

SENATE BILL NO. 245

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE SENATE

January 23, 1981	Introduced and referred to Committee on Judiciary.
February 16, 1981	Committee recommend bill do pass as amended. Report adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 47; Noes, 0. Transmitted to House.

IN THE HOUSE

February 21, 1981	Introduced and referred to Committee on Judiciary.
March 18, 1981	Committee recommend bill be concurred in. Report adopted.
March 19, 1981	Second reading, pass consideration.
March 20, 1981	Second reading, concurred in.
March 23, 1981	Third reading, concurred in. Ayes, 82; Noes, 17.

IN THE SENATE

March 24, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Amended* BILL NO. 245
 2 INTRODUCED BY *Mazurek*
 3 BY REQUEST OF
 4 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 CLARIFY THE LAWS RELATING TO HEALTH AND THE FAMILY; AMENDING
 8 SECTIONS 40-1-203, 40-1-205, 40-8-126, 50-15-101, 50-15-108,
 9 50-15-111, 50-15-301, 50-15-303, 50-15-304, AND 50-20-110,
 10 MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 40-1-203, MCA, is amended to read:
 14 "40-1-203. Proof of age and medical certificate
 15 required. (1) Before a person authorized by law to issue
 16 marriage licenses may issue a marriage license, each
 17 applicant therefor shall exhibit to him a birth certificate
 18 or other satisfactory evidence of age and, if the applicant
 19 is a minor, the approval required by 40-1-213 and shall file
 20 with him a medical certificate from a ~~duty-qualified~~
 21 physician, licensed to practice medicine and surgery in any
 22 state or United States territory, or any other person
 23 authorized by laws of Montana to make a medical certificate.
 24 The certificate shall state that the applicant has been
 25 given ~~an examination, including~~ a standard serological test,

1 ~~made performed~~ not more than 20 days before the date of
 2 issuance of the license, and that the report of the results
 3 of the serological test has been exhibited to the applicant
 4 and that each party to the proposed marriage contract has
 5 examined the report of the serological test of the other
 6 party to the proposed contract.

7 (2) A person who by law is able to obtain a marriage
 8 license in this state is also able to give consent to any
 9 examinations and tests required by this section. In
 10 submitting the blood specimen to the laboratory, the
 11 physician or any other person authorized by the laws of
 12 Montana to make a medical certificate shall designate that
 13 it is a premarital test."

14 Section 2. Section 40-1-205, MCA, is amended to read:
 15 "40-1-205. Certificates from other states or for
 16 military personnel -- when acceptable. Certificate forms
 17 provided by other states having comparable laws will be
 18 accepted for persons who have ~~been--examined--and--who--have~~
 19 received a standard serological test outside of Montana if
 20 such ~~examinations-and~~ tests are performed not more than 20
 21 days before the issuance of a marriage license. Certificates
 22 provided by the United States armed forces will be accepted
 23 for military personnel if such certificates are signed by a
 24 medical officer commissioned in the United States armed
 25 forces or United States public health service and the

1 certificates state the examinations are standard serological
2 tests and were performed not more than 20 days before the
3 issuance of the marriage license."

4 Section 3. Section 40-8-126, MCA, is amended to read:

5 *40-8-126. Confidentiality of record and proceedings.

6 (1) Unless the court shall otherwise order, all hearings
7 held in proceedings under this part shall be confidential
8 and shall be held in closed court without admittance of any
9 person other than interested parties and their counsel.

10 (2) All papers and records pertaining to the adoption
11 shall be kept as a permanent record of the court and
12 withheld from inspection. No person shall have access to
13 such records except:

14 (a) for good cause shown, on order of the judge of the
15 court in which the decree of adoption was entered; or

16 (b) as provided in 50-15-206.

17 (3) All files and records pertaining to said adoption
18 proceedings in the county departments of public welfare, the
19 department of social and rehabilitation services, or any
20 authorized agencies shall be confidential and withheld from
21 inspection except upon order of court for good cause shown
22 or as provided in 50-15-206."

23 Section 4. Section 50-15-101, MCA, is amended to read:

24 *50-15-101. Definitions. Unless the context requires
25 otherwise, in this chapter the following definitions apply:

1 (1) "Board" means the board of health and
2 environmental sciences, provided for in 2-15-2104.

3 (2) "Dead body" means a lifeless human body or parts
4 of a body from which it reasonably may be concluded that
5 death occurred recently.

6 (3) "Department" means the department of health and
7 environmental sciences, provided for in Title 2, chapter 15,
8 part 21.

9 ~~(4) "Dissolution of marriage" means a marriage~~
10 ~~terminated pursuant to Title 40, chapter 4, part 1.~~

11 ~~(4)(5)~~ "Fetal death" means a birth after 20 weeks of
12 gestation which is not a live birth.

13 ~~(6) "Invalid marriage" means a marriage decreed by a~~
14 ~~district court to be invalid for the reasons contained in~~
15 ~~40-1-402.~~

16 ~~(5)(7)~~ "Live birth" means the birth of a child who
17 shows evidence of life after being entirely outside the
18 mother.

19 ~~(6)(8)~~ "Local registrar" means a person appointed by
20 the department to act as its agent in administering this
21 chapter in the area set forth in the letter of appointment.

22 ~~(7)(9)~~ "Person in charge of interment" means a person
23 who places or causes to be placed a dead body or the ashes
24 after cremation in a grave, vault, urn, or other receptacle
25 or otherwise disposes of the body.

1 ~~(8)~~(10) "Physician" means a person legally authorized
2 to practice medicine in this state.

3 ~~(9)~~(11) "Vital statistics" includes the registration,
4 preparation, transcription, collection, compilation, and
5 preservation of data pertaining to births, adoptions,
6 legitimations, deaths, fetal deaths, marital status, and
7 incidental supporting data."

8 Section 5. Section 50-15-108, MCA, is amended to read:

9 "50-15-108. Duty to furnish information. (1) Any
10 person having knowledge of the fact shall furnish
11 information he possesses about a birth, death, fetal death,
12 marriage, or divorce dissolution of marriage, or invalid
13 marriage upon demand of the department.

14 (2) The person in charge of any institution or
15 facility for the care of persons shall record and report all
16 data required by this chapter relating to inmates or
17 patients of the institution or facility."

18 Section 6. Section 50-15-111, MCA, is amended to read:

19 "50-15-111. Certified copy fee. (1) The department
20 shall prescribe a fee of not less than ~~\$2~~ \$5 for a certified
21 copy of certificates or search of files.

22 (2) Fees received for a certified copy of a
23 certificate or a search of files shall be deposited ~~in the~~
24 ~~state general fund~~ as follows:

25 (a) \$1 shall be deposited in an earmarked revenue fund

1 to be used by the department for the maintenance of indexes
2 to, and costs for the preservation of, vital records; and
3 (b) the remainder shall be deposited in the state
4 general fund."

5 Section 7. Section 50-15-301, MCA, is amended to read:

6 "50-15-301. Marriage certificates. Before the ~~16th~~
7 ~~10th~~ day of each month, each clerk of a district court shall
8 report marriage certificates filed with him during the
9 preceding calendar month to the department. Reports shall be
10 on forms and contain information prescribed by the
11 department. The applicant for a marriage license shall pay a
12 recording fee of 25 cents to the officer authorized to issue
13 the marriage license."

14 Section 8. Section 50-15-303, MCA, is amended to read:

15 "50-15-303. Certificates of dissolution of marriage,
16 adoption, declaration of invalidity of marriage, or
17 annulment of adoption. Before the ~~16th~~ 10th day of each
18 month, the clerk of court shall prepare and forward to the
19 department a certificate for each decree of dissolution of
20 marriage, adoption, declaration of invalidity of marriage,
21 or annulment of adoption that became final during the
22 preceding calendar month. Certificates shall be on forms
23 prescribed by the department."

24 Section 9. Section 50-15-304, MCA, is amended to read:

25 "50-15-304. Substitute birth certificate for person

1 adopted. (1) The procedure for issuing a substitute birth
2 certificate for a person born in Montana and adopted is as
3 follows:

4 (a) Before the 16th day of the month following the
5 order of adoption, the clerk of the district court shall
6 forward a certified copy of the final order of adoption to
7 the department or the department may accept a certified copy
8 of a final order of adoption from a court of competent
9 jurisdiction of a foreign state of the United States or a
10 tribal court of competent jurisdiction.

11 (b) The department shall prepare a substitute
12 certificate containing:

- 13 (i) the new name of the adopted person;
14 (ii) the true date and place of birth and sex of the
15 adopted person;
16 (iii) statistical facts concerning the adoptive parents
17 in place of the natural parents;
18 (iv) the words "department of health and environmental
19 sciences" substituted for the words "attendant's own
20 signature"; and
21 (v) dates of recording as shown on the original birth
22 certificate.

23 (2) The procedure for recording a substitute
24 certificate of birth for a person born in Montana and
25 adopted is as follows:

1 (a) The department shall send copies of the substitute
2 certificate to the local registrar and to the county clerk
3 and recorder.

4 (b) The local registrar and county clerk and recorder
5 shall immediately enter the substitute birth certificate in
6 its files and forward copies of the original birth record to
7 the department.

8 (c) The department shall seal original birth records
9 and open them only ~~on demand of the adopted person if of~~
10 ~~legal age or~~ on order of a court.

11 (3) On receipt of a certified copy of a court order
12 annulling an adoption, the department shall restore the
13 original certificate to its place in its files and notify
14 the local registrar and county clerk and recorder."

15 Section 10. Section 50-20-110, MCA, is amended to
16 read:

17 "50-20-110. Reporting of practice of abortion. (1)
18 Every facility in which an abortion is performed within the
19 state shall keep on file upon a form prescribed by the
20 department a statement dated and certified by the physician
21 who performed the abortion setting forth such information
22 with respect to the abortion as the department by regulation
23 shall require, including but not limited to information on
24 prior pregnancies, the medical procedure employed to
25 administer the abortion, the gestational age of the fetus,

1 the vital signs of the fetus after abortion, if any, and if
2 after viability, the medical procedures employed to protect
3 and preserve the life and health of the fetus.

4 (2) The physician performing an abortion shall cause
5 such pathology studies to be made in connection therewith as
6 the department shall require by regulation, and the facility
7 shall keep the reports thereof on file.

8 (3) In connection with an abortion, the facility shall
9 keep on file the original of each of the documents required
10 by this chapter relating to informed consent, consent to
11 abortion, certification of necessity of abortion to preserve
12 the life or health of the mother, and certification of
13 necessity of abortion to preserve the life of the mother.

14 (4) Such facility shall, within 30 days after the
15 abortion, file with the department a report upon a form
16 prescribed by the department and certified by the custodian
17 of the records or physician in charge of such facility
18 setting forth all of the information required in subsections
19 (1), (2), and (3) of this section, except such information
20 as would identify any individual involved with the abortion.
21 The report shall exclude copies of any documents required to
22 be filed by subsection (3) of this section, but shall
23 certify that such documents were duly executed and are on
24 file.

25 (5) All reports and documents required by this chapter

1 shall be treated with the confidentiality afforded to
2 medical records, subject to such disclosure as is permitted
3 by law. Statistical data not identifying any individual
4 involved in an abortion shall be made public by the
5 department annually, and the report required by subsection
6 (4) of this section to be filed with the department shall be
7 available for public inspection except insofar as it
8 identifies any individual involved in an abortion. Names and
9 identities of persons submitting to abortion shall remain
10 confidential among medical and medical support personnel
11 directly involved in the abortion and among persons working
12 in the facility where the abortion was performed whose
13 duties include billing the patient or submitting claims to
14 an insurance company, keeping facility records, or
15 processing abortion data required by state law.

16 ~~(6) Violation of this section is a misdemeanor and is~~
17 ~~punishable as provided in 46-18-212."~~

18 Section 11. Saving clause. This act does not affect
19 rights and duties that matured, penalties that were
20 incurred, or proceedings that were begun before the
21 effective date of this act.

22 Section 12. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

LC 0217/01

1 in all valid applications that are severable from the
2 invalid applications.

-End-

STATE OF MONTANA

REQUEST NO. 209-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 23, 1981, there is hereby submitted a Fiscal Note for Senate Bill 245 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to generally revise and clarify the laws relating to health and family. To be more specific, clarification has been made to the tests required for marriage applicants; to improve on the description of a "dissolution of marriage"; to increase the fees charged for issuance of certain certified vital statistics documents; to require a court order for persons to see original birth records; and to establish the date due of certain records from county clerks of court.

Assumptions

- 1. A 10% reduction of certified copies will be realized due to the increased cost.
2. The Department of Health and Environmental Sciences will be appropriated earmarked funds to hire a new FTE to update the backlog in the index activity. The most immediate task will be to verify records that are already keypunched.

Fiscal Impact

Revenue: Proposed increase in general fund will be \$30,000 in 1982 and \$31,500 in 1983. These funds will remain in the general fund and will be made available to the state of Montana.

The anticipated activity level will be 15,000 records in 1982, and 15,750 records in 1983. At the rate of \$1 per record, a corresponding amount of earmarked funds will be made available to the Montana State Department of Health and Environmental Sciences and the plan for expenditure is as follows:

Table with 3 columns: Item, FY 1982, FY 1983. Rows include Salary, Grade 7, Step 2, Records Technician; Benefits; Supplies - data processing; Data supplies - Department of Administration; Total Expenditures.

These expenditures will offset the money deposited in the earmarked fund for a net result of \$0.

Signature: Lyle Manley, for BUDGET DIRECTOR, Office of Budget and Program Planning, Date: 1-28-81

Approved by Committee
on Judiciary

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7 CLARIFY THE LAWS RELATING TO HEALTH AND THE FAMILY; AMENDING
8 SECTIONS 40-1-203, 40-1-205, 40-8-126, 50-15-101, 50-15-108,
9 50-15-111, 50-15-301, 50-15-303, 50-15-304, AND 50-20-110,
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15 required. (1) Before a person authorized by law to issue
16 marriage licenses may issue a marriage license, each
17 applicant therefor shall exhibit to him a birth certificate
18 or other satisfactory evidence of age and, if the applicant
19 is a minor, the approval required by 40-1-213 and shall file
20 with him a medical certificate from a ~~duty-qualified~~
21 physician, licensed to practice medicine and surgery in any
22 state or United States territory, or any other person
23 authorized by laws of Montana to make a medical certificate.
24 The certificate shall state that the applicant has been
25 given ~~an-examination-including~~ a standard serological test,

1 made performed not more than 20 days before the date of
2 issuance of the license, and that the report of the results
3 of the serological test has been exhibited to the applicant
4 and that each party to the proposed marriage contract has
5 examined the report of the serological test of the other
6 party to the proposed contract.

7 (2) A person who by law is able to obtain a marriage
8 license in this state is also able to give consent to any
9 examinations and tests required by this section. In
10 submitting the blood specimen to the laboratory, the
11 physician or any other person authorized by the laws of
12 Montana to make a medical certificate shall designate that
13 it is a premarital test."

14 Section 2. Section 40-1-205, MCA, is amended to read:
15 "40-1-205. Certificates from other states or for
16 military personnel -- when acceptable. Certificate forms
17 provided by other states having comparable laws will be
18 accepted for persons who have ~~been--examined--and--who--have~~
19 received a standard serological test outside of Montana if
20 such ~~examinations--and~~ tests are performed not more than 20
21 days before the issuance of a marriage license. Certificates
22 provided by the United States armed forces will be accepted
23 for military personnel if such certificates are signed by a
24 medical officer commissioned in the United States armed
25 forces or United States public health service and the

1 certificates state the examinations are standard serological
 2 tests and were performed not more than 20 days before the
 3 issuance of the marriage license."

4 Section 3. Section 40-8-126, MCA, is amended to read:
 5 "40-8-126. Confidentiality of record and proceedings.

6 (1) Unless the court shall otherwise order, all hearings
 7 held in proceedings under this part shall be confidential
 8 and shall be held in closed court without admittance of any
 9 person other than interested parties and their counsel.

10 (2) All papers and records pertaining to the adoption
 11 shall be kept as a permanent record of the court and
 12 withheld from inspection. No person shall have access to
 13 such records except:

14 (a) for good cause shown, on order of the judge of the
 15 court in which the decree of adoption was entered; or

16 (b) as provided in 50-15-206.

17 (3) All files and records pertaining to said adoption
 18 proceedings in the county departments of public welfare, the
 19 department of social and rehabilitation services, or any
 20 authorized agencies shall be confidential and withheld from
 21 inspection except upon order of court for good cause shown
 22 or as provided in 50-15-206."

23 Section 4. Section 50-15-101, MCA, is amended to read:

24 "50-15-101. Definitions. Unless the context requires
 25 otherwise, in this chapter the following definitions apply:

1 (1) "Board" means the board of health and
 2 environmental sciences, provided for in 2-15-2104.

3 (2) "Dead body" means a lifeless human body or parts
 4 of a body from which it reasonably may be concluded that
 5 death occurred recently.

6 (3) "Department" means the department of health and
 7 environmental sciences, provided for in Title 2, chapter 15,
 8 part 21.

9 (4) "Dissolution of marriage" means a marriage
 10 terminated pursuant to Title 40, chapter 4, part 1.

11 ~~(4)~~(5) "Fetal death" means a birth after 20 weeks of
 12 gestation which is not a live birth.

13 (6) "Invalid marriage" means a marriage decreed by a
 14 district court to be invalid for the reasons contained in
 15 40-1-402.

16 ~~(5)~~(7) "Live birth" means the birth of a child who
 17 shows evidence of life after being entirely outside the
 18 mother.

19 ~~(6)~~(8) "Local registrar" means a person appointed by
 20 the department to act as its agent in administering this
 21 chapter in the area set forth in the letter of appointment.

22 ~~(7)~~(9) "Person in charge of interment" means a person
 23 who places or causes to be placed a dead body or the ashes
 24 after cremation in a grave, vault, urn, or other receptacle
 25 or otherwise disposes of the body.

1 ~~(8)~~(10) "Physician" means a person legally authorized
2 to practice medicine in this state.

3 ~~(9)~~(11) "Vital statistics" includes the registration,
4 preparation, transcription, collection, compilation, and
5 preservation of data pertaining to births, adoptions,
6 legitimations, deaths, fetal deaths, marital status, and
7 incidental supporting data."

8 Section 5. Section 50-15-108, MCA, is amended to read:

9 "50-15-108. Duty to furnish information. (1) Any
10 person having knowledge of the fact shall furnish
11 information he possesses about a birth, death, fetal death,
12 marriage, ~~or divorce dissolution of marriage, or invalid~~
13 marriage upon demand of the department.

14 (2) The person in charge of any institution or
15 facility for the care of persons shall record and report all
16 data required by this chapter relating to inmates or
17 patients of the institution or facility."

18 Section 6. Section 50-15-111, MCA, is amended to read:

19 "50-15-111. Certified copy fee. (1) The department
20 shall prescribe a fee of not less than ~~\$2~~ \$5 ~~\$3~~ for a
21 certified copy of certificates or search of files.

22 (2) Fees received for a certified copy of a
23 certificate or a search of files shall be deposited ~~in--the~~
24 state-general-fund, as follows:

25 (a) \$1 shall be deposited in an earmarked revenue fund

1 to be used by the department for the maintenance of indexes
2 to, and costs for the preservation of, vital records; and

3 (b) the remainder shall be deposited in the state
4 general fund."

5 Section 7. Section 50-15-301, MCA, is amended to read:

6 "50-15-301. Marriage certificates. Before the ~~16th~~
7 10th day of each month, each clerk of a district court shall
8 report marriage certificates filed with him during the
9 preceding calendar month to the department. Reports shall be
10 on forms and contain information prescribed by the
11 department. The applicant for a marriage license shall pay a
12 recording fee of 25 cents to the officer authorized to issue
13 the marriage license."

14 Section 8. Section 50-15-303, MCA, is amended to read:

15 "50-15-303. Certificates of dissolution of marriage,
16 adoption, declaration of invalidity of marriage, or
17 annulment of adoption. Before the ~~16th~~ 10th day of each
18 month, the clerk of court shall prepare and forward to the
19 department a certificate for each decree of dissolution of
20 marriage, adoption, declaration of invalidity of marriage,
21 or annulment of adoption that became final during the
22 preceding calendar month. Certificates shall be on forms
23 prescribed by the department."

24 Section 9. Section 50-15-304, MCA, is amended to read:

25 "50-15-304. Substitute birth certificate for person

1 adopted. (1) The procedure for issuing a substitute birth
2 certificate for a person born in Montana and adopted is as
3 follows:

4 (a) Before the 16th day of the month following the
5 order of adoption, the clerk of the district court shall
6 forward a certified copy of the final order of adoption to
7 the department or the department may accept a certified copy
8 of a final order of adoption from a court of competent
9 jurisdiction of a foreign state of the United States or a
10 tribal court of competent jurisdiction.

11 (b) The department shall prepare a substitute
12 certificate containing:

- 13 (i) the new name of the adopted person;
- 14 (ii) the true date and place of birth and sex of the
15 adopted person;
- 16 (iii) statistical facts concerning the adoptive parents
17 in place of the natural parents;
- 18 (iv) the words "department of health and environmental
19 sciences" substituted for the words "attendant's own
20 signature"; and
- 21 (v) dates of recording as shown on the original birth
22 certificate.

23 (2) The procedure for recording a substitute
24 certificate of birth for a person born in Montana and
25 adopted is as follows:

1 (a) The department shall send copies of the substitute
2 certificate to the local registrar and to the county clerk
3 and recorder.

4 (b) The local registrar and county clerk and recorder
5 shall immediately enter the substitute birth certificate in
6 its files and forward copies of the original birth record to
7 the department.

8 (c) The department shall seal original birth records
9 and open them only ~~on-demand-of-the-adopted-person-if-of~~
10 ~~legal-age-or~~ on order of a court.

11 (3) On receipt of a certified copy of a court order
12 annulling an adoption, the department shall restore the
13 original certificate to its place in its files and notify
14 the local registrar and county clerk and recorder."

15 Section 10. Section 50-20-110, MCA, is amended to
16 read:

17 "50-20-110. Reporting of practice of abortion. (1)
18 Every facility in which an abortion is performed within the
19 state shall keep on file upon a form prescribed by the
20 department a statement dated and certified by the physician
21 who performed the abortion setting forth such information
22 with respect to the abortion as the department by regulation
23 shall require, including but not limited to information on
24 prior pregnancies, the medical procedure employed to
25 administer the abortion, the gestational age of the fetus,

1 the vital signs of the fetus after abortion, if any, and if
2 after viability, the medical procedures employed to protect
3 and preserve the life and health of the fetus.

4 (2) The physician performing an abortion shall cause
5 such pathology studies to be made in connection therewith as
6 the department shall require by regulation, and the facility
7 shall keep the reports thereof on file.

8 (3) In connection with an abortion, the facility shall
9 keep on file the original of each of the documents required
10 by this chapter relating to informed consent, consent to
11 abortion, certification of necessity of abortion to preserve
12 the life or health of the mother, and certification of
13 necessity of abortion to preserve the life of the mother.

14 (4) Such facility shall, within 30 days after the
15 abortion, file with the department a report upon a form
16 prescribed by the department and certified by the custodian
17 of the records or physician in charge of such facility
18 setting forth all of the information required in subsections
19 (1), (2), and (3) of this section, except such information
20 as would identify any individual involved with the abortion.
21 The report shall exclude copies of any documents required to
22 be filed by subsection (3) of this section, but shall
23 certify that such documents were duly executed and are on
24 file.

25 (5) All reports and documents required by this chapter

1 shall be treated with the confidentiality afforded to
2 medical records, subject to such disclosure as is permitted
3 by law. Statistical data not identifying any individual
4 involved in an abortion shall be made public by the
5 department annually, and the report required by subsection
6 (4) of this section to be filed with the department shall be
7 available for public inspection except insofar as it
8 identifies any individual involved in an abortion. Names and
9 identities of persons submitting to abortion shall remain
10 confidential among medical and medical support personnel
11 directly involved in the abortion and among persons working
12 in the facility where the abortion was performed whose
13 duties include billing the patient or submitting claims to
14 an insurance company, keeping facility records, or
15 processing abortion data required by state law.

16 (6) Violation of this section is a misdemeanor and is
17 punishable as provided in 46-18-212."

18 Section 11. Saving clause. This act does not affect
19 rights and duties that matured, penalties that were
20 incurred, or proceedings that were begun before the
21 effective date of this act.

22 Section 12. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

SB 0245/02

- 1 in all valid applications that are severable from the
- 2 invalid applications.

-End-

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 2 INTRODUCED BY MAZUREK
 3 BY REQUEST OF
 4 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

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 16 marriage licenses may issue a marriage license, each
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 18 or other satisfactory evidence of age and, if the applicant
 19 is a minor, the approval required by 40-1-213 and shall file
 20 with him a medical certificate from a ~~duly--qualified~~
 21 physician, licensed to practice medicine and surgery in any
 22 state or United States territory, or any other person
 23 authorized by laws of Montana to make a medical certificate.
 24 The certificate shall state that the applicant has been
 25 given ~~an-examination--including~~ a standard serological test.

1 ~~made~~ performed not more than 20 days before the date of
 2 issuance of the license, and that the report of the results
 3 of the serological test has been exhibited to the applicant
 4 and that each party to the proposed marriage contract has
 5 examined the report of the serological test of the other
 6 party to the proposed contract.

7 (2) A person who by law is able to obtain a marriage
 8 license in this state is also able to give consent to any
 9 examinations and tests required by this section. In
 10 submitting the blood specimen to the laboratory, the
 11 physician or any other person authorized by the laws of
 12 Montana to make a medical certificate shall designate that
 13 it is a premarital test."

14 Section 2. Section 40-1-205, MCA, is amended to read:
 15 "40-1-205. Certificates from other states or for
 16 military personnel -- when acceptable. Certificate forms
 17 provided by other states having comparable laws will be
 18 accepted for persons who have ~~been--examined--and--who--have~~
 19 received a standard serological test outside of Montana if
 20 such ~~examinations--and~~ tests are performed not more than 20
 21 days before the issuance of a marriage license. Certificates
 22 provided by the United States armed forces will be accepted
 23 for military personnel if such certificates are signed by a
 24 medical officer commissioned in the United States armed
 25 forces or United States public health service and the

1 certificates state the examinations are standard serological
2 tests and were performed not more than 20 days before the
3 issuance of the marriage license."

4 Section 3. Section 40-8-126, MCA, is amended to read:

5 "40-8-126. Confidentiality of record and proceedings.

6 (1) Unless the court shall otherwise order, all hearings
7 held in proceedings under this part shall be confidential
8 and shall be held in closed court without admittance of any
9 person other than interested parties and their counsel.

10 (2) All papers and records pertaining to the adoption
11 shall be kept as a permanent record of the court and
12 withheld from inspection. No person shall have access to
13 such records except:

14 (a) for good cause shown, on order of the judge of the
15 court in which the decree of adoption was entered; or

16 (b) as provided in 50-15-206.

17 (3) All files and records pertaining to said adoption
18 proceedings in the county departments of public welfare, the
19 department of social and rehabilitation services, or any
20 authorized agencies shall be confidential and withheld from
21 inspection except upon order of court for good cause shown
22 or as provided in 50-15-206."

23 Section 4. Section 50-15-101, MCA, is amended to read:

24 "50-15-101. Definitions. Unless the context requires
25 otherwise, in this chapter the following definitions apply:

1 (1) "Board" means the board of health and
2 environmental sciences, provided for in 2-15-2104.

3 (2) "Dead body" means a lifeless human body or parts
4 of a body from which it reasonably may be concluded that
5 death occurred recently.

6 (3) "Department" means the department of health and
7 environmental sciences, provided for in Title 2, chapter 15,
8 part 21.

9 (4) "Dissolution of marriage" means a marriage
10 terminated pursuant to Title 40, chapter 4, part 1.

11 ~~(4)(5)~~ "Fetal death" means a birth after 20 weeks of
12 gestation which is not a live birth.

13 (5) "Invalid marriage" means a marriage decreed by a
14 district court to be invalid for the reasons contained in
15 40-1-402.

16 ~~(5)(7)~~ "Live birth" means the birth of a child who
17 shows evidence of life after being entirely outside the
18 mother.

19 ~~(6)(8)~~ "Local registrar" means a person appointed by
20 the department to act as its agent in administering this
21 chapter in the area set forth in the letter of appointment.

22 ~~(7)(9)~~ "Person in charge of interment" means a person
23 who places or causes to be placed a dead body or the ashes
24 after cremation in a grave, vault, urn, or other receptacle
25 or otherwise disposes of the body.

1 ~~(8)~~(10) "Physician" means a person legally authorized
2 to practice medicine in this state.

3 ~~(9)~~(11) "Vital statistics" includes the registration,
4 preparation, transcription, collection, compilation, and
5 preservation of data pertaining to births, adoptions,
6 legitimations, deaths, fetal deaths, marital status, and
7 incidental supporting data."

8 Section 5. Section 50-15-108, MCA, is amended to read:

9 "50-15-108. Duty to furnish information. (1) Any
10 person having knowledge of the fact shall furnish
11 information he possesses about a birth, death, fetal death,
12 marriage, or divorce dissolution of marriage, or invalid
13 marriage upon demand of the department.

14 (2) The person in charge of any institution or
15 facility for the care of persons shall record and report all
16 data required by this chapter relating to inmates or
17 patients of the institution or facility."

18 Section 6. Section 50-15-111, MCA, is amended to read:

19 "50-15-111. Certified copy fee. (1) The department
20 shall prescribe a fee of not less than ~~\$2~~ \$5 ~~\$3~~ for a
21 certified copy of certificates or search of files.

22 (2) Fees received for a certified copy of a
23 certificate or a search of files shall be deposited ~~in the~~
24 ~~state general fund~~ as follows:

25 (a) \$1 shall be deposited in an earmarked revenue fund

1 to be used by the department for the maintenance of indexes
2 to, and costs for the preservation of, vital records; and
3 (b) the remainder shall be deposited in the state
4 general fund."

5 Section 7. Section 50-15-301, MCA, is amended to read:

6 "50-15-301. Marriage certificates. Before the ~~16th~~
7 10th day of each month, each clerk of a district court shall
8 report marriage certificates filed with him during the
9 preceding calendar month to the department. Reports shall be
10 on forms and contain information prescribed by the
11 department. The applicant for a marriage license shall pay a
12 recording fee of 25 cents to the officer authorized to issue
13 the marriage license."

14 Section 8. Section 50-15-303, MCA, is amended to read:

15 "50-15-303. Certificates of dissolution of marriage,
16 adoption, declaration of invalidity of marriage, or
17 annulment of adoption. Before the ~~16th~~ 10th day of each
18 month, the clerk of court shall prepare and forward to the
19 department a certificate for each decree of dissolution of
20 marriage, adoption, declaration of invalidity of marriage,
21 or annulment of adoption that became final during the
22 preceding calendar month. Certificates shall be on forms
23 prescribed by the department."

24 Section 9. Section 50-15-304, MCA, is amended to read:

25 "50-15-304. Substitute birth certificate for person

1 adopted. (1) The procedure for issuing a substitute birth
2 certificate for a person born in Montana and adopted is as
3 follows:

4 (a) before the 16th day of the month following the
5 order of adoption, the clerk of the district court shall
6 forward a certified copy of the final order of adoption to
7 the department or the department may accept a certified copy
8 of a final order of adoption from a court of competent
9 jurisdiction of a foreign state of the United States or a
10 tribal court of competent jurisdiction.

11 (b) The department shall prepare a substitute
12 certificate containing:

13 (i) the new name of the adopted person;

14 (ii) the true date and place of birth and sex of the
15 adopted person;

16 (iii) statistical facts concerning the adoptive parents
17 in place of the natural parents;

18 (iv) the words "department of health and environmental
19 sciences" substituted for the words "attendant's own
20 signature"; and

21 (v) dates of recording as shown on the original birth
22 certificate.

23 (2) The procedure for recording a substitute
24 certificate of birth for a person born in Montana and
25 adopted is as follows:

1 (a) The department shall send copies of the substitute
2 certificate to the local registrar and to the county clerk
3 and recorder.

4 (b) The local registrar and county clerk and recorder
5 shall immediately enter the substitute birth certificate in
6 its files and forward copies of the original birth record to
7 the department.

8 (c) The department shall seal original birth records
9 and open them only ~~on-demand-of-the-adopted-person-if-of~~
10 ~~legal-age-or~~ on order of a court.

11 (3) On receipt of a certified copy of a court order
12 annulling an adoption, the department shall restore the
13 original certificate to its place in its files and notify
14 the local registrar and county clerk and recorder."

15 Section 10. Section 50-20-110, MCA, is amended to
16 read:

17 "50-20-110. Reporting of practice of abortion. (1)
18 Every facility in which an abortion is performed within the
19 state shall keep on file upon a form prescribed by the
20 department a statement dated and certified by the physician
21 who performed the abortion setting forth such information
22 with respect to the abortion as the department by regulation
23 shall require, including but not limited to information on
24 prior pregnancies, the medical procedure employed to
25 administer the abortion, the gestational age of the fetus,

1 the vital signs of the fetus after abortion, if any, and if
2 after viability, the medical procedures employed to protect
3 and preserve the life and health of the fetus.

4 (2) The physician performing an abortion shall cause
5 such pathology studies to be made in connection therewith as
6 the department shall require by regulation, and the facility
7 shall keep the reports thereof on file.

8 (3) In connection with an abortion, the facility shall
9 keep on file the original of each of the documents required
10 by this chapter relating to informed consent, consent to
11 abortion, certification of necessity of abortion to preserve
12 the life or health of the mother, and certification of
13 necessity of abortion to preserve the life of the mother.

14 (4) Such facility shall, within 30 days after the
15 abortion, file with the department a report upon a form
16 prescribed by the department and certified by the custodian
17 of the records or physician in charge of such facility
18 setting forth all of the information required in subsections
19 (1), (2), and (3) of this section, except such information
20 as would identify any individual involved with the abortion.
21 The report shall exclude copies of any documents required to
22 be filed by subsection (3) of this section, but shall
23 certify that such documents were duly executed and are on
24 file.

25 (5) All reports and documents required by this chapter

1 shall be treated with the confidentiality afforded to
2 medical records, subject to such disclosure as is permitted
3 by law. Statistical data not identifying any individual
4 involved in an abortion shall be made public by the
5 department annually, and the report required by subsection
6 (4) of this section to be filed with the department shall be
7 available for public inspection except insofar as it
8 identifies any individual involved in an abortion. Names and
9 identities of persons submitting to abortion shall remain
10 confidential among medical and medical support personnel
11 directly involved in the abortion and among persons working
12 in the facility where the abortion was performed whose
13 duties include billing the patient or submitting claims to
14 an insurance company, keeping facility records, or
15 processing abortion data required by state law.

16 ~~(6) Violation of this section is a misdemeanor and is~~
17 ~~punishable as provided in 46-18-212."~~

18 Section 11. Saving clause. This act does not affect
19 rights and duties that matured, penalties that were
20 incurred, or proceedings that were begun before the
21 effective date of this act.

22 Section 12. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

SP 0245/02

- 1 in all valid applications that are severable from the
- 2 invalid applications.

-End-

1 SENATE BILL NO. 245

2 INTRODUCED BY MAZUREK

3 BY REQUEST OF

4 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
7 CLARIFY THE LAWS RELATING TO HEALTH AND THE FAMILY; AMENDING
8 SECTIONS 40-1-203, 40-1-205, 40-8-126, 50-15-101, 50-15-108,
9 50-15-111, 50-15-301, 50-15-303, 50-15-304, AND 50-20-110,
10 MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 40-1-203, MCA, is amended to read:

14 "40-1-203. Proof of age and medical certificate
15 required. (1) Before a person authorized by law to issue
16 marriage licenses may issue a marriage license, each
17 applicant therefor shall exhibit to him a birth certificate
18 or other satisfactory evidence of age and, if the applicant
19 is a minor, the approval required by 40-1-213 and shall file
20 with him a medical certificate from a ~~duly--qualified~~
21 physician, licensed to practice medicine and surgery in any
22 state or United States territory, or any other person
23 authorized by laws of Montana to make a medical certificate.
24 The certificate shall state that the applicant has been
25 given ~~an examination--including~~ a standard serological test,

1 ~~made performed~~ not more than 20 days before the date of
2 issuance of the license, and that the report of the results
3 of the serological test has been exhibited to the applicant
4 and that each party to the proposed marriage contract has
5 examined the report of the serological test of the other
6 party to the proposed contract.

7 (2) A person who by law is able to obtain a marriage
8 license in this state is also able to give consent to any
9 examinations and tests required by this section. In
10 submitting the blood specimen to the laboratory, the
11 physician or any other person authorized by the laws of
12 Montana to make a medical certificate shall designate that
13 it is a premarital test."

14 Section 2. Section 40-1-205, MCA, is amended to read:

15 "40-1-205. Certificates from other states or for
16 military personnel -- when acceptable. Certificate forms
17 provided by other states having comparable laws will be
18 accepted for persons who have ~~been--examined--and--who--have~~
19 received a standard serological test outside of Montana if
20 such ~~examinations--and~~ tests are performed not more than 20
21 days before the issuance of a marriage license. Certificates
22 provided by the United States armed forces will be accepted
23 for military personnel if such certificates are signed by a
24 medical officer commissioned in the United States armed
25 forces or United States public health service and the

1 certificates state the examinations are standard serological
2 tests and were performed not more than 20 days before the
3 issuance of the marriage license."

4 Section 3. Section 40-8-126, MCA, is amended to read:
5 "40-8-126. Confidentiality of record and proceedings.

6 (1) Unless the court shall otherwise order, all hearings
7 held in proceedings under this part shall be confidential
8 and shall be held in closed court without admittance of any
9 person other than interested parties and their counsel.

10 (2) All papers and records pertaining to the adoption
11 shall be kept as a permanent record of the court and
12 withheld from inspection. No person shall have access to
13 such records except:

14 (a) for good cause shown, on order of the judge of the
15 court in which the decree of adoption was entered; or

16 (b) as provided in 50-15-206.

17 (3) All files and records pertaining to said adoption
18 proceedings in the county departments of public welfare, the
19 department of social and rehabilitation services, or any
20 authorized agencies shall be confidential and withheld from
21 inspection except upon order of court for good cause shown
22 or as provided in 50-15-206."

23 Section 4. Section 50-15-101, MCA, is amended to read:

24 "50-15-101. Definitions. Unless the context requires
25 otherwise, in this chapter the following definitions apply:

1 (1) "Board" means the board of health and
2 environmental sciences, provided for in 2-15-2104.

3 (2) "Dead body" means a lifeless human body or parts
4 of a body from which it reasonably may be concluded that
5 death occurred recently.

6 (3) "Department" means the department of health and
7 environmental sciences, provided for in Title 2, chapter 15,
8 part 21.

9 (4) "Dissolution of marriage" means a marriage
10 terminated pursuant to Title 40, chapter 4, part 1.

11 ~~(4)~~(5) "Fetal death" means a birth after 20 weeks of
12 gestation which is not a live birth.

13 (6) "Invalid marriage" means a marriage decreed by a
14 district court to be invalid for the reasons contained in
15 40-1-402.

16 ~~(5)~~(7) "Live birth" means the birth of a child who
17 shows evidence of life after being entirely outside the
18 mother.

19 ~~(6)~~(8) "Local registrar" means a person appointed by
20 the department to act as its agent in administering this
21 chapter in the area set forth in the letter of appointment.

22 ~~(7)~~(9) "Person in charge of interment" means a person
23 who places or causes to be placed a dead body or the ashes
24 after cremation in a grave, vault, urn, or other receptacle
25 or otherwise disposes of the body.

1 ~~(8)~~(10) "Physician" means a person legally authorized
2 to practice medicine in this state.

3 ~~(9)~~(11) "Vital statistics" includes the registration,
4 preparation, transcription, collection, compilation, and
5 preservation of data pertaining to births, adoptions,
6 legitimations, deaths, fetal deaths, marital status, and
7 incidental supporting data."

8 Section 5. Section 50-15-108, MCA, is amended to read:

9 "50-15-108. Duty to furnish information. (1) Any
10 person having knowledge of the fact shall furnish
11 information he possesses about a birth, death, fetal death,
12 marriage, or divorce dissolution of marriage, or invalid
13 marriage upon demand of the department.

14 (2) The person in charge of any institution or
15 facility for the care of persons shall record and report all
16 data required by this chapter relating to inmates or
17 patients of the institution or facility."

18 Section 6. Section 50-15-111, MCA, is amended to read:

19 "50-15-111. Certified copy fee. (1) The department
20 shall prescribe a fee of not less than ~~\$2~~ \$5 ~~\$3~~ for a
21 certified copy of certificates or search of files.

22 (2) Fees received for a certified copy of a
23 certificate or a search of files shall be deposited ~~in--the~~
24 state-general-fund, as follows:

25 (a) \$1 shall be deposited in an earmarked revenue fund

1 to be used by the department for the maintenance of indexes
2 to, and costs for the preservation of, vital records; and
3 (b) the remainder shall be deposited in the state
4 general fund."

5 Section 7. Section 50-15-301, MCA, is amended to read:

6 "50-15-301. Marriage certificates. Before the ~~16th~~
7 10th day of each month, each clerk of a district court shall
8 report marriage certificates filed with him during the
9 preceding calendar month to the department. Reports shall be
10 on forms and contain information prescribed by the
11 department. The applicant for a marriage license shall pay a
12 recording fee of 25 cents to the officer authorized to issue
13 the marriage license."

14 Section 8. Section 50-15-303, MCA, is amended to read:

15 "50-15-303. Certificates of dissolution of marriage,
16 adoption, declaration of invalidity of marriage, or
17 annulment of adoption. Before the ~~16th~~ 10th day of each
18 month, the clerk of court shall prepare and forward to the
19 department a certificate for each decree of dissolution of
20 marriage, adoption, declaration of invalidity of marriage,
21 or annulment of adoption that became final during the
22 preceding calendar month. Certificates shall be on forms
23 prescribed by the department."

24 Section 9. Section 50-15-304, MCA, is amended to read:

25 "50-15-304. Substitute birth certificate for person

1 adopted. (1) The procedure for issuing a substitute birth
2 certificate for a person born in Montana and adopted is as
3 follows:

4 (a) Before the 16th day of the month following the
5 order of adoption, the clerk of the district court shall
6 forward a certified copy of the final order of adoption to
7 the department or the department may accept a certified copy
8 of a final order of adoption from a court of competent
9 jurisdiction of a foreign state of the United States or a
10 tribal court of competent jurisdiction.

11 (b) The department shall prepare a substitute
12 certificate containing:

13 (i) the new name of the adopted person;

14 (ii) the true date and place of birth and sex of the
15 adopted person;

16 (iii) statistical facts concerning the adoptive parents
17 in place of the natural parents;

18 (iv) the words "department of health and environmental
19 sciences" substituted for the words "attendant's own
20 signature"; and

21 (v) dates of recording as shown on the original birth
22 certificate.

23 (2) The procedure for recording a substitute
24 certificate of birth for a person born in Montana and
25 adopted is as follows:

1 (a) The department shall send copies of the substitute
2 certificate to the local registrar and to the county clerk
3 and recorder.

4 (b) The local registrar and county clerk and recorder
5 shall immediately enter the substitute birth certificate in
6 its files and forward copies of the original birth record to
7 the department.

8 (c) The department shall seal original birth records
9 and open them only ~~on-demand-of-the-adopted-person-if-of~~
10 ~~legal-age-or~~ on order of a court.

11 (3) On receipt of a certified copy of a court order
12 annulling an adoption, the department shall restore the
13 original certificate to its place in its files and notify
14 the local registrar and county clerk and recorder."

15 Section 10. Section 50-20-110, MCA, is amended to
16 read:

17 "50-20-110. Reporting of practice of abortion. (1)
18 Every facility in which an abortion is performed within the
19 state shall keep on file upon a form prescribed by the
20 department a statement dated and certified by the physician
21 who performed the abortion setting forth such information
22 with respect to the abortion as the department by regulation
23 shall require, including but not limited to information on
24 prior pregnancies, the medical procedure employed to
25 administer the abortion, the gestational age of the fetus,

1 the vital signs of the fetus after abortion, if any, and if
2 after viability, the medical procedures employed to protect
3 and preserve the life and health of the fetus.

4 (2) The physician performing an abortion shall cause
5 such pathology studies to be made in connection therewith as
6 the department shall require by regulation, and the facility
7 shall keep the reports thereof on file.

8 (3) In connection with an abortion, the facility shall
9 keep on file the original of each of the documents required
10 by this chapter relating to informed consent, consent to
11 abortion, certification of necessity of abortion to preserve
12 the life or health of the mother, and certification of
13 necessity of abortion to preserve the life of the mother.

14 (4) Such facility shall, within 30 days after the
15 abortion, file with the department a report upon a form
16 prescribed by the department and certified by the custodian
17 of the records or physician in charge of such facility
18 setting forth all of the information required in subsections
19 (1), (2), and (3) of this section, except such information
20 as would identify any individual involved with the abortion.
21 The report shall exclude copies of any documents required to
22 be filed by subsection (3) of this section, but shall
23 certify that such documents were duly executed and are on
24 file.

25 (5) All reports and documents required by this chapter

1 shall be treated with the confidentiality afforded to
2 medical records, subject to such disclosure as is permitted
3 by law. Statistical data not identifying any individual
4 involved in an abortion shall be made public by the
5 department annually, and the report required by subsection
6 (4) of this section to be filed with the department shall be
7 available for public inspection except insofar as it
8 identifies any individual involved in an abortion. Names and
9 identities of persons submitting to abortion shall remain
10 confidential among medical and medical support personnel
11 directly involved in the abortion and among persons working
12 in the facility where the abortion was performed whose
13 duties include billing the patient or submitting claims to
14 an insurance company, keeping facility records, or
15 processing abortion data required by state law.

16 (6) Violation of this section is a misdemeanor and is
17 punishable as provided in 46-18-212."

18 Section 11. Saving clause. This act does not affect
19 rights and duties that matured, penalties that were
20 incurred, or proceedings that were begun before the
21 effective date of this act.

22 Section 12. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

SB 0245/02

- 1 in all valid applications that are severable from the
- 2 invalid applications.

~~-End-~~