

VITAL STATISTICS

CHAPTER 271

H. B. No. 90—(Fitch and Dahlen)

BIRTH RECORDS, DECLARED CONFIDENTIAL

An Act to amend and re-enact Section 7 of Chapter 297 of the Session Laws of North Dakota for 1941, relating to the confidential character of birth records, and who may inspect the same and to whom information concerning the same may be given.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Section 7 of Chapter 297 of the Session Laws of North Dakota for 1941 is hereby amended and re-enacted to read as follows.

§ 7. CERTIFICATES AND OTHER RECORDS ARE CONFIDENTIAL.] All certificates, applications, affidavits, proofs or other records filed with the State Registrar of Vital Statistics relative to births shall be deemed confidential and shall not be open to inspection by any person except the person whose birth has been recorded if such person is an adult, and if such person is a minor, by the legal parents or general guardian thereof, and provided that such records may be inspected by and information divulged to the Veteran's Service Commissioner upon his certificate that the person whose birth record is inspected or concerning which information is sought is either a veteran of the armed forces of the United States, or a dependent of such veteran. In other cases, access to such records or certified copies thereof may be obtained only upon an order of the district court, and such court shall issue such order only when it has been shown to the satisfaction of the court that the information contained in the original records on file in the office of the State Registrar of Vital Statistics is material and necessary to litigation; pending in any court and that the ends of justice will be best served by the production of such original records. This section shall not preclude the State Registrar of Vital Statistics from furnishing such records or reports from such records to the Federal Government or any department or agency thereof when such records are required for statistical purposes or from permitting the inspection of such records when in the opinion of such Registrar such inspection will facilitate the correction of the records in his office. Information obtained from such records may be furnished without charge to any State department upon the order of the Attorney General made upon the written application of the executive head of the department showing the name of the individual relative to whom such

information is required and stating that such information is required in the proper administration of the work of such department. Any information so furnished to any department shall be deemed confidential.

Approved March 12, 1943.

CHAPTER 272

H. B. No. 212—(Hogoboom, Leet, Rohde, Haugen)

JUDICIAL DETERMINATION OF BIRTH

An Act providing a means by which any citizen may have his date of birth and place of birth judicially determined; providing for the notice to be given of a hearing; giving to the District Courts jurisdiction thereof; providing for an appeal and designating the fees to be paid to the Clerk of Court in connection therewith, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.] Any citizen of the United States, either natural born or naturalized, may obtain a proceeding in accordance with this act in the District Court of the county in which he resides for the purpose of having a judicial determination of the date of his birth and the place of his birth.

§ 2.] Such proceedings for the purpose of having a judicial determination of the date of birth and place of birth shall be instituted by the filing of a petition, which petition must be duly verified by the petitioner, with the clerk of the District Court of the county in which the petitioner resides, setting forth:

1. That the petitioner is a citizen of the United States;
2. That he has resided in the State of North Dakota for one year last past and in the county in which the action is brought for at least ninety (90) days immediately preceding the commencement of this action;
3. The place and date of birth of the petitioner;
4. If the petitioner was born within the United States of America, whether or not the parents of the petitioner were transient aliens or alien public ministers or consuls;
5. The names of his parents, together with the addresses of his parents, if they are living.
6. If the petitioner was born without the boundaries of the

territorial United States of America, facts sufficient to show that the petitioner is a citizen of the United States of America, and the basis upon which citizenship rests.

§ 3.] Upon the filing of a petition of the kind described in this act, the clerk of the District Court with whom such petition is filed shall issue a notice under the seal of the said District Court fixing the time and place for the hearing upon such petition. Such notice shall be published in the official newspaper of the county for two successive weeks, the last publication to be at least ten (10) days before the time set for hearing. Proof of the publication required by this section shall be filed in the office of the clerk of the District Court on or before the date set for the hearing on such petition.

§ 4.] Any citizen of the United States may appear at the hearing provided for in this act and shall be heard in favor of or in opposition to the petition, but all objections to said petition must be made in writing and be filed with the Court. Upon the hearing thereof, affidavits, including the affidavit of the petitioner, shall be received in evidence and shall have the same force and effect as if the testimony had been taken by deposition. If, after hearing, the Court shall be satisfied by competent evidence of the sufficiency of the petition that the applicant is a citizen of the United States, that he has been a citizen of the State of North Dakota for one (1) year last past and of the county for more than ninety (90) days preceding the filing of the petition, and that the applicant's date of birth and place of birth are proven, it shall make appropriate finding of fact and conclusions of law and shall order a judgment to that effect and such judgment shall be entered in the office of the clerk of the District Court upon such order. A judgment establishing the date of birth and place of birth of the petitioner shall be entitled to full faith and credit in the same manner as any other judgment of the Courts of this State. If, after hearing, the Court is not satisfied that the date and place of birth have been proven, it shall make appropriate findings of fact and conclusions of law and shall enter an order of judgment denying the petition and a judgment shall be entered upon such order in the office of the clerk of the District Court.

§ 5.] That the petitioner, upon the filing of the petition must pay to the clerk of the District Court the fee of five dollars (\$5.00) as a filing fee. That the costs of the publication of the notice required by this act shall be paid by the petitioner. In the event that said judgment shall establish the date and place of birth of the petitioner, the clerk of the Court shall certify a copy of such judgment and file the same with the Division of Vital Statistics, State Department of Health, Bismarck, North Dakota.

§ 6.] The District Court of this State shall have exclusive jurisdiction to hear and determine all petitions hereunder. Any citi-

zen may appeal from the judgment rendered herein the same as in civil actions.

§ 7. EMERGENCY.] WHEREAS, there is considerable confusion with reference to registration of birth certificates in this state, an emergency is declared to exist and this act shall take effect from and after its passage and approval.

Approved March 9, 1943.

CHAPTER 273

H. B. No. 48—(Bauer)

VITAL STATISTICS, REGISTRATION DISTRICTS

An Act to Amend and Re-enact Section 436 and 437 Compiled Laws of 1913 relating to the area which shall comprise a registration district, for the purpose of registering vital statistics, designating the registrar, and prescribing the duties of the local registrar of such registration districts, defining their powers and authorizing the appointment of sub-registrars and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 436, Compiled Laws of 1913, be amended and re-enacted to read as follows:

§ 436. REGISTRATION DISTRICTS.] Each county of the State shall constitute a primary registration district for the registration of birth, death and other vital statistics.

§ 2. That Section 437, Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 437. (1) LOCAL REGISTRARS, DUTIES OF. SUB-REGISTRARS.] The Clerk of the District Court of each county shall be the local registrar in and for the county, and he shall perform all the duties of local registrar as herein after provided, and he shall immediately appoint in writing, a deputy, who shall be authorized to act in his stead in case of absence, illness or disability. The local registrar is hereby authorized, with the approval of the State Registrar, to appoint one or more suitable and proper persons to act as sub-registrars, who shall be authorized to receive certificates and to issue burial or removal permits in and for such portion of the county as may be designated, and each sub-registrar shall note the date each certificate was filed, over his signature, and forward all

certificates to the local registrar within ten days, and in all cases before the third day of the following month; provided, that all sub-registrars shall be subject to the supervision and control of the State registrar, and may be by him removed for neglect or failure to perform their duties in accordance with the provisions of this article, or the rules and regulations of the State registrar and they shall be liable to the same penalties for neglect of duty as the local registrar.

Subsection 2. An application may be made to the local registrar of vital statistics to have recorded in his office delayed proof of the birth of any person who was born in the State of North Dakota, or in that part of the territory of Dakota from which the State of North Dakota was formed lying within the geographical boundaries of such local registration district. Such application may be made by any such person who wishes to establish a record of his birth, or by the parent, or legal guardian of such person, and such application shall contain all the requirements and be subject to the same restrictions and limitations applicable when such applicant is made directly to the State registrar of vital statistics.

Subsection 3. Immediately upon the taking effect of this Act, all records of vital statistics in the hands of any individual or officer, with the exception of the State Registrar shall immediately be transferred to the local registrar of vital statistics for that district as provided by this Act.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 9, 1943.