ~~record shall obtain the facts of death from the next of kin or the best qualified person~~  
14          ~~or source available and must file the facts of death information within fifteen days of~~  
15          ~~the occurrence using the electronic death registration system. The person filing the~~  
16          ~~fetal death record shall obtain the medical certification of death from the person~~  
17          ~~responsible for the medical certification~~When a fetal death occurs in an institution, the  
18          person in charge of the institution or a designated representative shall use the state  
19          department of health's electronic fetal death registration system to report the fetal  
20          death, including all personal and medical facts, to the state registrar within ten days  
21          after the delivery. If a fetal death occurs outside of an institution, a funeral director or  
22          other person in attendance at or after delivery shall file the fetal death record.
- 23          3. ~~The medical certification must be completed and filed using the electronic death~~  
24          ~~registration system by the physician, physician assistant, or a nurse practitioner in~~  
25          ~~attendance at the delivery within fifteen days after the delivery except when inquiry is~~  
26          ~~required by the local health officer or coroner.~~
- 27          4. When inquiry is required by the local health officer or coroner or in the absence of  
28          medical attendance, the county coroner shall investigate the cause of fetal death, and  
29          shall obtain medical information about the individual from that individual's medical  
30          records or last-known physician or physician assistant and file the medical certification

1           within ~~fifteen~~ten days after taking charge of the case using the electronic death  
2           registration system.

3       ~~5.4.~~ If the cause of fetal death cannot be determined within ~~fifteen~~ten days after death, the  
4           medical certification may be filed after the prescribed period of time in accordance with  
5           rules adopted by the state department of health. The attending physician, physician  
6           assistant, nurse practitioner, or coroner shall give the funeral director in custody of the  
7           fetus the notice of the reason for the delay and final disposition may not be made until  
8           authorized by the attending physician, physician assistant, nurse practitioner, or  
9           coroner.

10       ~~6.5.~~ The provision for entering the name of the father of the fetus on the fetal death record  
11           and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in  
12           section 23-02.1-13.

13           **SECTION 6. AMENDMENT.** Section 23-02.1-25 of the North Dakota Century Code is  
14   amended and reenacted as follows:

15           **23-02.1-25. Correction and amendment of vital records.**

- 16           1. A record registered under this chapter may be amended only in accordance with this  
17           chapter and regulations thereunder adopted by the state department of health to  
18           protect the integrity and accuracy of vital records.
- 19           2. A record that is amended under this section must be marked "amended" except as  
20           provided in subsection 4. The date of amendment and a summary description of the  
21           evidence submitted in support of the amendment must be endorsed on or made a part  
22           of the record. The state department of health shall prescribe by regulation the  
23           conditions under which additions or minor corrections may be made to birth records  
24           within one year after the date of birth without the record being considered as  
25           amended.
- 26           3. Upon receipt of a certified copy of a court order ~~changing the name of a person born in~~  
27           ~~this state~~that is amending a birth, death, or fetal death record and upon request of  
28           such person or the person's parent, guardian, or legal representative, the state  
29           registrar shall amend the record ~~to reflect the new name~~as directed in the court order.  
30           however, if the state registrar has information to believe the facts of the court order are

1            false or inaccurate, the state registrar shall provide the court and any known parties  
2            with the correct information.

3            4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock  
4            signed by both parents and upon request, the state registrar shall amend a record of  
5            birth to show such paternity if paternity is not shown on the record. Upon request of  
6            the parents, the surname of the child must be changed on the appropriate record to  
7            ~~that of the father~~ the surname designated by the parents on the acknowledgment of  
8            paternity. Such record may not be marked as "amended". The provisions of this  
9            subsection apply also in their entirety to records of fetal death.

10          **SECTION 7. AMENDMENT.** Section 23-02.1-27 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12          **23-02.1-27. Disclosure of records.**

13          Birth, death, and fetal death records, filings, data, or other information related to birth,  
14 death, and fetal death records are confidential and may not be disclosed except as authorized  
15 under this chapter. The state registrar shall restrict access to all vital records to protect vital  
16 records from loss, mutilation, or destruction and to prevent disclosure of the information  
17 contained in these records except as authorized under this chapter.

18          1. A certified copy of a birth record may be issued to the individual named on the record if  
19 that individual is at least sixteen years old, to a parent named on the record, to an  
20 authorized representative, or by the order of a court of competent jurisdiction. If the  
21 individual named on a birth record is deceased, a certified copy of that record may  
22 also be issued to a relative. If the date of birth on any birth record is more than one  
23 hundred and twenty-five years old, that record is an open record and a certified copy  
24 may be issued to anyone, except that adoption records remain confidential.

25          2. A certified copy of a complete death record may be issued to a relative, an authorized  
26 representative, the child fatality review board, a licensed physician for the purposes of  
27 researching family medical history, a funeral director reporting the facts of death, or a  
28 person with personal or real property interests that depend upon information contained  
29 in the complete death record or by the order of a court of competent jurisdiction and  
30 may include the cause of death and the social security number. A certified copy of the  
31 facts of death record that includes the facts of death and the social security number

1           may be issued to any person that may obtain a certified copy of a complete death  
2           record or to any licensed attorney who requires the copy for a bona fide legal  
3           determination. A certified copy of an informational death record may be issued to the  
4           general public, but the copy may not contain the cause of death or the social security  
5           number.

6           3. A certified copy of a fetal death record may be issued to a parent named on the  
7           record, an authorized representative, or by the order of a court of competent  
8           jurisdiction. A person authorized to receive a certified copy of a fetal death record may  
9           request the certified copy be issued in the form of a certification of birth resulting in  
10          stillbirth.

11          4. A noncertified informational copy of a marriage record may be issued to the general  
12          public.

13          5. Any individual authorized to receive a certified copy of any specific record may grant  
14          another individual the same authority by completing a written authorization on a form  
15          prescribed by the state department of health.

16          6. The state department of health may grant limited access to birth and death information  
17          to divisions and programs of the state department of health, the department of  
18          transportation, the protection and advocacy project, and the department of information  
19          technology, and to the department of human services necessary for the purpose of  
20          completing their respective official duties.

21          7. The state department of health may issue, through electronic means determined by  
22          the state department of health, verifications of information contained on birth or death  
23          records filed with the state registrar when such information is provided and a  
24          verification is requested by a governmental agency, whether foreign or domestic, in  
25          the conduct of the agency's official duties. The state department of health may also  
26          issue these electronic verifications for a negotiated and agreed-upon fee to:  
27          a. Benefit-paying parties, such as annuity companies, pension plans, and life  
28          insurance companies, that demonstrate a need for such information to determine  
29          whether the benefits the benefit-paying party are paying should be terminated or  
30          distributed to a beneficiary;

- 1           b. Physicians licensed to practice in the United States who demonstrate such  
2           information is needed to determine whether a patient the physician is treating has  
3           been lost to care;
- 4           c. Attorneys licensed to practice in the United States who demonstrate that the  
5           information is necessary to administer the attorneys' client's estate; or
- 6           d. Other entities for fraud prevention as determined by the state registrar.

7           **SECTION 8. AMENDMENT.** Subsection 5 of section 23-02.1-30 of the North Dakota  
8 Century Code is amended and reenacted as follows:

- 9           5. On or before the fifth day of each month, each hospital, institution, funeral director,  
10           embalmer, or person acting as such in this state shall report to the state registrar, on  
11           forms provided for this purpose, information required by the state registrar regarding  
12           each ~~dead body or fetus~~birth, death, or fetal death handled by such person during the  
13           preceding calendar month.

14           **SECTION 9. APPLICATION.** Under subsection 3 of section 23-02.1-13, the state  
15 department of health shall use forms that are substantially similar to the department's North  
16 Dakota parent's worksheet and certifier's worksheet for completing the North Dakota birth  
17 certificate.