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INTRODUCED BY

PeckHouse BILL NO. 89

3

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE VITAL STATISTICS LAWS TO
 6 STANDARDIZE PROCEDURES AND TO CONFORM TO NATIONAL STANDARDS; CLARIFYING THE
 7 INFORMATION AVAILABLE FROM THE SYSTEM OF VITAL STATISTICS; REVISING BIRTH REGISTRATION
 8 REQUIREMENTS; REVISING PROCEDURES AND CRITERIA FOR ISSUING A DELAYED OR ALTERED BIRTH
 9 CERTIFICATE; REVISING THE JUDICIAL PROCEDURE FOR ESTABLISHING THE FACTS OF BIRTH;
 10 REVISING THE LAWS GOVERNING CERTIFICATES OF ADOPTION AND ANNULMENT OF ADOPTION;
 11 PROVIDING FOR CERTIFICATES OF FOREIGN BIRTH; REVISING THE LAWS FOR CERTIFICATES OF BIRTH
 12 FOLLOWING ADOPTION, LEGITIMATION, OR ESTABLISHMENT OF PATERNITY; REVISING STANDARDS
 13 FOR PRESERVING VITAL RECORDS; REVISING THE CONTENT OF VITAL RECORDS; AMENDING SECTIONS
 14 37-27-321, 40-8-126, 50-15-101, 50-15-102, 50-15-103, 50-15-111, 50-15-204, 50-15-303, 50-15-403,
 15 50-15-405, AND 50-16-542, MCA; REPEALING SECTIONS 50-15-110, 50-15-112, 50-15-113, 50-15-201,
 16 50-15-205, AND 50-15-206, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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18

STATEMENT OF INTENT

19

A statement of intent is required for this bill because the bill gives the department of health and
 20 environmental sciences authority to adopt administrative rules.

21

The legislature intends that the rules:

22

(1) address the process for establishing and maintaining a statewide system of vital statistics and
 23 vital records;

24

(2) define persons who may obtain copies of vital records and the showing necessary to obtain
 25 vital records;

26

(3) establish which persons may prepare or issue certified copies of certificates of birth or vital
 27 records;

28

(4) establish the process and scope of disclosure of information to the public and governmental
 29 agencies as well as adequate standards for security and confidentiality of vital records;

30

(5) establish a system for preservation or disposal of vital records;

- 1 (6) establish the process and guidelines for registration of births;
- 2 (7) establish the process for establishing, maintaining, or dismissing applications for delayed
3 certificates of birth;
- 4 (8) establish forms necessary to track vital statistics by courts or other governmental entities;
- 5 (9) establish a system of issuance and maintenance of certificates of birth following adoption,
6 legitimation, or establishment of paternity;
- 7 (10) establish a system for issuance and maintenance of records of dissolution or annulment of
8 marriage; and
- 9 (11) establish a system for the issuance and maintenance of certificates of adoption and annulment
10 of adoption.

11

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

13

14 **Section 1.** Section 37-27-321, MCA, is amended to read:

15 **"37-27-321. Filing of birth certificate.** (1) When a birth occurs with a licensed direct-entry
16 midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by
17 ~~50-15-201 [section 11]~~, with the department of health and environmental sciences ~~within 30 days of the~~
18 ~~birth of the newborn.~~

19 (2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for
20 the suspension or revocation of a license granted under this chapter."

21

22 **Section 2.** Section 40-8-126, MCA, is amended to read:

23 **"40-8-126. Confidentiality of record and proceedings.** (1) Unless the court ~~shall orders~~ otherwise
24 ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall must~~ must be held in
25 closed court without admittance of any person other than interested parties and their counsel.

26 (2) All papers and records pertaining to the adoption ~~shall must~~ must be kept as a permanent record of
27 the court and withheld from inspection. ~~No A~~ A person ~~shall may not~~ may not have access to ~~such the~~ the records,
28 except:

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

1 (b) as provided in ~~50-15-206~~ [sections 7 and 8].

2 (3) All files and records pertaining to ~~said~~ the adoption proceedings in the county departments of
3 public welfare, the department of social and rehabilitation services, the department of family services, or
4 any authorized agencies ~~shall be~~ are confidential and must be withheld from inspection, except upon order
5 of court for good cause shown or as provided in ~~50-15-206~~ [sections 7 and 8]."

6
7 **Section 3.** Section 50-15-101, MCA, is amended to read:

8 "**50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4, the following
9 definitions apply:

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

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

13 (3) "Department" means the department of health and environmental sciences provided for in Title
14 2, chapter 15, part 21.

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

16 (5) "Fetal death" means ~~a birth after 20 weeks of gestation, or before 20 weeks of gestation if the~~
17 ~~fetus weighs more than 500 grams at the time of delivery, that is not a live birth~~ death of the fetus prior
18 to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding
19 the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus
20 does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical
21 cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
22 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

23 (6) "Final disposition" means the burial, interment, cremation, removal from the state, or other
24 authorized disposition of a dead body or fetus.

25 ~~(6)(7)~~ (7) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
26 contained in 40-1-402.

27 (8) "Legitimate" means to place a child born before marriage of the child's parents in the same
28 status as children born during marriage.

29 ~~(7)(9)~~ (9) "Live birth" means ~~the birth of a child who shows evidence of life after being entirely outside~~
30 ~~the mother~~ complete expulsion or extraction from the mother as a product of human conception,

1 notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
 2 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation
 3 of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from
 4 transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

5 ~~(8)~~(10) "Local registrar" means a person appointed by the department to act as its agent in
 6 administering this chapter in the area set forth in the letter of appointment.

7 ~~(9)~~(11) "Person in charge of ~~interment~~ disposition of a dead body" means a ~~person~~ funeral director
 8 licensed under Title 37, chapter 19, an employee acting for a funeral director, or a person who first
 9 assumes custody of a dead body or fetus and who places or causes to be placed a dead body or the ashes
 10 after cremation in a grave, vault, urn, or other receptacle or otherwise disposes of the body or fetus.

11 ~~(10)~~(12) "Physician" means a person legally authorized to practice medicine in this state.

12 (13) "Registration" means the process by which vital records are completed, filed, and incorporated
 13 into the official records of the department.

14 (14) "Research" means a systematic investigation designed primarily to develop or contribute to
 15 generalizable knowledge.

16 (15) "System of vital statistics" means the registration, collection, preservation, amendment, and
 17 certification of vital records. The term includes the collection of reports required by this chapter and related
 18 activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

19 (16) "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
 20 dissolution of marriage and related reports.

21 ~~(11)~~(17) "Vital statistics" ~~includes the registration, preparation, transcription, collection, compilation,~~
 22 ~~and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, marital status,~~
 23 ~~and incidental supporting data~~ means the data derived from certificates or reports of birth, death, fetal
 24 death, induced termination of pregnancy, marriage, and dissolution of marriage and related reports."

25
 26 **Section 4.** Section 50-15-102, MCA, is amended to read:

27 **"50-15-102. Statewide system of vital statistics to be established.** The department shall establish
 28 a statewide system of vital statistics and adopt rules for gathering, recording, using, amending, and
 29 preserving vital statistics and vital records. The department may adopt rules for the proper administration
 30 of the system of vital statistics."

1 **Section 5.** Section 50-15-103, MCA, is amended to read:

2 **"50-15-103. Duties of department.** The department shall:

3 (1) divide the state into registration districts and change districts as necessary;

4 ~~(2) gather, record, use, and preserve vital statistics;~~

5 ~~(3) enforce rules adopted by the department for gathering, recording, using, and preserving vital~~
6 ~~statistics;~~

7 ~~(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital~~
8 ~~statistics~~

9 (2) promulgate rules necessary to implement this chapter;

10 (3) administer and enforce the provisions of this chapter and rules adopted to implement this
11 chapter;

12 (4) direct, supervise, and control the activities of all persons when they are engaged in activities
13 pertaining to the operation of the system of vital statistics;

14 (5) conduct training programs to promote uniformity of policy and procedures throughout the state
15 in matters pertaining to the system of vital statistics;

16 (6) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant to
17 this chapter or prescribe other means for the transmission of data that will accomplish complete and
18 accurate reporting and registration; and

19 (7) prepare and publish reports of vital statistics of this state."

20

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

22 **"50-15-111. Certified copy fee.** (1) The department shall prescribe, by rule, a fee ~~of not less than~~
23 ~~\$5~~ for:

24 (a) a certified copy of certificates or records;

25 (b) a search of files or records when a copy is not made;

26 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

27 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity
28 determination or acknowledgment, or court order;

29 (e) filing a delayed registration of a vital event;

30 (f) the amendment of a vital record, after 1 year from the date of filing; and

1 (g) other services specified by this chapter or by rule.

2 (2) Fees received ~~for a certified copy of a certificate or a search of files shall~~ under subsection (1)
3 must be deposited in the state special revenue fund to be used by the department for:

4 (a) the maintenance of indexes to ~~and costs for~~ vital records;

5 (b) the preservation of vital records; and

6 (c) the modernization and automation of the system of vital statistics."

7
8 **NEW SECTION. Section 7. Copies from system of vital statistics.** (1) Except as provided in
9 subsections (4), (6), and (7), the department and county clerk and recorders shall, upon receipt of an
10 application, issue a certified copy of a vital record or a part of a vital record to the registrant, the
11 registrant's spouse, children, parents, or guardian, or an authorized representative. Other individuals may
12 obtain certified copies when the individual demonstrates that the record is needed for the determination or
13 protection of the individual's personal or property rights. The department shall adopt rules to further define
14 those who may obtain copies of vital records filed under this chapter.

15 (2) All applications, forms, and procedures used in the issuance of certified copies of vital records
16 in the state must be uniform and prepared or approved by the department. All certified copies must contain
17 security features that deter the document from being altered, counterfeited, duplicated, or simulated
18 without ready detection that there have been these changes to the document.

19 (3) Each copy issued must show the date of registration. Copies issued from amended records
20 must be marked and must show the effective date of the amendment. Copies issued from delayed records
21 must be marked, must include the date of registration, and must contain a statement of the evidence used
22 to establish the delayed certificate. A copy issued of a certificate of foreign birth must indicate the fact
23 of foreign birth and the date of birth (if known), must show the actual place of birth, and must state that
24 the certificate is not proof of United States citizenship for the adoptive child.

25 (4) A certified copy or other copy of a death certificate containing information or data that would
26 identify any person or institution named in a certificate or report and the cause of death information may
27 not be issued, except as follows:

28 (a) upon specific request of the spouse, children, parents, or other next of kin of the decedent or
29 their respective authorized representatives, as specified by department rule;

30 (b) when a documented need for the cause of death to establish a legal right or claim has been

1 demonstrated, as specified by department rule;

2 (c) when the request for the copy is made by or on behalf of a person or entity that provides
3 monetary benefits to the decedent's survivors or beneficiaries, as may be specified by department rule;

4 (d) upon specific request by federal, state, or local agencies for research or administrative purposes
5 and when approved for release by the department;

6 (e) when needed for research activities and approved for release by the department; or

7 (f) upon receipt by the department of an order directed to the department from a court of
8 competent jurisdiction ordering the release.

9 (5) A certified copy of a vital record or any part of a vital record, issued in accordance with
10 subsections (1) through (3), must be considered for all purposes the same as the original and is prima facie
11 evidence of the facts stated in the original. The admissibility of a certificate or vital record filed more than
12 1 year after the event or after a corrective record is filed, of a vital record that has been amended, or of
13 a certificate of foreign birth must be determined by the judicial or administrative body or official before
14 whom the certificate is offered as evidence.

15 (6) This section may not be construed to permit disclosure of confidential information contained
16 in a birth certificate for medical or health use or of information for statistical purposes only contained in a
17 certificate of marriage or report of dissolution of marriage unless disclosure is specifically authorized by law
18 for statistical or research purposes or unless ordered by a court.

19 (7) (a) When the department receives information that a certificate may have been registered
20 through fraud or misrepresentation, it shall withhold issuance of the certificate or any copy of that
21 certificate pending issuance of an order after an administrative contested case hearing before the
22 department to determine whether fraud or misrepresentation has occurred.

23 (b) The hearing provided for in subsection (7)(a) must be conducted pursuant to the Montana
24 Administrative Procedure Act. In the proceeding, the department shall notify the registrant or the
25 registrant's authorized representative and provide the registrant or the representative the opportunity to be
26 heard.

27 (c) If, upon conclusion of the hearing, fraud or misrepresentation is not found, the department may
28 issue the certificate or copies of the certificate in question.

29 (d) If, upon conclusion of the hearing, fraud or misrepresentation is found, the department may not
30 register the certificate unless ordered to do so by a court.

1 (e) An affected person may appeal the department's decision to the district court as provided in
2 Title 2, chapter 4, part 7.

3 (8) A person may not prepare or issue any certificate that purports to be an original, certified copy,
4 or copy of a vital record, except as authorized in this chapter or rules adopted to implement this chapter.

5 (9) The department may, by rule, prescribe details for the hearing and appellate procedures
6 contained in this section.

7
8 **NEW SECTION. Section 8. Disclosure of information from vital records or vital reports -- rules.**

9 (1) It is the policy of the state to protect the integrity of vital records and vital reports, to ensure their
10 proper use, and to ensure the efficient and proper administration of the system of vital statistics. In
11 furtherance of the policy, it is unlawful for any person to permit inspection of or to disclose information
12 contained in vital records or in vital reports or to copy or issue a copy of all or a part of a record or report
13 unless authorized by this chapter, by administrative rule, or by order of a court of competent jurisdiction.
14 Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital
15 records.

16 (2) The execution of a research agreement that protects the confidentiality of the information
17 provided to a researcher in response to a written request is required for disclosure of information that may
18 identify a person or institution named in any vital record or report. This agreement must be made in
19 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
20 the release by the researcher of any information that might identify a person or institution, other than
21 releases that may be provided for in the agreement.

22 (3) This section does not prohibit the release of information or data that does not identify a person
23 or institution named in a vital record or report.

24 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from
25 records, as prescribed by this section and rules issued to implement this section, must be made before the
26 department in the case of a county clerk and recorder and to a district court in the case of the department.
27 A challenge before the department must be in the form of a contested case pursuant to the Montana
28 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
29 filing an original action pursuant to the Montana Rules of Civil Procedure.

30 (5) One hundred years after the date of birth or 50 years after the date of death, marriage, or

1 dissolution of marriage, the records of these events in the custody of the department are available to the
2 public without restriction. The department shall adopt rules that provide for the continued safekeeping of
3 the records.

4 (6) The department may provide the national center for health statistics or a successor agency with
5 copies of records, reports, or data from the system of vital statistics that are required for national statistics.
6 The department shall enter into an agreement with the center, indicating the scope of disclosure of
7 information, as required by this chapter or rules implementing this chapter, concerning the use of records,
8 reports, or data for statistical or research purposes. The agreement must set forth the financial support
9 to be provided by the center for the collection, processing, and transmission of the records, reports, or
10 data. Upon written request of the center, the department may approve, by amendment to the agreement,
11 additional statistical or research uses of the records, reports, or data supplied under the agreement.

12 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
13 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
14 statistics if the copies or data is used solely in the conduct of the agency's official duties.

15 (8) Subject to this chapter and rules implementing this chapter, the department may, by agreement,
16 transmit copies of records and other reports required to be compiled by this chapter to offices of vital
17 statistics outside this state when the records or reports concern residents of those jurisdictions or persons
18 born in those jurisdictions. The agreement must specify the statistical and administrative purposes for
19 which the records may be used, and the agreement must provide instructions concerning proper retention,
20 confidentiality requirements, and disposition of the copies. Copies received by the department from offices
21 of vital statistics in other states must be handled as provided for in this subsection.

22
23 **NEW SECTION. Section 9. Preservation of vital records.** To preserve vital records, the department
24 may prepare typewritten, photographic, electronic, or other reproductions of certificates, vital records, or
25 reports kept by the department. The reproductions when certified and approved by the department must
26 be accepted as the original records, and the documents from which permanent reproductions have been
27 made may be disposed of as provided by department rule.

28
29 **NEW SECTION. Section 10. Content of certificates, records, and reports.** (1) In order to promote
30 and maintain nationwide uniformity in the system of vital statistics, the department, in the preparation of

1 the forms of certificates, vital records, or reports required by this chapter or rules adopted under this
2 chapter, may include the elements in forms and the forms recommended by the national center for health
3 statistics for implementing a system of vital statistics.

4 (2) Each certificate, record, report, and other document required by this chapter must be prepared
5 in a format approved by the department. All vital records must contain the date of filing.

6 (3) Information required in certificates, forms, records, or reports authorized by this chapter may
7 be filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by the
8 department.

9

10 **NEW SECTION. Section 11. Birth registration.** (1) A certificate of birth must be filed as specified
11 in this section with the department for each live birth that occurs in this state. Unless otherwise directed
12 by the department, the certificate must be filed within the time prescribed by the department by rule after
13 the birth. The birth certificate must be registered if it has been completed and filed in accordance with this
14 section and rules adopted to implement this section.

15 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by
16 the attending physician or the physician's designee.

17 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or
18 the person's authorized designee shall obtain the personal data concerning the newborn child, prepare the
19 certificate, and certify that the child was born alive at the place, at the time, and on the date stated.
20 Certification may be by signature or by an approved electronic process. The person referenced in this
21 subsection shall file the certificate as directed in subsection (1). The physician or other person in
22 attendance at the birth shall provide the medical information required by the certificate within 72 hours after
23 the birth.

24 (4) The department shall, by rule, determine what evidence may be required to establish the facts
25 of birth if the birth occurs at a place other than a health care facility. In accordance with rules promulgated
26 by the department, the certificate must be prepared and filed by one of the following persons in the
27 indicated order of priority in subsections (4)(a) through (4)(f):

28 (a) the physician or the physician's designee in attendance at or immediately after the birth;

29 (b) a person in attendance at or immediately after the birth;

30 (c) the father or the mother;

1 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
2 where the birth occurred;

3 (e) a midwife licensed pursuant to Title 37, chapter 27; or

4 (f) the local registrar, if 50-15-202 applies.

5 (5) When a birth occurs on a moving conveyance within the United States and the newborn child
6 is first removed from the conveyance in this state, the birth must be registered in this state by a person
7 listed in subsection (4) and the place where the child is first removed from the conveyance is considered
8 the place of birth. When a birth occurs on a moving conveyance while in international waters or air space
9 or in a foreign country or its air space and the child is first removed from the conveyance in this state, the
10 birth must be registered by a person listed in subsection (4) in this state, but the certificate must indicate
11 the actual place of birth insofar as the place can be determined.

12 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to
13 be the mother, unless otherwise provided by state law or determined by a court of competent jurisdiction
14 prior to the filing of the birth certificate. Information about the father must be entered as provided in
15 subsection (7).

16 (7) (a) If the mother was married at the time of conception or birth or between conception and
17 birth, the name of the husband must be entered on the certificate as the father of the child, unless:

18 (i) other paternity has been determined by a court of competent jurisdiction;

19 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is
20 not the father of the child. Affidavits must be notarized, and signatures of the mother and of the husband
21 must be individually notarized on any joint affidavit. If affidavits are filed, information about the father must
22 be omitted from the certificate.

23 (iii) the mother executes an affidavit attesting that the husband is not the father and names a
24 putative father, the putative father executes an affidavit attesting paternity, and the husband executes an
25 affidavit denying paternity. Affidavits may be joint or individual or a combination of joint and individual
26 affidavits. Each signature on an affidavit must be individually notarized. If all affidavits are filed, the
27 putative father must be shown as the father on the certificate.

28 (b) If the mother was not married at the time of conception or birth or between conception and
29 birth, the name of the father may not be entered on the certificate without an affidavit of paternity signed
30 by the mother and the person to be named as the father.

1 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father
2 and surname of the child must be entered on the certificate of birth in accordance with the finding and
3 order of the court.

4 (d) If the father is not named on the certificate of birth, information about the father may not be
5 entered on the certificate.

6 (e) Affidavits required under this subsection (7) must be filed with the department.

7 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data
8 to be entered on the certificate in order to permit the filing of the certificate within the time prescribed in
9 subsection (1).

10 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the
11 date of birth must be registered by the natural parents, the adoptive parents, or the person having legal
12 custody of the child, on the standard form of live birth certificate in the manner prescribed in this section
13 and by rule. The certificate may not be designated as delayed. The department may require additional
14 evidence in support of the facts of birth.

15
16 **Section 12.** Section 50-15-204, MCA, is amended to read:

17 "**50-15-204. Delayed or amended birth certificate.** (1) ~~(a) After the time prescribed by the~~
18 ~~department, a person born in this state may file a birth certificate upon submitting proof as required by the~~
19 ~~department or by any court.~~ If a certificate of birth for a person born in this state has not been filed within
20 1 year of the birth, a delayed certificate of birth may be filed in accordance with rules adopted by the
21 department. A delayed certificate of birth may not be registered until the requirements regarding facts
22 pertaining to the delayed certificate, as specified by rule, have been met.

23 (b) A birth of a person in this state whose name has not been registered within 1 year after the
24 birth must be registered on a delayed certificate of birth form. The delayed certificate must contain the date
25 of registration and a summary statement of the information submitted to explain the delayed registration.

26 (c) A delayed certificate of birth may not be registered for a deceased person.

27 (d) The department may not register a delayed certificate of birth if an applicant for a delayed
28 certificate of birth does not submit the minimum documentation required by rule for delayed registration
29 or if the department has cause to question the validity or adequacy of the applicant's sworn statement or
30 the documentation provided to establish the facts and the deficiencies are not corrected. The department

1 shall advise the applicant of the reasons for the refusal to register the delayed certificate of birth. The
2 department shall advise the applicant of the right to seek an order from a court of competent jurisdiction
3 to obtain registration of the delayed certificate of birth as provided in [section 13].

4 (e) The department may, by rule, provide for the dismissal of an application for registration of a
5 delayed certificate of birth that is not actively pursued.

6 (2) A person may amend a birth, death, or fetal death certificate upon submitting proof as required
7 by the department.

8 (3) If birth certificates ~~are accepted 6 months or more after the time prescribed for filing or are~~
9 altered by the department after filing, the certificate ~~shall~~ must show the date of the ~~delayed filing or~~
10 alteration and the mark "~~delayed~~" or "altered". A summary statement of the evidence in support of the
11 ~~delayed filing or alteration shall~~ must be endorsed on the certificate.

12 (4) The probative value of a "delayed" or "altered" certificate of birth is determined by the judicial
13 or administrative body before whom the certificate is offered as evidence."
14

15 NEW SECTION. Section 13. Judicial birth facts procedure. (1) If the department declines to
16 register a certificate of birth under the provisions of 50-15-204 or [section 11], a petition signed and sworn
17 to by the petitioner may be filed with the district court, seeking an order establishing a record of the date
18 and place of the birth and the parentage of the person whose birth is to be registered.

19 (2) The petition must be made on a form adopted or approved by the department and must allege:

20 (a) that the person for whom a certificate of birth is sought was born in this state;

21 (b) that a certificate of birth of the person cannot be found at the department or at the office of
22 the clerk and recorder;

23 (c) that diligent efforts by the petitioner have failed to obtain the evidence to establish entitlement
24 to a certificate of birth required in accordance with this chapter and rules adopted pursuant to this chapter;

25 (d) that the department has declined to file a certificate of birth; and

26 (e) other allegations as may be required by law.

27 (3) The petition must be accompanied by all documentary evidence that was submitted to the
28 department in support of the applicant's registration and by a statement of the reasons why the department
29 declined to register the certificate of birth.

30 (4) The district court shall fix a time and place for hearing the petition and shall give the department

1 30 days' notice of the hearing. The department through its authorized representative shall appear and
2 testify as a witness in the proceeding if determined necessary by the court.

3 (5) If the district court finds, from the evidence presented, that the person for whom a certificate
4 of birth is sought was born in this state, it shall make findings as to the date and place of birth, parentage,
5 and other relevant facts and shall issue an order establishing the certificate of birth. The order must include
6 the findings and birth data to be registered, a description of the evidence presented, and the date of the
7 court's action.

8 (6) The clerk of the court shall forward the order referred to in subsection (5) to the department
9 not later than the 10th calendar day of the month following the month in which it was entered. The order
10 must be registered by the department and constitutes the court-ordered certificate of birth.

11
12 **NEW SECTION. Section 14. Certificates of birth following adoption, legitimation, or determination**
13 **or acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person
14 born in this state when the department receives the following:

15 (a) a certificate of adoption, as provided in [section 16], a certificate of adoption prepared and filed
16 in accordance with the laws of another state or foreign country, or a certified copy of the decree of
17 adoption, together with the information necessary to identify the original certificate of birth and to establish
18 a new certificate of birth; or

19 (b) a request that a new certificate be established if the request shows that:

20 (i) the person has been legitimated;

21 (ii) a district court has determined the paternity of the person; or

22 (iii) both parents have acknowledged the paternity of the person and request that the surname be
23 changed from that shown on the original certificate.

24 (2) The date of birth and the city and county of birth must be stated in the newly established
25 certificate of birth. The department shall substitute the new certificate of birth for the original certificate
26 of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court
27 determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon
28 order of a district court, as provided by rule, or as otherwise provided by state law.

29 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the
30 certificate of birth as provided in rules adopted by the department.

1 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the
2 original certificate of birth issued before the adoption to its place in the files and the certificate of birth
3 issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection,
4 except upon order of a district court or as provided by rule adopted by the department.

5 (5) Upon written request of both parents and receipt of a sworn acknowledgment of paternity
6 signed by both parents of a child born outside of marriage, the department shall reflect the paternity on the
7 child's certificate of birth if paternity is not already shown on the certificate of birth.

8 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth
9 is to be established under this section and the date and place of birth have not been determined in the
10 adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with
11 the department, as provided in 50-15-204, before a new certificate of birth may be established. The new
12 certificate of birth must be prepared on a form prescribed by the department.

13 (7) When a new certificate of birth is established by the department, the department may direct
14 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this
15 state either be sealed from inspection or be forwarded to the department for sealing from inspection.

16 (8) (a) The department shall, upon request of the adopting parents, prepare and register a
17 certificate of birth in this state for a person born in a foreign country who is not a citizen of the United
18 States and who was adopted through a district court in this state.

19 (b) The certificate of birth must be established by the department upon receipt of a certificate of
20 adoption, conforming to the requirements of [section 16], from the court that reflects entry of an order of
21 adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate
22 of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or
23 older.

24 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual
25 country of birth. A statement must be included on the certificate indicating that it is not evidence of United
26 States citizenship for the child for whom it is issued.

27 (d) After registration of the certificate of birth in the new name of the adopted person, the
28 department shall seal and file the certificate of adoption, which is not subject to inspection, except upon
29 order of the district court, as provided by rule, or as otherwise provided by state law.

30 (9) The department may promulgate rules necessary to implement this section.

1 **Section 15.** Section 50-15-303, MCA, is amended to read:

2 "**50-15-303. Certificates of dissolution of marriage, ~~adoption, or~~ declaration of invalidity of**
3 **marriage, ~~or annulment of adoption.~~** Before the 10th day of each month, the clerk of the court shall prepare
4 and forward to the department a certificate for each decree of dissolution of marriage, ~~adoption, or~~
5 declaration of invalidity of marriage, ~~or annulment of adoption~~ that became final during the preceding
6 calendar month. Certificates ~~shall~~ must be on forms prescribed by the department."

7

8 **NEW SECTION. Section 16. Certificates of adoption or annulment of adoption -- report of amended**
9 **or annulled adoption decree.** (1) For each adoption decreed by a district court, the decree must require
10 the clerk of the court to prepare a certificate of adoption on a form prescribed and furnished by the
11 department. The certificate of adoption must include facts that are necessary to locate and identify the
12 certificate of birth of the person adopted or, in the case of a person who was born in a foreign country,
13 evidence from sources determined to be reliable by the district court as to the date and place of birth of
14 the person. The certificate of adoption must also contain information necessary to establish a new
15 certificate of birth for the person adopted and must identify the order of adoption. The clerk of the court
16 shall certify the certificate of adoption.

17 (2) Information necessary for the clerk of the court to prepare the certificate of adoption must be
18 furnished, by each petitioner for adoption on a form prescribed by the department, at the time that the
19 petition for adoption is filed. A person or agency having knowledge of facts, as described in subsection
20 (1), may be required by the court to supply the court with information necessary to complete the certificate
21 of adoption. The district court may make the provision of the information for the preparation of a certificate
22 of adoption a prerequisite to the issuance of a final decree.

23 (3) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a
24 report. The report must include the facts that are necessary to identify the original certificate of adoption
25 and the facts amended in the adoption decree that are necessary to properly amend the birth record.

26 (4) No later than the 16th day of each calendar month or more frequently, as directed by the
27 department, the clerk of the court shall forward to the department certificates of adoption, reports of
28 annulment of adoption, and amendments of decrees of adoption that were entered in the preceding month,
29 together with any related reports required by the department.

30 (5) When the department receives a certificate of adoption, report of annulment of adoption, or

1 amendment of a decree of adoption for a person born outside this state, the department shall forward the
2 certificate, report, or amendment to the state registrar or the agency charged with registering vital statistics
3 in the state where the person was born.

4 (6) If the birth of an adopted child occurred in a foreign country and the adopted child was not a
5 citizen of the United States at the time of birth, the department shall prepare a "Certificate of Foreign Birth"
6 as required by [section 14]. If the adopted child was born in Canada, the department shall send a copy of
7 the certificate of adoption, report of annulment of adoption, or amendment of a decree of adoption to the
8 appropriate registration authority in Canada.

9 (7) If the adopted child born in a foreign country was a citizen of the United States at the time of
10 birth, the department may not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents
11 of the procedures for obtaining a revised certificate of birth for their child through the United States
12 department of state.

13 (8) A deceased person cannot be adopted.
14

15 **Section 17.** Section 50-15-403, MCA, is amended to read:

16 **"50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of
17 disposition of a dead body or fetus shall obtain personal data on the deceased or, in the case of a fetal
18 death, on the parents that is required by the department from persons best qualified to supply the data and
19 enter it on the death or fetal death certificate.

20 (2) The person in charge of disposition of the dead body or fetus shall present the death certificate
21 to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death.
22 The person in charge of disposition shall obtain the completed certification of the cause of death from the
23 physician or coroner and shall, within the time that the department may by rule prescribe, file the death or
24 fetal death certificate with the local registrar in the registration area where the death occurred.

25 (3) A fetal death certificate is not required to be filed for a fetus of less than 350 grams at death
26 or, if the weight is unknown, for a fetus that has not reached 20 completed weeks of gestation at death."
27

28 **Section 18.** Section 50-15-405, MCA, is amended to read:

29 **"50-15-405. Authorization for removal of body from place of death.** (1) Except as provided in
30 subsection (2), a dead body may be removed from the place of death only upon the written authorization

1 or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at
2 death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

3 (2) If the death requires inquiry under 46-4-122, the written authorization may only be granted by
4 the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner
5 fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated,
6 the coroner may grant oral authorization for ~~removal~~ cremation of the body, which must be reduced to
7 writing as specified under subsection (1) by the coroner.

8 (3) The written authorization to move a dead body or, when applicable, to cremate a dead body
9 must be made in ~~triplicate~~ quadruplicate on a form provided by the department. The person in charge of
10 disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided
11 with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition,
12 as necessary.

13 (4) A written authorization issued under this section permits removal, transportation, and final
14 disposition of a dead body."

15

16 **Section 19.** Section 50-16-542, MCA, is amended to read:

17 "**50-16-542. Denial of examination and copying.** (1) A health care provider may deny access to
18 health care information by a patient if the health care provider reasonably concludes that:

19 (a) knowledge of the health care information would be injurious to the health of the patient;

20 (b) knowledge of the health care information could reasonably be expected to lead to the patient's
21 identification of an individual who provided the information in confidence and under circumstances in which
22 confidentiality was appropriate;

23 (c) knowledge of the health care information could reasonably be expected to cause danger to the
24 life or safety of any individual;

25 (d) the health care information was compiled and is used solely for litigation, quality assurance,
26 peer review, or administrative purposes;

27 (e) the health care information might ~~disclose birth out of wedlock or provide information from~~
28 ~~which knowledge of birth out of wedlock might be obtained and which~~ contain information is protected
29 from disclosure pursuant to ~~50-15-206~~ [sections 7 and 8];

30 (f) the health care provider obtained the information from a person other than the patient; or

1 (g) access to the health care information is otherwise prohibited by law.

2 (2) Except as provided in 50-16-521, a health care provider may deny access to health care
3 information by a patient who is a minor if:

4 (a) the patient is committed to a mental health facility; or

5 (b) the patient's parents or guardian ~~have~~ has not authorized the health care provider to disclose
6 the patient's health care information.

7 (3) If a health care provider denies a request for examination and copying under this section, the
8 provider, to the extent possible, shall segregate health care information for which access has been denied
9 under subsection (1) from information for which access cannot be denied and permit the patient to examine
10 or copy the ~~disclosable~~ information subject to disclosure.

11 (4) If a health care provider denies a patient's request for examination and copying, in whole or
12 in part, under subsection (1)(a) or (1)(c), ~~he~~ the provider shall permit examination and copying of the record
13 by another health care provider who is providing health care services to the patient for the same condition
14 as the health care provider denying the request. The health care provider denying the request shall inform
15 the patient of the patient's right to select another health care provider under this subsection."
16

17 **NEW SECTION. Section 20. Repealer.** Sections 50-15-110, 50-15-112, 50-15-113, 50-15-201,
18 50-15-205, and 50-15-206, MCA, are repealed.
19

20 **NEW SECTION. Section 21. Codification instructions.** (1) [Sections 7 through 10] are intended
21 to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15,
22 part 1, apply to [sections 7 through 10].

23 (2) [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 50, chapter
24 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [sections 11, 13, and 14].

25 (3) [Section 16] is intended to be codified as an integral part of Title 50, chapter 15, part 3, and
26 the provisions of Title 50, chapter 15, part 3, apply to [section 16].
27

28 **NEW SECTION. Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are
29 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
30 applications, the part remains in effect in all valid applications that are severable from the invalid

1 applications.

2

3 NEW SECTION. **Section 23. Effective date.** [This act] is effective January 1, 1996.

4

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0089, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to generally revise vital statistics laws to standardize procedures and to conform to national standards; to clarify information available from the system of vital statistics; to revise laws governing certificates of adoption; and to revise standards for preserving vital records.

ASSUMPTIONS:

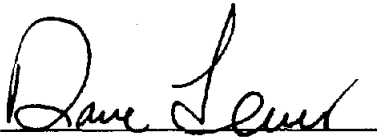
1. The Executive Budget contains funding for the Vital Records and Statistics Bureau contained in the Department of Health and Environmental Sciences (DHES). Costs estimated for this fiscal note are those estimated to be above or below the level of funding contained in the present law base in the Executive Budget.
2. This legislation will become effective January 1, 1996.
3. Necessary rules will be promulgated prior to the effective date and cost of promulgation will be absorbed by the present law base budget.
4. Under current law and rules a fee of \$10.00 is charged for a certified copy of a vital record or for a search of files when a copy is not issued. This fee is to recover actual costs for services provided. The cost of providing these services is not the same for each of the services listed. This bill will permit the department to set realistic service-specific fees. Sufficient information is not available at this time to estimate the impact on revenue.
5. In order to comply with these uniformity and security requirements, an unknown number of county Clerk and Recorder offices may have to purchase a more secure paper for the issuance of certified copies of vital records. Information is not available to estimate the increase in operational budgets of affected county offices.

FISCAL IMPACT:

Net Impact: As indicated in assumption 4 above, there may be some fiscal impact related to restructuring fees based on actual costs of services. At this time, the department has insufficient information to determine the fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Some county Clerk and Recorder offices may incur a cost to purchase special paper to comply with the security and uniformity requirements for issuance of certified copies of vital statistics. The department does not have sufficient information on the volume or type of paper used by each county Clerk and Recorder office to provide a specific estimate of the expenditure for these county offices.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/10/95
RAY PECK, PRIMARY SPONSOR DATE

HOUSE BILL NO. 89

INTRODUCED BY PECK

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE VITAL STATISTICS LAWS TO STANDARDIZE PROCEDURES AND TO CONFORM TO NATIONAL STANDARDS; CLARIFYING THE INFORMATION AVAILABLE FROM THE SYSTEM OF VITAL STATISTICS; REVISING BIRTH REGISTRATION REQUIREMENTS; REVISING PROCEDURES AND CRITERIA FOR ISSUING A DELAYED OR ALTERED BIRTH CERTIFICATE; REVISING THE JUDICIAL PROCEDURE FOR ESTABLISHING THE FACTS OF BIRTH; REVISING THE LAWS GOVERNING CERTIFICATES OF ADOPTION AND ANNULMENT OF ADOPTION; PROVIDING FOR CERTIFICATES OF FOREIGN BIRTH; REVISING THE LAWS FOR CERTIFICATES OF BIRTH FOLLOWING ADOPTION, LEGITIMATION, OR ESTABLISHMENT OF PATERNITY; REVISING STANDARDS FOR PRESERVING VITAL RECORDS; REVISING THE CONTENT OF VITAL RECORDS; AMENDING SECTIONS 37-27-321, 40-8-126, 50-15-101, 50-15-102, 50-15-103, 50-15-111, 50-15-204, 50-15-303, 50-15-403, 50-15-405, AND 50-16-542, MCA; REPEALING SECTIONS 50-15-110, 50-15-112, 50-15-113, 50-15-201, 50-15-205, AND 50-15-206, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the bill gives the department of health and environmental sciences authority to adopt administrative rules.

The legislature intends that the rules:

- (1) address the process for establishing and maintaining a statewide system of vital statistics and vital records;
- (2) define persons who may obtain copies of vital records and the showing necessary to obtain vital records;
- (3) establish which persons may prepare or issue certified copies of certificates of birth or vital records;
- (4) establish the process and scope of disclosure of information to the public and governmental agencies as well as adequate standards for security and confidentiality of vital records;
- (5) establish a system for preservation or disposal of vital records;

- 1 (6) establish the process and guidelines for registration of births;
- 2 (7) establish the process for establishing, maintaining, or dismissing applications for delayed
3 certificates of birth;
- 4 (8) establish forms necessary to track vital statistics by courts or other governmental entities;
- 5 (9) establish a system of issuance and maintenance of certificates of birth following adoption,
6 legitimation, or establishment of paternity;
- 7 (10) establish a system for issuance and maintenance of records of dissolution or annulment of
8 marriage; and
- 9 (11) establish a system for the issuance and maintenance of certificates of adoption and annulment
10 of adoption.

11

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

13

14 **Section 1.** Section 37-27-321, MCA, is amended to read:

15 **"37-27-321. Filing of birth certificate.** (1) When a birth occurs with a licensed direct-entry
16 midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by
17 ~~50-15-204 [section 11]~~, with the department of health and environmental sciences ~~within 30 days of the~~
18 ~~birth of the newborn.~~

19 (2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for
20 the suspension or revocation of a license granted under this chapter."

21

22 **Section 2.** Section 40-8-126, MCA, is amended to read:

23 **"40-8-126. Confidentiality of record and proceedings.** (1) Unless the court ~~shall~~ orders otherwise
24 ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall~~ must be held in
25 closed court without admittance of any person other than interested parties and their counsel.

26 (2) All papers and records pertaining to the adoption ~~shall~~ must be kept as a permanent record of
27 the court and withheld from inspection. ~~No~~ A person ~~shall~~ may not have access to ~~such~~ the records,
28 except:

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

1 (b) as provided in ~~50-15-206~~ [sections 7 and 8].

2 (3) All files and records pertaining to ~~said~~ the adoption proceedings in the county departments of
3 public welfare, the department of social and rehabilitation services, the department of family services, or
4 any authorized agencies ~~shall be~~ are confidential and must be withheld from inspection, except upon order
5 of court for good cause shown or as provided in ~~50-15-206~~ [sections 7 and 8]."

6

7 **Section 3.** Section 50-15-101, MCA, is amended to read:

8 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4, the following
9 definitions apply:

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

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

13 (3) "Department" means the department of health and environmental sciences provided for in Title
14 2, chapter 15, part 21.

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

16 (5) "Fetal death" means ~~a birth after 20 weeks of gestation, or before 20 weeks of gestation if the~~
17 ~~fetus weighs more than 500 grams at the time of delivery, that is not a live birth~~ death of the fetus prior
18 to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding
19 the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus
20 does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical
21 cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
22 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

23 (6) "Final disposition" means the burial, interment, cremation, removal from the state, or other
24 authorized disposition of a dead body or fetus.

25 ~~(6)(7)~~ (7) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
26 contained in 40-1-402.

27 ~~(8)~~ "Legitimate" means to place a child born before marriage of the child's parents in the same
28 status as children born during marriage.

29 ~~(7)(9)(8)~~ (8) "Live birth" means the ~~birth of a child who shows evidence of life after being entirely~~
30 ~~outside the mother~~ complete expulsion or extraction from the mother as a product of human conception,

1 notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
 2 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation
 3 of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from
 4 transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

5 ~~(8)(10)(9)~~ "Local registrar" means a person appointed by the department to act as its agent in
 6 administering this chapter in the area set forth in the letter of appointment.

7 ~~(9)(11)(10)~~ "Person in charge of ~~interment~~ disposition of a dead body" means a ~~person~~ PERSON
 8 WHO PLACES OR CAUSES TO BE PLACED A DEAD BODY OR THE ASHES AFTER CREMATION IN A
 9 GRAVE, VAULT, URN, OR OTHER RECEPTACLE OR OTHERWISE DISPOSES OF THE BODY OR FETUS AND
 10 WHO IS A funeral director licensed under Title 37, chapter 19, an employee acting for a funeral director,
 11 or a person who first assumes custody of a dead body or fetus and ~~who places or causes to be placed a~~
 12 dead body or the ashes after cremation in a grave, vault, urn, or other receptacle or otherwise disposes of
 13 the body or fetus.

14 ~~(10)(12)(11)~~ "Physician" means a person legally authorized to practice medicine in this state.

15 ~~(13)(12)~~ "Registration" means the process by which vital records are completed, filed, and
 16 incorporated into the official records of the department.

17 ~~(14)(13)~~ "Research" means a systematic investigation designed primarily to develop or contribute
 18 to generalizable knowledge.

19 ~~(15)(14)~~ "System of vital statistics" means the registration, collection, preservation, amendment,
 20 and certification of vital records. The term includes the collection of reports required by this chapter and
 21 related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

22 ~~(16)(15)~~ "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
 23 dissolution of marriage and related reports.

24 ~~(11)(17)(16)~~ "Vital statistics" ~~includes the registration, preparation, transcription, collection,~~
 25 ~~compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths,~~
 26 ~~marital status, and incidental supporting data~~ means the data derived from certificates or reports of birth,
 27 death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related
 28 reports."

29
 30 **Section 4.** Section 50-15-102, MCA, is amended to read:

1 **"50-15-102. Statewide system of vital statistics to be established.** The department shall establish
 2 a statewide system of vital statistics and adopt rules for gathering, recording, using, amending, and
 3 preserving vital statistics and vital records. ~~The department may adopt rules for the proper administration~~
 4 ~~of the system of vital statistics."~~

5
 6 **Section 5.** Section 50-15-103, MCA, is amended to read:

7 **"50-15-103. Duties of department.** The department shall:

8 (1) divide the state into registration districts and change districts as necessary;

9 ~~(2) gather, record, use, and preserve vital statistics;~~

10 ~~(3) enforce rules adopted by the department for gathering, recording, using, and preserving vital~~
 11 ~~statistics;~~

12 ~~(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital~~
 13 ~~statistics~~

14 (2) promulgate rules necessary to implement this chapter;

15 (3) administer and enforce the provisions of this chapter and rules adopted to implement this
 16 chapter;

17 ~~(4) direct, supervise, and control the activities of all persons when they are engaged in activities~~
 18 ~~pertaining to the operation of the system of vital statistics;~~

19 ~~(5)~~(4) conduct training programs to promote uniformity of policy and procedures throughout the
 20 state in matters pertaining to the system of vital statistics;

21 ~~(6)~~(5) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant
 22 to this chapter or prescribe other means for the transmission of data that will accomplish complete and
 23 accurate reporting and registration; and

24 ~~(7)~~(6) prepare and publish reports of vital statistics of this state."

25
 26 **Section 6.** Section 50-15-111, MCA, is amended to read:

27 **"50-15-111. Certified copy fee.** (1) The department shall prescribe, by rule, a fee ~~of not less than~~
 28 ~~\$5~~ for:

29 (a) a certified copy of certificates or records;

30 (b) a search of files or records when a copy is not made;

1 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

2 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity
 3 determination or acknowledgment, or court order;

4 (e) filing a delayed registration of a vital event;

5 (f) the amendment of a vital record, after 1 year from the date of filing; and

6 (g) other services specified by this chapter or by rule.

7 (2) Fees received for a certified copy of a certificate or a search of files shall under subsection (1)
 8 must be deposited in the state special revenue fund to be used by the department for:

9 (a) the maintenance of indexes to ~~and costs for~~ vital records;

10 (b) the preservation of vital records; and

11 (c) the ~~modernization and automation~~ ADMINISTRATION of the system of vital statistics."

12
 13 **NEW SECTION. Section 7. Copies from system of vital statistics.** (1) Except as provided in
 14 subsections (4), (6), and (7), the department and county clerk and recorders shall, upon receipt of an
 15 application, issue a certified copy OR COPIES of a vital record or a part of a vital record to the registrant,
 16 the registrant's spouse, children, parents, or guardian, or an authorized representative. Other individuals
 17 may obtain certified copies when the individual demonstrates that the record is needed for the
 18 determination or protection of the individual's personal or property rights. The department shall adopt rules
 19 to further define those who may obtain copies of vital records filed under this chapter.

20 (2) All applications, forms, and procedures used in the issuance of certified copies of vital records
 21 in the state must be uniform and prepared or approved by the department. All certified copies must contain
 22 security features that deter the document from being altered, counterfeited, duplicated, or simulated
 23 without ready detection that there have been these changes to the document.

24 (3) Each copy issued must show the date of registration. Copies issued from amended records
 25 must be marked and must show the effective date of the amendment. Copies issued from delayed records
 26 must be marked, must include the date of registration, and must contain a statement of the evidence used
 27 to establish the delayed certificate. A copy issued of a certificate of foreign birth must indicate the fact
 28 of foreign birth and the date of birth (if known), must show the actual place of birth, and must state that
 29 the certificate is not proof of United States citizenship for the adoptive child.

30 (4) A certified copy or other copy of a death certificate containing information or data that would

1 identify any person or institution named in a certificate or report and the cause of death information may
2 not be issued, except as follows:

3 (a) upon specific request of the spouse, children, parents, or other next of kin of the decedent or
4 their respective authorized representatives, as specified by department rule;

5 (b) when a documented need for the cause of death to establish a legal right or claim has been
6 demonstrated, as specified by department rule;

7 (c) when the request for the copy is made by or on behalf of a person or entity that provides
8 monetary benefits to the decedent's survivors or beneficiaries, as may be specified by department rule;

9 (d) upon specific request by federal, state, or local agencies for research or administrative purposes
10 and when approved for release by the department;

11 (e) when needed for research activities and approved for release by the department; or

12 (f) upon receipt by the department of an order directed to the department from a court of
13 competent jurisdiction ordering the release.

14 (5) A certified copy of a vital record or any part of a vital record, issued in accordance with
15 subsections (1) through (3), must be considered for all purposes the same as the original ~~and is prima facie~~
16 ~~evidence of the facts stated in the original.~~ The admissibility of a certificate or vital record filed more than
17 1 year after the event or after a corrective record is filed, of a vital record that has been amended, or of
18 a certificate of foreign birth must be determined by the judicial or administrative body or official before
19 whom the certificate is offered as evidence.

20 (6) This section may not be construed to permit disclosure of confidential information contained
21 in a birth certificate for medical or health use or of information for statistical purposes only contained in a
22 certificate of marriage or report of dissolution of marriage unless disclosure is specifically authorized by law
23 for statistical or research purposes or unless ordered by a court.

24 (7) (a) When the department receives information that a certificate may have been registered
25 through fraud or misrepresentation, it shall withhold issuance of the certificate or any copy of that
26 certificate pending issuance of an order after an administrative contested case hearing before the
27 department to determine whether fraud or misrepresentation has occurred.

28 (b) The hearing provided for in subsection (7)(a) must be conducted pursuant to the Montana
29 Administrative Procedure Act. In the proceeding, the department shall notify the registrant or the
30 registrant's authorized representative and provide the registrant or the representative the opportunity to be

1 heard.

2 (c) If, upon conclusion of the hearing, fraud or misrepresentation is not found, the department may
3 issue the certificate or copies of the certificate in question.

4 (d) If, upon conclusion of the hearing, fraud or misrepresentation is found, the department may not
5 register the certificate unless ordered to do so by a court.

6 (e) An affected person may appeal the department's decision to the district court as provided in
7 Title 2, chapter 4, part 7.

8 (8) A person may not prepare or issue any certificate that purports to be an original; OR certified
9 copy, ~~or copy of a vital record~~, except as authorized in this chapter or rules adopted to implement this
10 chapter.

11 (9) The department may, by rule, prescribe details for the hearing and appellate procedures
12 contained in this section.

13

14 **NEW SECTION. Section 8. Disclosure of information from vital records or vital reports -- rules.**

15 (1) It is the policy of the state to protect the integrity of vital records and vital reports, to ensure their
16 proper use, and to ensure the efficient and proper administration of the system of vital statistics. In
17 furtherance of the policy, it is unlawful for any person to permit inspection of or to disclose information
18 contained in vital records or in vital reports or to copy or issue a copy of all or a part of a record or report
19 unless authorized by this chapter, by administrative rule, or by order of a court of competent jurisdiction.
20 Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital
21 records.

22 (2) The execution of a research agreement that protects the confidentiality of the information
23 provided to a researcher in response to a written request is required for disclosure of information that may
24 identify a person or institution named in any vital record or report. This agreement must be made in
25 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
26 the release by the researcher of any information that might identify a person or institution, other than
27 releases that may be provided for in the agreement.

28 (3) This section does not prohibit the release of information or data that does not identify a person
29 or institution named in a vital record or report.

30 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from

1 records, as prescribed by this section and rules issued to implement this section, must be made before the
2 department in the case of a county clerk and recorder and to a district court in the case of the department.
3 A challenge before the department must be in the form of a contested case pursuant to the Montana
4 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
5 filing an original action pursuant to the Montana Rules of Civil Procedure.

6 (5) One hundred years after the date of birth or 50 years after the date of death, marriage, or
7 dissolution of marriage, the records of these events in the custody of the department are available to the
8 public without restriction. The department shall adopt rules that provide for the continued safekeeping of
9 the records.

10 (6) The department may provide the national center for health statistics or a successor agency with
11 copies of records, reports, or data from the system of vital statistics that are required for national statistics.
12 The department shall enter into an agreement with the center, indicating the scope of disclosure of
13 information, as required by this chapter or rules implementing this chapter, concerning the use of records,
14 reports, or data for statistical or research purposes. The agreement must set forth the financial support
15 to be provided by the center for the collection, processing, and transmission of the records, reports, or
16 data. Upon written request of the center, the department may approve, by amendment to the agreement,
17 additional statistical or research uses of the records, reports, or data supplied under the agreement.

18 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
19 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
20 statistics if the copies or data is used solely in the conduct of the agency's official duties. THE
21 DEPARTMENT SHALL, UPON REQUEST BY THE DEPARTMENT OF SOCIAL AND REHABILITATION
22 SERVICES, THE DEPARTMENT OF FAMILY SERVICES, OR A LICENSED ADOPTION AGENCY, PROVIDE
23 A BIRTH CERTIFICATE AND RELATED RECORDS FOR PURPOSES OF ADOPTION, TERMINATION OF
24 PARENTAL RIGHTS, CUSTODY ACTIONS, PATERNITY ACTIONS, CHILD SUPPORT ACTIONS, SOCIAL
25 SECURITY ELIGIBILITY DETERMINATIONS, OR INDIAN TRIBAL ENROLLMENT DETERMINATIONS.

26 (8) Subject to this chapter and rules implementing this chapter, the department may, by agreement,
27 transmit copies of records and other reports required to be compiled by this chapter to offices of vital
28 statistics outside this state when the records or reports concern residents of those jurisdictions or persons
29 born in those jurisdictions. The agreement must specify the statistical and administrative purposes for
30 which the records may be used, and the agreement must provide instructions concerning proper retention,

1 confidentiality requirements, and disposition of the copies. Copies received by the department from offices
2 of vital statistics in other states must be handled as provided for in this subsection.

3
4 **NEW SECTION. Section 9. Preservation of vital records.** To preserve vital records, the department
5 may prepare typewritten, photographic, electronic, or other reproductions of certificates, vital records, or
6 reports kept by the department. The reproductions when certified and approved by the department must
7 be accepted as the original records, ~~and the documents from which permanent reproductions have been~~
8 ~~made may be disposed of as provided by department rule.~~ **THE DEPARTMENT SHALL MAINTAIN**
9 **ORIGINAL VITAL RECORDS INTACT AND IN THEIR ORIGINAL FORM ON FILE AT THE DEPARTMENT.**

10
11 **NEW SECTION. Section 10. Content of certificates, records, and reports.** (1) In order to promote
12 and maintain nationwide uniformity in the system of vital statistics, the department, in the preparation of
13 the forms of certificates, vital records, or reports required by this chapter or rules adopted under this
14 chapter, may include the elements in forms and the forms recommended by the national center for health
15 statistics for implementing a system of vital statistics.

16 (2) Each certificate, record, report, and other document required by this chapter must be prepared
17 in a format approved by the department. All vital records must contain the date of filing.

18 (3) Information required in certificates, forms, records, or reports authorized by this chapter may
19 be filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by the
20 department.

21
22 **NEW SECTION. Section 11. Birth registration.** (1) A certificate of birth must be filed as specified
23 in this section with the department for each live birth that occurs in this state. Unless otherwise directed
24 by the department, the certificate must be filed within the time prescribed by the department by rule after
25 the birth. The birth certificate must be registered if it has been completed and filed in accordance with this
26 section and rules adopted to implement this section.

27 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by
28 the attending physician or the physician's designee.

29 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or
30 the person's authorized designee shall obtain the personal data concerning the newborn child, prepare the

1 certificate, and certify that the child was born alive at the place, at the time, and on the date stated.
2 Certification may be by signature or by an approved electronic process. The person referenced in this
3 subsection shall file the certificate as directed in subsection (1). The physician or other person in
4 attendance at the birth shall provide the medical information required by the certificate within 72 hours after
5 the birth.

6 (4) The department shall, by rule, determine what evidence may be required to establish the facts
7 of birth if the birth occurs at a place other than a health care facility. In accordance with rules promulgated
8 by the department, the certificate must be prepared and filed by one of the following persons in the
9 indicated order of priority in subsections (4)(a) through ~~(4)(f)~~ (4)(E):

10 (a) the physician or the physician's designee OR A MIDWIFE LICENSED PURSUANT TO TITLE 37,
11 CHAPTER 27, in attendance at or immediately after the birth;

12 (b) a person in attendance at or immediately after the birth;

13 (c) the father or the mother;

14 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
15 where the birth occurred; OR

16 ~~(e) a midwife licensed pursuant to Title 37, chapter 27; or~~

17 ~~(f)(E)~~ the local registrar, if 50-15-202 applies.

18 (5) When a birth occurs on a moving conveyance within the United States and the newborn child
19 is first removed from the conveyance in this state, the birth must be registered in this state by a person
20 listed in subsection (4) and the place where the child is first removed from the conveyance is considered
21 the place of birth. When a birth occurs on a moving conveyance while in international waters or air space
22 or in a foreign country or its air space and the child is first removed from the conveyance in this state, the
23 birth must be registered by a person listed in subsection (4) in this state, but the certificate must indicate
24 the actual place of birth insofar as the place can be determined.

25 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to
26 be the mother, unless otherwise provided by state law or determined by a court of competent jurisdiction
27 prior to the filing of the birth certificate. Information about the father must be entered as provided in
28 subsection (7).

29 (7) (a) If the mother was married at the time of conception or birth or between conception and
30 birth, the name of the husband must be entered on the certificate as the father of the child, unless:

1 (i) other paternity has been determined by a court of competent jurisdiction;

2 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is
3 not the father of the child. Affidavits must be notarized, and signatures of the mother and of the husband
4 must be individually notarized on any joint affidavit. If affidavits are filed, information about the father must
5 be omitted from the certificate.

6 (iii) the mother executes an affidavit attesting that the husband is not the father and names a
7 putative father, the putative father executes an affidavit attesting paternity, and the husband executes an
8 affidavit denying paternity. Affidavits may be joint or individual or a combination of joint and individual
9 affidavits. Each signature on an affidavit must be individually notarized. If all affidavits are filed, the
10 putative father must be shown as the father on the certificate.

11 (b) If the mother was not married at the time of conception or birth or between conception and
12 birth, the name of the father may not be entered on the certificate without an affidavit of paternity signed
13 by the mother and the person to be named as the father.

14 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father
15 and surname of the child must be entered on the certificate of birth in accordance with the finding and
16 order of the court.

17 (d) If the father is not named on the certificate of birth, information about the father may not be
18 entered on the certificate.

19 (e) Affidavits required under this subsection (7) must be filed with the department.

20 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data
21 to be entered on the certificate in order to permit the filing of the certificate within the time prescribed in
22 subsection (1).

23 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the
24 date of birth must be registered by the natural parents, the adoptive parents, or the person having legal
25 custody of the child, on the standard form of live birth certificate in the manner prescribed in this section
26 and by rule. The certificate may not be designated as delayed. The department may require additional
27 evidence in support of the facts of birth.

28

29 **Section 12.** Section 50-15-204, MCA, is amended to read:

30 "50-15-204. **Delayed or amended birth certificate.** (1) ~~(a) After the time prescribed by the~~

1 ~~department, a person born in this state may file a birth certificate upon submitting proof as required by the~~
 2 ~~department or by any court. If a certificate of birth for a person born in this state has not been filed within~~
 3 ~~1 year of the birth, a delayed certificate of birth may be filed in accordance with rules adopted by the~~
 4 ~~department. A delayed certificate of birth may not be registered until the requirements regarding facts~~
 5 ~~pertaining to the delayed certificate, as specified by rule, have been met.~~

6 (b) A birth of a person in this state whose name has not been registered within 1 year after the
 7 birth must be registered on a delayed certificate of birth form. The delayed certificate must contain the date
 8 of registration and a summary statement of the information submitted to explain the delayed registration.

9 (c) A delayed certificate of birth may not be registered for a deceased person.

10 (d) The department may not register a delayed certificate of birth if an applicant for a delayed
 11 certificate of birth does not submit the minimum documentation required by rule for delayed registration
 12 or if the department has cause to question the validity or adequacy of the applicant's sworn statement or
 13 the documentation provided to establish the facts and the deficiencies are not corrected. The department
 14 shall advise the applicant of the reasons for the refusal to register the delayed certificate of birth. The
 15 department shall advise the applicant of the right to seek an order from a court of competent jurisdiction
 16 to obtain registration of the delayed certificate of birth as provided in [section 13].

17 (e) The department may, by rule, provide for the dismissal of an application for registration of a
 18 delayed certificate of birth that is not actively pursued.

19 (2) ~~A person~~ THE DEPARTMENT OR ITS DESIGNEE may amend a birth, death, or fetal death
 20 certificate upon submitting proof as required by the department.

21 (3) THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING THE CIRCUMSTANCES UNDER
 22 WHICH VITAL RECORDS MAY BE CORRECTED OR AMENDED AND THE PROCEDURE TO CORRECT OR
 23 AMEND THOSE RECORDS.

24 ~~(3)(4)~~ (4) If birth certificates ~~are accepted 6 months or more after the time prescribed for filing or are~~
 25 ~~altered by the department after filing, the certificate shall~~ must show the date of the ~~delayed filing or~~
 26 ~~alteration and the mark "delayed" or "altered". A summary statement of the evidence in support of the~~
 27 ~~delayed filing or alteration shall~~ must be endorsed on the certificate.

28 ~~(4)(5)~~ (5) The probative value of a "delayed" or "altered" certificate of birth is determined by the
 29 judicial or administrative body before whom the certificate is offered as evidence."
 30

1 NEW SECTION. **Section 13. Judicial birth facts procedure.** (1) If the department declines to
2 register a certificate of birth under the provisions of 50-15-204 or [section 11], a petition signed and sworn
3 to by the petitioner may be filed with the district court, seeking an order establishing a record of the date
4 and place of the birth and the parentage of the person whose birth is to be registered.

5 (2) The petition must be made on a form adopted or approved by the department and must allege:

6 (a) that the person for whom a certificate of birth is sought was born in this state;

7 (b) that a certificate of birth of the person cannot be found at the department or at the office of
8 the clerk and recorder;

9 (c) that diligent efforts by the petitioner have failed to obtain the evidence to establish entitlement
10 to a certificate of birth required in accordance with this chapter and rules adopted pursuant to this chapter;

11 (d) that the department has declined to file a certificate of birth; and

12 (e) other allegations as may be required by law.

13 (3) The petition must be accompanied by all documentary evidence that was submitted to the
14 department in support of the applicant's registration and by a statement of the reasons why the department
15 declined to register the certificate of birth.

16 (4) The district court shall fix a time and place for hearing the petition and shall give the department
17 30 days' notice of the hearing. The department through its authorized representative shall appear and
18 testify as a witness in the proceeding if determined necessary by the court.

19 (5) If the district court finds, from the evidence presented, that the person for whom a certificate
20 of birth is sought was born in this state, it shall make findings as to the date and place of birth, parentage,
21 and other relevant facts and shall issue an order establishing the certificate of birth. The order must include
22 the findings and birth data to be registered, a description of the evidence presented, and the date of the
23 court's action.

24 (6) The clerk of the court shall forward the order referred to in subsection (5) to the department
25 not later than the 10th calendar day of the month following the month in which it was entered. The order
26 must be registered by the department and constitutes the court-ordered certificate of birth.

27
28 NEW SECTION. **Section 14. Certificates of birth following adoption, legitimation, or determination**
29 **or acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person
30 born in this state when the department receives the following:

1 (a) a certificate of adoption, as provided in [section 16], a certificate of adoption prepared and filed
2 in accordance with the laws of another state or foreign country, or a certified copy of the decree of
3 adoption, together with the information necessary to identify the original certificate of birth and to establish
4 a new certificate of birth; or

5 (b) a request that a new certificate be established if the request shows that:

6 ~~(i) the person has been legitimated;~~

7 ~~##(i)~~ a district court has determined the paternity of the person; or

8 ~~##(ii)~~ both parents have acknowledged the paternity of the person and request that the surname
9 be changed from that shown on the original certificate.

10 (2) The date of birth and the city and county of birth must be stated in the newly established
11 certificate of birth. The department shall substitute the new certificate of birth for the original certificate
12 of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court
13 determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon
14 order of a district court, as provided by rule, or as otherwise provided by state law.

15 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the
16 certificate of birth as provided in rules adopted by the department.

17 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the
18 original certificate of birth issued before the adoption to its place in the files and the certificate of birth
19 issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection,
20 except upon order of a district court or as provided by rule adopted by the department.

21 (5) Upon written request of both parents and receipt of a sworn acknowledgment AND OTHER
22 CREDIBLE EVIDENCE of paternity signed by both parents of a child born outside of marriage, the
23 department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on
24 the certificate of birth.

25 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth
26 is to be established under this section and the date and place of birth have not been determined in the
27 adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with
28 the department, as provided in 50-15-204, before a new certificate of birth may be established. The new
29 certificate of birth must be prepared on a form prescribed by the department.

30 (7) When a new certificate of birth is established by the department, the department may direct

1 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this
2 state either be sealed from inspection or be forwarded to the department for sealing from inspection.

3 (8) (a) The department shall, upon request of the adopting parents, prepare and register a
4 certificate of birth in this state for a person born in a foreign country who is not a citizen of the United
5 States and who was adopted through a district court in this state.

6 (b) The certificate of birth must be established by the department upon receipt of a certificate of
7 adoption, conforming to the requirements of [section 16], from the court that reflects entry of an order of
8 adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate
9 of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or
10 older.

11 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual
12 country of birth. A statement must be included on the certificate indicating that it is not evidence of United
13 States citizenship for the child for whom it is issued.

14 (d) After registration of the certificate of birth in the new name of the adopted person, the
15 department shall seal and file the certificate of adoption, which is not subject to inspection, except upon
16 order of the district court, as provided by rule, or as otherwise provided by state law.

17 (9) The department may promulgate rules necessary to implement this section.

18
19 **Section 15.** Section 50-15-303, MCA, is amended to read:

20 **"50-15-303. Certificates of dissolution of marriage, ~~adoption, or~~ declaration of invalidity of**
21 **marriage, ~~or annulment of adoption.~~** Before the 10th day of each month, the clerk of the court shall prepare
22 and forward to the department a certificate for each decree of dissolution of marriage, ~~adoption, or~~
23 declaration of invalidity of marriage, ~~or annulment of adoption~~ that became final during the preceding
24 calendar month. Certificates ~~shall~~ must be on forms prescribed by the department."
25

26 **NEW SECTION. Section 16. Certificates of adoption or annulment of adoption -- report of amended**
27 **or annulled adoption decree.** (1) For each adoption decreed by a district court, the decree must require
28 the clerk of the court to prepare a certificate of adoption on a form prescribed and furnished by the
29 department. The certificate of adoption must include facts that are necessary to locate and identify ~~the~~
30 ~~certificate of birth of the person adopted~~ THE DATE AND PLACE OF BIRTH OF THE ADOPTED PERSON or,

1 in the case of a person who was born in a foreign country, evidence from sources determined to be reliable
2 by THE PATIENT'S SPOUSE, ADULT CHILDREN, PARENTS, OR the district court as to the date and place
3 of birth of the person. The certificate of adoption must also contain information necessary to establish a
4 new certificate of birth for the person adopted and must identify the order of adoption. The clerk of the
5 court shall certify the certificate of adoption.

6 (2) Information necessary for the clerk of the court to prepare the certificate of adoption must be
7 furnished, by each petitioner for adoption on a form prescribed by the department, at the time that the
8 petition for adoption is filed. A person or agency having knowledge of facts, as described in subsection
9 (1), may be required by the court to supply the court with information necessary to complete the certificate
10 of adoption. The district court may make the provision of the information for the preparation of a certificate
11 of adoption a prerequisite to the issuance of a final decree.

12 (3) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a
13 report. The report must include the facts that are necessary to identify the original certificate of adoption
14 and the facts amended in the adoption decree that are necessary to properly amend the birth record.

15 (4) No later than the 16th day of each calendar month or more frequently, as directed by the
16 department, the clerk of the court shall forward to the department certificates of adoption, reports of
17 annulment of adoption, and amendments of decrees of adoption that were entered in the preceding month,
18 together with any related reports required by the department.

19 (5) When the department receives a certificate of adoption, report of annulment of adoption, or
20 amendment of a decree of adoption for a person born outside this state, the department shall forward the
21 certificate, report, or amendment to the state registrar or the agency charged with registering vital statistics
22 in the state where the person was born.

23 (6) If the birth of an adopted child occurred in a foreign country and the adopted child was not a
24 citizen of the United States at the time of birth, the department shall prepare a "Certificate of Foreign Birth"
25 as required by [section 14]. If the adopted child was born in Canada, the department shall send a copy of
26 the certificate of adoption, report of annulment of adoption, or amendment of a decree of adoption to the
27 appropriate registration authority in Canada.

28 (7) If the adopted child born in a foreign country was a citizen of the United States at the time of
29 birth, the department may not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents
30 of the procedures for obtaining a revised certificate of birth for their child through the United States

1 department of state.

2 (8) A deceased person cannot be adopted.

3

4 **Section 17.** Section 50-15-403, MCA, is amended to read:

5 **"50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of
6 disposition of a dead body or fetus shall obtain personal data on the deceased or, in the case of a fetal
7 death, on the parents that is required by the department from persons best qualified to supply the data and
8 enter it on the death or fetal death certificate.

9 (2) The person in charge of disposition of the dead body or fetus shall present the death certificate
10 to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death.
11 The person in charge of disposition shall obtain the completed certification of the cause of death from the
12 physician or coroner and shall, within the time that the department may by rule prescribe, file the death or
13 fetal death certificate with the local registrar in the registration area where the death occurred.

14 (3) A fetal death certificate is not required to be filed for a fetus of less than 350 grams at death
15 or, if the weight is unknown, for a fetus that has not reached 20 completed weeks of gestation at death."

16

17 **Section 18.** Section 50-15-405, MCA, is amended to read:

18 **"50-15-405. Authorization for removal of body from place of death.** (1) Except as provided in
19 subsection (2), a dead body may be removed from the place of death only upon the written authorization
20 or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at
21 death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

22 (2) If the death requires inquiry under 46-4-122, the written authorization may only be granted by
23 the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner
24 fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated,
25 the coroner may grant oral authorization for ~~removal~~ cremation of the body, which must be reduced to
26 writing as specified under subsection (1) by the coroner.

27 (3) The written authorization to move a dead body or, when applicable, to cremate a dead body
28 must be made in ~~triplicate~~ quadruplicate on a form provided by the department. The person in charge of
29 disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided
30 with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition,

1 as necessary.

2 (4) A written authorization issued under this section permits removal, transportation, and final
3 disposition of a dead body."

4

5 **Section 19.** Section 50-16-542, MCA, is amended to read:

6 **"50-16-542. Denial of examination and copying.** (1) A health care provider may deny access to
7 health care information by a patient if the health care provider reasonably concludes that:

8 (a) knowledge of the health care information would be injurious to the health of the patient;

9 (b) knowledge of the health care information could reasonably be expected to lead to the patient's
10 identification of an individual who provided the information in confidence and under circumstances in which
11 confidentiality was appropriate;

12 (c) knowledge of the health care information could reasonably be expected to cause danger to the
13 life or safety of any individual;

14 (d) the health care information was compiled and is used solely for litigation, quality assurance,
15 peer review, or administrative purposes;

16 (e) the health care information might ~~disclose birth out of wedlock or provide information from~~
17 ~~which knowledge of birth out of wedlock might be obtained and which~~ contain information is protected
18 from disclosure pursuant to ~~50-15-206~~ [sections 7 and 8];

19 (f) the health care provider obtained the information from a person other than the patient; or

20 (g) access to the health care information is otherwise prohibited by law.

21 (2) Except as provided in 50-16-521, a health care provider may deny access to health care
22 information by a patient who is a minor if:

23 (a) the patient is committed to a mental health facility; or

24 (b) the patient's parents or guardian ~~have~~ has not authorized the health care provider to disclose
25 the patient's health care information.

26 (3) If a health care provider denies a request for examination and copying under this section, the
27 provider, to the extent possible, shall segregate health care information for which access has been denied
28 under subsection (1) from information for which access cannot be denied and permit the patient to examine
29 or copy the ~~disclosable~~ information subject to disclosure.

30 (4) If a health care provider denies a patient's request for examination and copying, in whole or

1 in part, under subsection (1)(a) or (1)(c), ~~he~~ the provider shall permit examination and copying of the record
2 by another health care provider who is providing health care services to the patient for the same condition
3 as the health care provider denying the request. The health care provider denying the request shall inform
4 the patient of the patient's right to select another health care provider under this subsection."
5

6 NEW SECTION. Section 20. Repealer. Sections 50-15-110, 50-15-112, 50-15-113, 50-15-201,
7 50-15-205, and 50-15-206, MCA, are repealed.
8

9 NEW SECTION. Section 21. Codification instructions. (1) [Sections 7 through 10] are intended
10 to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15,
11 part 1, apply to [sections 7 through 10].

12 (2) [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 50, chapter
13 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [sections 11, 13, and 14].

14 (3) [Section 16] is intended to be codified as an integral part of Title 50, chapter 15, part 3, and
15 the provisions of Title 50, chapter 15, part 3, apply to [section 16].
16

17 NEW SECTION. Section 22. Severability. If a part of [this act] is invalid, all valid parts that are
18 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
19 applications, the part remains in effect in all valid applications that are severable from the invalid
20 applications.
21

22 NEW SECTION. Section 23. Effective date. [This act] is effective January 1, 1996.
23

-END-

1 HOUSE BILL NO. 89

2 INTRODUCED BY PECK

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE VITAL STATISTICS LAWS TO
6 STANDARDIZE PROCEDURES AND TO CONFORM TO NATIONAL STANDARDS; CLARIFYING THE
7 INFORMATION AVAILABLE FROM THE SYSTEM OF VITAL STATISTICS; REVISING BIRTH REGISTRATION
8 REQUIREMENTS; REVISING PROCEDURES AND CRITERIA FOR ISSUING A DELAYED OR ALTERED BIRTH
9 CERTIFICATE; REVISING THE JUDICIAL PROCEDURE FOR ESTABLISHING THE FACTS OF BIRTH;
10 REVISING THE LAWS GOVERNING CERTIFICATES OF ADOPTION AND ANNULMENT OF ADOPTION;
11 PROVIDING FOR CERTIFICATES OF FOREIGN BIRTH; REVISING THE LAWS FOR CERTIFICATES OF BIRTH
12 FOLLOWING ADOPTION, LEGITIMATION, OR ESTABLISHMENT OF PATERNITY; REVISING STANDARDS
13 FOR PRESERVING VITAL RECORDS; REVISING THE CONTENT OF VITAL RECORDS; AMENDING SECTIONS
14 37-27-321, 40-8-126, 50-15-101, 50-15-102, 50-15-103, 50-15-111, 50-15-204, 50-15-303, 50-15-403,
15 50-15-405, AND 50-16-542, MCA; REPEALING SECTIONS 50-15-110, 50-15-112, 50-15-113, 50-15-201,
16 50-15-205, AND 50-15-206, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

17
18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because the bill gives the department of health and
20 environmental sciences authority to adopt administrative rules.

21 The legislature intends that the rules:

22 (1) address the process for establishing and maintaining a statewide system of vital statistics and
23 vital records;

24 (2) define persons who may obtain copies of vital records and the showing necessary to obtain
25 vital records;

26 (3) establish which persons may prepare or issue certified copies of certificates of birth or vital
27 records;

28 (4) establish the process and scope of disclosure of information to the public and governmental
29 agencies as well as adequate standards for security and confidentiality of vital records;

30 (5) establish a system for preservation or disposal of vital records;

- 1 (6) establish the process and guidelines for registration of births;
- 2 (7) establish the process for establishing, maintaining, or dismissing applications for delayed
- 3 certificates of birth;
- 4 (8) establish forms necessary to track vital statistics by courts or other governmental entities;
- 5 (9) establish a system of issuance and maintenance of certificates of birth following adoption,
- 6 legitimation, or establishment of paternity;
- 7 (10) establish a system for issuance and maintenance of records of dissolution or annulment of
- 8 marriage; and
- 9 (11) establish a system for the issuance and maintenance of certificates of adoption and annulment
- 10 of adoption.

11

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

13

14 **Section 1.** Section 37-27-321, MCA, is amended to read:

15 **"37-27-321. Filing of birth certificate.** (1) When a birth occurs with a licensed direct-entry

16 midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by

17 ~~50-15-204~~ [section 11], with the department of health and environmental sciences ~~within 30 days of the~~

18 ~~birth of the newborn.~~

19 (2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for

20 the suspension or revocation of a license granted under this chapter."

21

22 **Section 2.** Section 40-8-126, MCA, is amended to read:

23 **"40-8-126. Confidentiality of record and proceedings.** (1) Unless the court ~~shall~~ orders otherwise

24 ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall~~ must be held in

25 closed court without admittance of any person other than interested parties and their counsel.

26 (2) All papers and records pertaining to the adoption ~~shall~~ must be kept as a permanent record of

27 the court and withheld from inspection. ~~No~~ A person ~~shall~~ may not have access to ~~such~~ the records,

28 except:

29 (a) for good cause shown, on order of the judge of the court in which the decree of adoption was

30 entered; or

1 (b) as provided in ~~50-15-206~~ sections 7 and 8.

2 (3) All files and records pertaining to ~~said~~ the adoption proceedings in the county departments of
3 public welfare, the department of social and rehabilitation services, the department of family services, or
4 any authorized agencies ~~shall be~~ are confidential and must be withheld from inspection, except upon order
5 of court for good cause shown or as provided in ~~50-15-206~~ sections 7 and 8."

6
7 **Section 3.** Section 50-15-101, MCA, is amended to read:

8 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4, the following
9 definitions apply:

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

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

13 (3) "Department" means the department of health and environmental sciences provided for in Title
14 2, chapter 15, part 21.

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

16 (5) "Fetal death" means ~~a birth after 20 weeks of gestation, or before 20 weeks of gestation if the~~
17 ~~fetus weighs more than 500 grams at the time of delivery, that is not a live birth~~ death of the fetus prior
18 to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding
19 the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus
20 does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical
21 cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
22 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

23 (6) "Final disposition" means the burial, interment, cremation, removal from the state, or other
24 authorized disposition of a dead body or fetus.

25 ~~(6)(7)~~ (7) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
26 contained in 40-1-402.

27 ~~(8)~~ "Legitimate" means to place a child born before marriage of the child's parents in the same
28 status as children born during marriage.

29 ~~(7)(9)(8)~~ (8) "Live birth" means the ~~birth of a child who shows evidence of life after being entirely~~
30 ~~outside the mother~~ complete expulsion or extraction from the mother as a product of human conception,

1 notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
 2 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation
 3 of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from
 4 transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

5 ~~(8)(10)~~(9) "Local registrar" means a person appointed by the department to act as its agent in
 6 administering this chapter in the area set forth in the letter of appointment.

7 ~~(9)(11)~~(10) "Person in charge of ~~interment~~ disposition of a dead body" means a ~~person~~ PERSON
 8 WHO PLACES OR CAUSES TO BE PLACED A DEAD BODY OR THE ASHES AFTER CREMATION IN A
 9 GRAVE, VAULT, URN, OR OTHER RECEPTACLE OR OTHERWISE DISPOSES OF THE BODY OR FETUS AND
 10 WHO IS A funeral director licensed under Title 37, chapter 19, an employee acting for a funeral director,
 11 or a person who first assumes custody of a dead body or fetus and who places or causes to be placed a
 12 dead body or the ashes after cremation in a grave, vault, urn, or other receptacle or otherwise disposes of
 13 the body or fetus.

14 ~~(10)(12)~~(11) "Physician" means a person legally authorized to practice medicine in this state.

15 ~~(13)~~(12) "Registration" means the process by which vital records are completed, filed, and
 16 incorporated into the official records of the department.

17 ~~(14)~~(13) "Research" means a systematic investigation designed primarily to develop or contribute
 18 to generalizable knowledge.

19 ~~(15)~~(14) "System of vital statistics" means the registration, collection, preservation, amendment,
 20 and certification of vital records. The term includes the collection of reports required by this chapter and
 21 related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

22 ~~(16)~~(15) "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
 23 dissolution of marriage and related reports.

24 ~~(11)(17)~~(16) "Vital statistics" ~~includes the registration, preparation, transcription, collection,~~
 25 ~~compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths,~~
 26 ~~marital status, and incidental supporting data~~ means the data derived from certificates or reports of birth,
 27 death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related
 28 reports."

29
 30 **Section 4.** Section 50-15-102, MCA, is amended to read:

1 **"50-15-102. Statewide system of vital statistics to be established.** The department shall establish
 2 a statewide system of vital statistics and adopt rules for gathering, recording, using, amending, and
 3 preserving vital statistics and vital records. ~~The department may adopt rules for the proper administration~~
 4 ~~of the system of vital statistics."~~

5
 6 **Section 5.** Section 50-15-103, MCA, is amended to read:

7 **"50-15-103. Duties of department.** The department shall:

8 (1) divide the state into registration districts and change districts as necessary;

9 ~~(2) gather, record, use, and preserve vital statistics;~~

10 ~~(3) enforce rules adopted by the department for gathering, recording, using, and preserving vital~~
 11 ~~statistics;~~

12 ~~(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital~~
 13 ~~statistics~~

14 (2) promulgate rules necessary to implement this chapter;

15 (3) administer and enforce the provisions of this chapter and rules adopted to implement this
 16 chapter;

17 ~~(4) direct, supervise, and control the activities of all persons when they are engaged in activities~~
 18 ~~pertaining to the operation of the system of vital statistics;~~

19 ~~(5)~~(4) conduct training programs to promote uniformity of policy and procedures throughout the
 20 state in matters pertaining to the system of vital statistics;

21 ~~(6)~~(5) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant
 22 to this chapter or prescribe other means for the transmission of data that will accomplish complete and
 23 accurate reporting and registration; and

24 ~~(7)~~(6) prepare and publish reports of vital statistics of this state."

25
 26 **Section 6.** Section 50-15-111, MCA, is amended to read:

27 **"50-15-111. Certified copy fee.** (1) The department shall prescribe, by rule, a fee ~~of not less than~~
 28 ~~\$5~~ for:

29 (a) a certified copy of certificates or records;

30 (b) a search of files or records when a copy is not made;

1 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

2 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity
 3 determination or acknowledgment, or court order;

4 (e) filing a delayed registration of a vital event;

5 (f) the amendment of a vital record, after 1 year from the date of filing; and

6 (g) other services specified by this chapter or by rule.

7 (2) Fees received ~~for a certified copy of a certificate or a search of files shall~~ under subsection (1)
 8 must be deposited in the state special revenue fund to be used by the department for:

9 (a) the maintenance of indexes to ~~and costs for~~ vital records;

10 (b) the preservation of vital records; and

11 (c) the ~~modernization and automation~~ ADMINISTRATION of the system of vital statistics."

12
 13 **NEW SECTION. Section 7. Copies from system of vital statistics.** (1) Except as provided in
 14 subsections (4), (6), and (7), the department and county clerk and recorders shall, upon receipt of an
 15 application, issue a certified copy OR COPIES of a vital record or a part of a vital record to the registrant,
 16 the registrant's spouse, children, parents, or guardian, or an authorized representative. Other individuals
 17 may obtain certified copies when the individual demonstrates that the record is needed for the
 18 determination or protection of the individual's personal or property rights. The department shall adopt rules
 19 to further define those who may obtain copies of vital records filed under this chapter.

20 (2) All applications, forms, and procedures used in the issuance of certified copies of vital records
 21 in the state must be uniform and prepared or approved by the department. All certified copies must contain
 22 security features that deter the document from being altered, counterfeited, duplicated, or simulated
 23 without ready detection that there have been these changes to the document.

24 (3) Each copy issued must show the date of registration. Copies issued from amended records
 25 must be marked and must show the effective date of the amendment. Copies issued from delayed records
 26 must be marked, must include the date of registration, and must contain a statement of the evidence used
 27 to establish the delayed certificate. A copy issued of a certificate of foreign birth must indicate the fact
 28 of foreign birth and the date of birth (if known), must show the actual place of birth, and must state that
 29 the certificate is not proof of United States citizenship for the adoptive child.

30 (4) A certified copy or other copy of a death certificate containing information or data that would

- 1 identify any person or institution named in a certificate or report and the cause of death information may
2 not be issued, except as follows:
- 3 (a) upon specific request of the spouse, children, parents, or other next of kin of the decedent or
4 their respective authorized representatives, as specified by department rule;
- 5 (b) when a documented need for the cause of death to establish a legal right or claim has been
6 demonstrated, as specified by department rule;
- 7 (c) when the request for the copy is made by or on behalf of a person or entity that provides
8 monetary benefits to the decedent's survivors or beneficiaries, as may be specified by department rule;
- 9 (d) upon specific request by federal, state, or local agencies for research or administrative purposes
10 and when approved for release by the department;
- 11 (e) when needed for research activities and approved for release by the department; or
- 12 (f) upon receipt by the department of an order directed to the department from a court of
13 competent jurisdiction ordering the release.
- 14 (5) A certified copy of a vital record or any part of a vital record, issued in accordance with
15 subsections (1) through (3), must be considered for all purposes the same as the original ~~and is prima facie~~
16 ~~evidence of the facts stated in the original.~~ The admissibility of a certificate or vital record filed more than
17 1 year after the event or after a corrective record is filed, of a vital record that has been amended, or of
18 a certificate of foreign birth must be determined by the judicial or administrative body or official before
19 whom the certificate is offered as evidence.
- 20 (6) This section may not be construed to permit disclosure of confidential information contained
21 in a birth certificate for medical or health use or of information for statistical purposes only contained in a
22 certificate of marriage or report of dissolution of marriage unless disclosure is specifically authorized by law
23 for statistical or research purposes or unless ordered by a court.
- 24 (7) (a) When the department receives information that a certificate may have been registered
25 through fraud or misrepresentation, it shall withhold issuance of the certificate or any copy of that
26 certificate pending issuance of an order after an administrative contested case hearing before the
27 department to determine whether fraud or misrepresentation has occurred.
- 28 (b) The hearing provided for in subsection (7)(a) must be conducted pursuant to the Montana
29 Administrative Procedure Act. In the proceeding, the department shall notify the registrant or the
30 registrant's authorized representative and provide the registrant or the representative the opportunity to be

1 heard.

2 (c) If, upon conclusion of the hearing, fraud or misrepresentation is not found, the department may
3 issue the certificate or copies of the certificate in question.

4 (d) If, upon conclusion of the hearing, fraud or misrepresentation is found, the department may not
5 register the certificate unless ordered to do so by a court.

6 (e) An affected person may appeal the department's decision to the district court as provided in
7 Title 2, chapter 4, part 7.

8 (8) A person may not prepare or issue any certificate that purports to be an original, OR certified
9 copy, ~~or copy of a vital record~~, except as authorized in this chapter or rules adopted to implement this
10 chapter.

11 (9) The department may, by rule, prescribe details for the hearing and appellate procedures
12 contained in this section.

13

14 **NEW SECTION. Section 8. Disclosure of information from vital records or vital reports -- rules.**

15 (1) It is the policy of the state to protect the integrity of vital records and vital reports, to ensure their
16 proper use, and to ensure the efficient and proper administration of the system of vital statistics. In
17 furtherance of the policy, it is unlawful for any person to permit inspection of or to disclose information
18 contained in vital records or in vital reports or to copy or issue a copy of all or a part of a record or report
19 unless authorized by this chapter, by administrative rule, or by order of a court of competent jurisdiction.
20 Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital
21 records.

22 (2) The execution of a research agreement that protects the confidentiality of the information
23 provided to a researcher in response to a written request is required for disclosure of information that may
24 identify a person or institution named in any vital record or report. This agreement must be made in
25 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
26 the release by the researcher of any information that might identify a person or institution, other than
27 releases that may be provided for in the agreement.

28 (3) This section does not prohibit the release of information or data that does not identify a person
29 or institution named in a vital record or report.

30 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from

1 records, as prescribed by this section and rules issued to implement this section, must be made before the
2 department in the case of a county clerk and recorder and to a district court in the case of the department.
3 A challenge before the department must be in the form of a contested case pursuant to the Montana
4 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
5 filing an original action pursuant to the Montana Rules of Civil Procedure.

6 (5) ~~One hundred~~ THIRTY years after the date of birth or ~~50 years after the date~~ IMMEDIATELY
7 UPON THE FILING WITH THE DEPARTMENT OF A RECORD of death, marriage, or dissolution of marriage,
8 the records of these events in the custody of the department are available to the public without restriction.
9 The department shall adopt rules that provide for the continued safekeeping of the records.

10 (6) The department may provide the national center for health statistics or a successor agency with
11 copies of records, reports, or data from the system of vital statistics that are required for national statistics.
12 The department shall enter into an agreement with the center, indicating the scope of disclosure of
13 information, as required by this chapter or rules implementing this chapter, concerning the use of records,
14 reports, or data for statistical or research purposes. The agreement must set forth the financial support
15 to be provided by the center for the collection, processing, and transmission of the records, reports, or
16 data. Upon written request of the center, the department may approve, by amendment to the agreement,
17 additional statistical or research uses of the records, reports, or data supplied under the agreement.

18 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
19 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
20 statistics if the copies or data is used solely in the conduct of the agency's official duties. THE
21 DEPARTMENT SHALL, UPON REQUEST BY THE DEPARTMENT OF SOCIAL AND REHABILITATION
22 SERVICES, THE DEPARTMENT OF FAMILY SERVICES, OR A LICENSED ADOPTION AGENCY, PROVIDE
23 A BIRTH CERTIFICATE AND RELATED RECORDS FOR PURPOSES OF ADOPTION, TERMINATION OF
24 PARENTAL RIGHTS, CUSTODY ACTIONS, PATERNITY ACTIONS, CHILD SUPPORT ACTIONS, SOCIAL
25 SECURITY ELIGIBILITY DETERMINATIONS, OR INDIAN TRIBAL ENROLLMENT DETERMINATIONS.

26 (8) Subject to this chapter and rules implementing this chapter, the department may, by agreement,
27 transmit copies of records and other reports required to be compiled by this chapter to offices of vital
28 statistics outside this state when the records or reports concern residents of those jurisdictions or persons
29 born in those jurisdictions. The agreement must specify the statistical and administrative purposes for
30 which the records may be used, and the agreement must provide instructions concerning proper retention,

1 confidentiality requirements, and disposition of the copies. Copies received by the department from offices
2 of vital statistics in other states must be handled as provided for in this subsection.

3
4 **NEW SECTION. Section 9. Preservation of vital records.** To preserve vital records, the department
5 may prepare typewritten, photographic, electronic, or other reproductions of certificates, vital records, or
6 reports kept by the department. The reproductions when certified and approved by the department must
7 be accepted as the original records, ~~and the documents from which permanent reproductions have been~~
8 ~~made may be disposed of as provided by department rule.~~ **THE DEPARTMENT SHALL MAINTAIN**
9 **ORIGINAL VITAL RECORDS INTACT AND IN THEIR ORIGINAL FORM ON FILE AT THE DEPARTMENT.**

10
11 **NEW SECTION. Section 10. Content of certificates, records, and reports.** (1) In order to promote
12 and maintain nationwide uniformity in the system of vital statistics, the department, in the preparation of
13 the forms of certificates, vital records, or reports required by this chapter or rules adopted under this
14 chapter, may include the elements in forms and the forms recommended by the national center for health
15 statistics for implementing a system of vital statistics.

16 (2) Each certificate, record, report, and other document required by this chapter must be prepared
17 in a format approved by the department. All vital records must contain the date of filing.

18 (3) Information required in certificates, forms, records, or reports authorized by this chapter may
19 be filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by the
20 department.

21
22 **NEW SECTION. Section 11. Birth registration.** (1) A certificate of birth must be filed as specified
23 in this section with the department for each live birth that occurs in this state. Unless otherwise directed
24 by the department, the certificate must be filed within the time prescribed by the department by rule after
25 the birth. The birth certificate must be registered if it has been completed and filed in accordance with this
26 section and rules adopted to implement this section.

27 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by
28 the attending physician or the physician's designee.

29 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or
30 the person's authorized designee shall obtain the personal data concerning the newborn child, prepare the

1 certificate, and certify that the child was born alive at the place, at the time, and on the date stated.
2 Certification may be by signature or by an approved electronic process. The person referenced in this
3 subsection shall file the certificate as directed in subsection (1). The physician or other person in
4 attendance at the birth shall provide the medical information required by the certificate within 72 hours after
5 the birth.

6 (4) The department shall, by rule, determine what evidence may be required to establish the facts
7 of birth if the birth occurs at a place other than a health care facility. In accordance with rules promulgated
8 by the department, the certificate must be prepared and filed by one of the following persons in the
9 indicated order of priority in subsections (4)(a) through ~~(4)(f)~~ (4)(E):

10 (a) the physician or the physician's designee OR A MIDWIFE LICENSED PURSUANT TO TITLE 37,
11 CHAPTER 27, in attendance at or immediately after the birth;

12 (b) a person in attendance at or immediately after the birth;

13 (c) the father or the mother;

14 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
15 where the birth occurred; OR

16 ~~(e) a midwife licensed pursuant to Title 37, chapter 27; or~~

17 ~~(f)(E)~~ the local registrar, if 50-15-202 applies.

18 (5) When a birth occurs on a moving conveyance within the United States and the newborn child
19 is first removed from the conveyance in this state, the birth must be registered in this state by a person
20 listed in subsection (4) and the place where the child is first removed from the conveyance is considered
21 the place of birth. When a birth occurs on a moving conveyance while in international waters or air space
22 or in a foreign country or its air space and the child is first removed from the conveyance in this state, the
23 birth must be registered by a person listed in subsection (4) in this state, but the certificate must indicate
24 the actual place of birth insofar as the place can be determined.

25 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to
26 be the mother, unless otherwise provided by state law or determined by a court of competent jurisdiction
27 prior to the filing of the birth certificate. Information about the father must be entered as provided in
28 subsection (7).

29 (7) (a) If the mother was married at the time of conception or birth or between conception and
30 birth, the name of the husband must be entered on the certificate as the father of the child, unless:

1 (i) other paternity has been determined by a court of competent jurisdiction;

2 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is
3 not the father of the child. Affidavits must be notarized, and signatures of the mother and of the husband
4 must be individually notarized on any joint affidavit. If affidavits are filed, information about the father must
5 be omitted from the certificate.

6 (iii) the mother executes an affidavit attesting that the husband is not the father and names a
7 putative father, the putative father executes an affidavit attesting paternity, and the husband executes an
8 affidavit denying paternity. Affidavits may be joint or individual or a combination of joint and individual
9 affidavits. Each signature on an affidavit must be individually notarized. If all affidavits are filed, the
10 putative father must be shown as the father on the certificate.

11 (b) If the mother was not married at the time of conception or birth or between conception and
12 birth, the name of the father may not be entered on the certificate without an affidavit of paternity signed
13 by the mother and the person to be named as the father.

14 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father
15 and surname of the child must be entered on the certificate of birth in accordance with the finding and
16 order of the court.

17 (d) If the father is not named on the certificate of birth, information about the father may not be
18 entered on the certificate.

19 (e) Affidavits required under this subsection (7) must be filed with the department.

20 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data
21 to be entered on the certificate in order to permit the filing of the certificate within the time prescribed in
22 subsection (1).

23 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the
24 date of birth must be registered by the natural parents, the adoptive parents, or the person having legal
25 custody of the child, on the standard form of live birth certificate in the manner prescribed in this section
26 and by rule. The certificate may not be designated as delayed. The department may require additional
27 evidence in support of the facts of birth.

28

29 **Section 12.** Section 50-15-204, MCA, is amended to read:

30 **"50-15-204. Delayed or amended birth certificate.** (1) (a) ~~After the time prescribed by the~~

1 ~~department, a person born in this state may file a birth certificate upon submitting proof as required by the~~
 2 ~~department or by any court. If a certificate of birth for a person born in this state has not been filed within~~
 3 ~~1 year of the birth, a delayed certificate of birth may be filed in accordance with rules adopted by the~~
 4 ~~department. A delayed certificate of birth may not be registered until the requirements regarding facts~~
 5 ~~pertaining to the delayed certificate, as specified by rule, have been met.~~

6 (b) A birth of a person in this state whose name has not been registered within 1 year after the
 7 birth must be registered on a delayed certificate of birth form. The delayed certificate must contain the date
 8 of registration and a summary statement of the information submitted to explain the delayed registration.

9 (c) A delayed certificate of birth may not be registered for a deceased person.

10 (d) The department may not register a delayed certificate of birth if an applicant for a delayed
 11 certificate of birth does not submit the minimum documentation required by rule for delayed registration
 12 or if the department has cause to question the validity or adequacy of the applicant's sworn statement or
 13 the documentation provided to establish the facts and the deficiencies are not corrected. The department
 14 shall advise the applicant of the reasons for the refusal to register the delayed certificate of birth. The
 15 department shall advise the applicant of the right to seek an order from a court of competent jurisdiction
 16 to obtain registration of the delayed certificate of birth as provided in [section 13].

17 (e) The department may, by rule, provide for the dismissal of an application for registration of a
 18 delayed certificate of birth that is not actively pursued.

19 (2) ~~A person~~ THE DEPARTMENT OR ITS DESIGNEE may amend a birth, death, or fetal death
 20 certificate upon submitting proof as required by the department.

21 (3) THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING THE CIRCUMSTANCES UNDER
 22 WHICH VITAL RECORDS MAY BE CORRECTED OR AMENDED AND THE PROCEDURE TO CORRECT OR
 23 AMEND THOSE RECORDS.

24 ~~{3}(4)~~ If birth certificates ~~are accepted 6 months or more after the time prescribed for filing or~~ are
 25 altered by the department after filing, the certificate ~~shall~~ must show the date of the ~~delayed filing or~~
 26 alteration and the mark ~~"delayed" or "altered"~~. A summary statement of the evidence in support of the
 27 ~~delayed filing or alteration shall~~ must be endorsed on the certificate.

28 ~~{4}(5)~~ The probative value of a "delayed" or "altered" certificate of birth is determined by the
 29 judicial or administrative body before whom the certificate is offered as evidence."
 30

1 **NEW SECTION. Section 13. Judicial birth facts procedure.** (1) If the department declines to
2 register a certificate of birth under the provisions of 50-15-204 or [section 11], a petition signed and sworn
3 to by the petitioner may be filed with the district court, seeking an order establishing a record of the date
4 and place of the birth and the parentage of the person whose birth is to be registered.

5 (2) The petition must be made on a form adopted or approved by the department and must allege:

6 (a) that the person for whom a certificate of birth is sought was born in this state;

7 (b) that a certificate of birth of the person cannot be found at the department or at the office of
8 the clerk and recorder;

9 (c) that diligent efforts by the petitioner have failed to obtain the evidence to establish entitlement
10 to a certificate of birth required in accordance with this chapter and rules adopted pursuant to this chapter;

11 (d) that the department has declined to file a certificate of birth; and

12 (e) other allegations as may be required by law.

13 (3) The petition must be accompanied by all documentary evidence that was submitted to the
14 department in support of the applicant's registration and by a statement of the reasons why the department
15 declined to register the certificate of birth.

16 (4) The district court shall fix a time and place for hearing the petition and shall give the department
17 30 days' notice of the hearing. The department through its authorized representative shall appear and
18 testify as a witness in the proceeding if determined necessary by the court.

19 (5) If the district court finds, from the evidence presented, that the person for whom a certificate
20 of birth is sought was born in this state, it shall make findings as to the date and place of birth, parentage,
21 and other relevant facts and shall issue an order establishing the certificate of birth. The order must include
22 the findings and birth data to be registered, a description of the evidence presented, and the date of the
23 court's action.

24 (6) The clerk of the court shall forward the order referred to in subsection (5) to the department
25 not later than the 10th calendar day of the month following the month in which it was entered. The order
26 must be registered by the department and constitutes the court-ordered certificate of birth.

27
28 **NEW SECTION. Section 14. Certificates of birth following adoption, legitimation, or determination**
29 **or acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person
30 born in this state when the department receives the following:

1 (a) a certificate of adoption, as provided in [section 16], a certificate of adoption prepared and filed
2 in accordance with the laws of another state or foreign country, or a certified copy of the decree of
3 adoption, together with the information necessary to identify the original certificate of birth and to establish
4 a new certificate of birth; or

5 (b) a request that a new certificate be established if the request shows that:

6 ~~(i) the person has been legitimated;~~

7 ~~(ii)(I)~~ a district court has determined the paternity of the person; or

8 ~~(iii)(II)~~ both parents have acknowledged the paternity of the person and request that the surname
9 be changed from that shown on the original certificate.

10 (2) The date of birth and the city and county of birth must be stated in the newly established
11 certificate of birth. The department shall substitute the new certificate of birth for the original certificate
12 of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court
13 determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon
14 order of a district court, as provided by rule, or as otherwise provided by state law.

15 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the
16 certificate of birth as provided in rules adopted by the department.

17 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the
18 original certificate of birth issued before the adoption to its place in the files and the certificate of birth
19 issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection,
20 except upon order of a district court or as provided by rule adopted by the department.

21 (5) Upon written request of both parents and receipt of a sworn acknowledgment AND OTHER
22 CREDIBLE EVIDENCE of paternity signed by both parents of a child born outside of marriage, the
23 department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on
24 the certificate of birth.

25 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth
26 is to be established under this section and the date and place of birth have not been determined in the
27 adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with
28 the department, as provided in 50-15-204, before a new certificate of birth may be established. The new
29 certificate of birth must be prepared on a form prescribed by the department.

30 (7) When a new certificate of birth is established by the department, the department may direct

1 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this
2 state either be sealed from inspection or be forwarded to the department for sealing from inspection.

3 (8) (a) The department shall, upon request of the adopting parents, prepare and register a
4 certificate of birth in this state for a person born in a foreign country who is not a citizen of the United
5 States and who was adopted through a district court in this state.

6 (b) The certificate of birth must be established by the department upon receipt of a certificate of
7 adoption, conforming to the requirements of [section 16], from the court that reflects entry of an order of
8 adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate
9 of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or
10 older.

11 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual
12 country of birth. A statement must be included on the certificate indicating that it is not evidence of United
13 States citizenship for the child for whom it is issued.

14 (d) After registration of the certificate of birth in the new name of the adopted person, the
15 department shall seal and file the certificate of adoption, which is not subject to inspection, except upon
16 order of the district court, as provided by rule, or as otherwise provided by state law.

17 (9) The department may promulgate rules necessary to implement this section.

18

19 **Section 15.** Section 50-15-303, MCA, is amended to read:

20 **"50-15-303. Certificates of dissolution of marriage, ~~adoption,~~ or declaration of invalidity of**
21 **marriage, ~~or annulment of adoption.~~** Before the 10th day of each month, the clerk of the court shall prepare
22 and forward to the department a certificate for each decree of dissolution of marriage, ~~adoption,~~ or
23 declaration of invalidity of marriage, ~~or annulment of adoption~~ that became final during the preceding
24 calendar month. Certificates ~~shall~~ must be on forms prescribed by the department."
25

26

27 **NEW SECTION. Section 16. Certificates of adoption or annulment of adoption -- report of amended**
28 **or annulled adoption decree.** (1) For each adoption decreed by a district court, the decree must require
29 the clerk of the court to prepare a certificate of adoption on a form prescribed and furnished by the
30 department. The certificate of adoption must include facts that are necessary to locate and identify ~~the~~
~~certificate of birth of the person adopted~~ **THE DATE AND PLACE OF BIRTH OF THE ADOPTED PERSON** or,

1 in the case of a person who was born in a foreign country, evidence from sources determined to be reliable
2 by THE PATIENT'S SPOUSE, ADULT CHILDREN, PARENTS, OR the district court as to the date and place
3 of birth of the person. The certificate of adoption must also contain information necessary to establish a
4 new certificate of birth for the person adopted and must identify the order of adoption. The clerk of the
5 court shall certify the certificate of adoption.

6 (2) Information necessary for the clerk of the court to prepare the certificate of adoption must be
7 furnished, by each petitioner for adoption on a form prescribed by the department, at the time that the
8 petition for adoption is filed. A person or agency having knowledge of facts, as described in subsection
9 (1), may be required by the court to supply the court with information necessary to complete the certificate
10 of adoption. The district court may make the provision of the information for the preparation of a certificate
11 of adoption a prerequisite to the issuance of a final decree.

12 (3) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a
13 report. The report must include the facts that are necessary to identify the original certificate of adoption
14 and the facts amended in the adoption decree that are necessary to properly amend the birth record.

15 (4) No later than the 16th day of each calendar month or more frequently, as directed by the
16 department, the clerk of the court shall forward to the department certificates of adoption, reports of
17 annulment of adoption, and amendments of decrees of adoption that were entered in the preceding month,
18 together with any related reports required by the department.

19 (5) When the department receives a certificate of adoption, report of annulment of adoption, or
20 amendment of a decree of adoption for a person born outside this state, the department shall forward the
21 certificate, report, or amendment to the state registrar or the agency charged with registering vital statistics
22 in the state where the person was born.

23 (6) If the birth of an adopted child occurred in a foreign country and the adopted child was not a
24 citizen of the United States at the time of birth, the department shall prepare a "Certificate of Foreign Birth"
25 as required by [section 14]. If the adopted child was born in Canada, the department shall send a copy of
26 the certificate of adoption, report of annulment of adoption, or amendment of a decree of adoption to the
27 appropriate registration authority in Canada.

28 (7) If the adopted child born in a foreign country was a citizen of the United States at the time of
29 birth, the department may not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents
30 of the procedures for obtaining a revised certificate of birth for their child through the United States

1 department of state.

2 (8) A deceased person cannot be adopted.

3

4 **Section 17.** Section 50-15-403, MCA, is amended to read:

5 **"50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of
6 disposition of a dead body or fetus THAT WEIGHS AT LEAST 350 GRAMS AT DEATH OR, IF THE WEIGHT
7 IS UNKNOWN, HAS REACHED 20 COMPLETED WEEKS OF GESTATION AT DEATH shall obtain personal
8 data on the deceased or, in the case of a fetal death, on the parents that is required by the department from
9 persons best qualified to supply the data and enter it on the death or fetal death certificate.

10 (2) The person in charge of disposition of the dead body or fetus shall present the death certificate
11 to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death.
12 The person in charge of disposition shall obtain the completed certification of the cause of death from the
13 physician or coroner and shall, within the time that the department may by rule prescribe, file the death or
14 fetal death certificate with the local registrar in the registration area where the death occurred.

15 ~~(3) A fetal death certificate is not required to be filed for a fetus of less than 350 grams at death~~
16 ~~or, if the weight is unknown, for a fetus that has not reached 20 completed weeks of gestation at death."~~

17

18 **Section 18.** Section 50-15-405, MCA, is amended to read:

19 **"50-15-405. Authorization for removal of body from place of death.** (1) Except as provided in
20 subsection (2), a dead body may be removed from the place of death only upon the written authorization
21 or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at
22 death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

23 (2) If the death requires inquiry under 46-4-122, the written authorization may only be granted by
24 the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner
25 fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated,
26 the coroner may grant oral authorization for ~~removal~~ cremation of the body, which must be reduced to
27 writing as specified under subsection (1) by the coroner.

28 (3) The written authorization to move a dead body or, when applicable, to cremate a dead body
29 must be made in ~~triplicate~~ quadruplicate on a form provided by the department. The person in charge of
30 disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided

1 with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition,
 2 as necessary.

3 (4) A written authorization issued under this section permits removal, transportation, and final
 4 disposition of a dead body."

5
 6 **Section 19.** Section 50-16-542, MCA, is amended to read:

7 **"50-16-542. Denial of examination and copying.** (1) A health care provider may deny access to
 8 health care information by a patient if the health care provider reasonably concludes that:

9 (a) knowledge of the health care information would be injurious to the health of the patient;

10 (b) knowledge of the health care information could reasonably be expected to lead to the patient's
 11 identification of an individual who provided the information in confidence and under circumstances in which
 12 confidentiality was appropriate;

13 (c) knowledge of the health care information could reasonably be expected to cause danger to the
 14 life or safety of any individual;

15 (d) the health care information was compiled and is used solely for litigation, quality assurance,
 16 peer review, or administrative purposes;

17 (e) the health care information might ~~disclose birth out of wedlock or provide information from~~
 18 ~~which knowledge of birth out of wedlock might be obtained and which~~ contain information is protected
 19 from disclosure pursuant to ~~50-15-206~~ [sections 7 and 8];

20 (f) the health care provider obtained the information from a person other than the patient; or

21 (g) access to the health care information is otherwise prohibited by law.

22 (2) Except as provided in 50-16-521, a health care provider may deny access to health care
 23 information by a patient who is a minor if:

24 (a) the patient is committed to a mental health facility; or

25 (b) the patient's parents or guardian ~~have~~ has not authorized the health care provider to disclose
 26 the patient's health care information.

27 (3) If a health care provider denies a request for examination and copying under this section, the
 28 provider, to the extent possible, shall segregate health care information for which access has been denied
 29 under subsection (1) from information for which access cannot be denied and permit the patient to examine
 30 or copy the ~~disclosable~~ information subject to disclosure.

1 (4) If a health care provider denies a patient's request for examination and copying, in whole or
2 in part, under subsection (1)(a) or (1)(c), ~~he~~ the provider shall permit examination and copying of the record
3 by another health care provider who is providing health care services to the patient for the same condition
4 as the health care provider denying the request. The health care provider denying the request shall inform
5 the patient of the patient's right to select another health care provider under this subsection."
6

7 **NEW SECTION. Section 20. Repealer.** Sections 50-15-110, 50-15-112, 50-15-113, 50-15-201,
8 50-15-205, and 50-15-206, MCA, are repealed.
9

10 **NEW SECTION. Section 21. Codification instructions.** (1) [Sections 7 through 10] are intended
11 to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15,
12 part 1, apply to [sections 7 through 10].

13 (2) [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 50, chapter
14 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [sections 11, 13, and 14].

15 (3) [Section 16] is intended to be codified as an integral part of Title 50, chapter 15, part 3, and
16 the provisions of Title 50, chapter 15, part 3, apply to [section 16].
17

18 **NEW SECTION. Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are
19 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
20 applications, the part remains in effect in all valid applications that are severable from the invalid
21 applications.
22

23 **NEW SECTION. Section 23. Effective date.** [This act] is effective January 1, 1996.
24

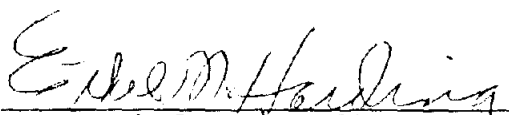
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SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 13, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 89 (third reading copy -- blue), respectfully report that HB 89 be amended as follows and as so amended be concurred in.

Signed: 
Senator Ethel M. Harding, Chair

That such amendments read:

1. Page 20.

Following: line 16

Insert: "NEW SECTION. Section 22. Coordination instruction. If Senate Bill No. 150 is passed and approved and if it contains a section that amends 40-8-126, then [section 2 of this act] reads as follows:

"40-8-126. Confidentiality and disclosure of record and proceedings -- appointment and duties of confidential intermediary. (1) Unless the court ~~shall orders~~ otherwise order, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall must~~ be held in closed court without admittance of any person other than interested parties and their counsel.

(2) All papers and records pertaining to the adoption ~~shall must~~ be kept as a permanent record of the court and withheld from inspection. ~~No A person shall may not~~ have access to ~~such the~~ records, except:

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

(b) as provided in subsection (7); or


~~(b)(c)~~ as provided in 50-15-206 [sections 7 and 8].

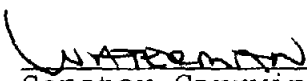
(3) All files and records pertaining to ~~said~~ adoption proceedings ~~in the county departments of public welfare, the department of social and rehabilitation services, retained by the department of family services, or any authorized agencies shall be agency are~~ confidential and must be withheld from inspection, ~~except upon order of court for good cause shown or as provided in 50-15-206 as provided in [sections 7 and 8] and except that the department or authorized agency may disclose:~~

(a) nonidentifying information to an adoptee, an adoptive or biological parent, or an extended family member of an adoptee or biological parent; and

(b) identifying information to a court-appointed confidential intermediary upon order of the court or as provided in [sections 7 and 8].

(4) When an adoptee reaches 18 years of age, the adoptee,


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB 89

SENATE

an adoptive or biological parent, or an extended family member of the adoptee or biological parent may petition the court for disclosure of the identity of the adoptee, biological son, biological daughter, or biological parent. A petition for disclosure must contain the following information:

(a) the name, address, and identification of the petitioner;
(b) the date of the adoptee's birth;
(c) the county and state where the adoption occurred;
(d) the date of the adoption; and
(e) any information known to the petitioner concerning the biological parents, the adoptive parents, and the adoptee that could assist in locating the person being sought.

(5) After a petition for disclosure has been filed under subsection (4), the court shall appoint a confidential intermediary who shall:

(a) conduct a confidential search for the person sought, as requested in the petition for disclosure;

(b) refrain from disclosing directly or indirectly any identifying information to the petitioner, unless ordered to do so by the court; and

(c) make a written report of the results of the search to the court not later than 6 months after appointment.

(6) Upon appointment, a confidential intermediary is entitled to be paid a reasonable fee plus actual expenses incurred in conducting the search. The fee and expenses must be paid by the petitioner.

(7) A confidential intermediary may inspect otherwise confidential records of the court, the department, or an authorized agency for use in the search. The confidential intermediary may not disclose the contents of the records or any results of a search unless authorized by the court.

(8) If a confidential intermediary is unable to locate the person being sought within 6 months of appointment, the confidential intermediary shall recommend to the court whether a further search is warranted and state the reasons for the recommendation. If the court finds that a further search is warranted, the court may order that the search be continued for a specified time.

(9) If a confidential intermediary locates the person being sought, a confidential inquiry must be made as to whether the located person consents to having that person's present identity disclosed to the petitioner. The court may request that the confidential intermediary assist in arranging contact between the petitioner and the located person.

(10) If a confidential intermediary locates the person being sought and the located person does not consent to having that person's identify disclosed, identifying information regarding that person may be disclosed only upon order of the

court for good cause shown.

(11) If the person being sought is found to be deceased, the court may order disclosure of the identity of the deceased to the petitioner."

Renumber: subsequent sections

-END-

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 20, 1995 11:46 am

Mr. Chairman: I move to amend HB 89 (third reading copy -- blue).

ADOPT V.V.

REJECT

Signed: *Sen Bartlett*
Senator Bartlett

That such amendments read:

1. Page 9, lines 6 through 8.

Following: "(5)"

Strike: remainder of line 6 through "restriction." on line 8

Insert: "Immediately upon the filing of a record with the department, the fact that a birth or death has occurred or a record of marriage or dissolution of marriage may be released to the public without restriction. Notwithstanding the restrictions provided in [section 7], complete birth or death records may be released to the public 30 years after the date of birth or death."

-END-

HB 89

SENATE

8
Amd. Coord.

1 HOUSE BILL NO. 89

2 INTRODUCED BY PECK

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE VITAL STATISTICS LAWS TO
6 STANDARDIZE PROCEDURES AND TO CONFORM TO NATIONAL STANDARDS; CLARIFYING THE
7 INFORMATION AVAILABLE FROM THE SYSTEM OF VITAL STATISTICS; REVISING BIRTH REGISTRATION
8 REQUIREMENTS; REVISING PROCEDURES AND CRITERIA FOR ISSUING A DELAYED OR ALTERED BIRTH
9 CERTIFICATE; REVISING THE JUDICIAL PROCEDURE FOR ESTABLISHING THE FACTS OF BIRTH;
10 REVISING THE LAWS GOVERNING CERTIFICATES OF ADOPTION AND ANNULMENT OF ADOPTION;
11 PROVIDING FOR CERTIFICATES OF FOREIGN BIRTH; REVISING THE LAWS FOR CERTIFICATES OF BIRTH
12 FOLLOWING ADOPTION, LEGITIMATION, OR ESTABLISHMENT OF PATERNITY; REVISING STANDARDS
13 FOR PRESERVING VITAL RECORDS; REVISING THE CONTENT OF VITAL RECORDS; AMENDING SECTIONS
14 37-27-321, 40-8-126, 50-15-101, 50-15-102, 50-15-103, 50-15-111, 50-15-204, 50-15-303, 50-15-403,
15 50-15-405, AND 50-16-542, MCA; REPEALING SECTIONS 50-15-110, 50-15-112, 50-15-113, 50-15-201,
16 50-15-205, AND 50-15-206, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."
17

18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because the bill gives the department of health and
20 environmental sciences authority to adopt administrative rules.

21 The legislature intends that the rules:

22 (1) address the process for establishing and maintaining a statewide system of vital statistics and
23 vital records;

24 (2) define persons who may obtain copies of vital records and the showing necessary to obtain
25 vital records;

26 (3) establish which persons may prepare or issue certified copies of certificates of birth or vital
27 records;

28 (4) establish the process and scope of disclosure of information to the public and governmental
29 agencies as well as adequate standards for security and confidentiality of vital records;

30 (5) establish a system for preservation or disposal of vital records;

- 1 (6) establish the process and guidelines for registration of births;
- 2 (7) establish the process for establishing, maintaining, or dismissing applications for delayed
- 3 certificates of birth;
- 4 (8) establish forms necessary to track vital statistics by courts or other governmental entities;
- 5 (9) establish a system of issuance and maintenance of certificates of birth following adoption,
- 6 legitimation, or establishment of paternity;
- 7 (10) establish a system for issuance and maintenance of records of dissolution or annulment of
- 8 marriage; and
- 9 (11) establish a system for the issuance and maintenance of certificates of adoption and annulment
- 10 of adoption.

11

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

13

14 **Section 1.** Section 37-27-321, MCA, is amended to read:

15 **"37-27-321. Filing of birth certificate.** (1) When a birth occurs with a licensed direct-entry

16 midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by

17 ~~50-15-201 [section 11]~~, with the department of health and environmental sciences ~~within 30 days of the~~

18 ~~birth of the newborn.~~

19 (2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for

20 the suspension or revocation of a license granted under this chapter."

21

22 **Section 2.** Section 40-8-126, MCA, is amended to read:

23 **"40-8-126. Confidentiality of record and proceedings.** (1) Unless the court ~~shall orders~~ otherwise

24 ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall must~~ be held in

25 closed court without admittance of any person other than interested parties and their counsel.

26 (2) All papers and records pertaining to the adoption ~~shall must~~ be kept as a permanent record of

27 the court and withheld from inspection. ~~No~~ A person ~~shall may not~~ have access to ~~such the~~ records,

28 except:

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

1 (b) as provided in ~~50-15-206~~ sections 7 and 8.

2 (3) All files and records pertaining to ~~said the~~ adoption proceedings in the county departments of
3 public welfare, the department of social and rehabilitation services, the department of family services, or
4 any authorized agencies ~~shall be~~ are confidential and must be withheld from inspection, except upon order
5 of court for good cause shown or as provided in ~~50-15-206~~ sections 7 and 8."

6

7 **Section 3.** Section 50-15-101, MCA, is amended to read:

8 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4, the following
9 definitions apply:

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

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

13 (3) "Department" means the department of health and environmental sciences provided for in Title
14 2, chapter 15, part 21.

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

16 (5) "Fetal death" means ~~a birth after 20 weeks of gestation, or before 20 weeks of gestation if the~~
17 ~~fetus weighs more than 500 grams at the time of delivery, that is not a live birth~~ death of the fetus prior
18 to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding
19 the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus
20 does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical
21 cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
22 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

23 (6) "Final disposition" means the burial, interment, cremation, removal from the state, or other
24 authorized disposition of a dead body or fetus.

25 ~~(6)(7)~~ (7) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
26 contained in 40-1-402.

27 ~~(8)~~ "Legitimate" means to place a child born before marriage of the child's parents in the same
28 status as children born during marriage.

29 ~~(7)(9)(8)~~ (8) "Live birth" means the ~~birth of a child who shows evidence of life after being entirely~~
30 complete expulsion or extraction from the mother as a product of human conception,

1 notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
 2 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation
 3 of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from
 4 transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

5 ~~(8)(10)(9)~~ "Local registrar" means a person appointed by the department to act as its agent in
 6 administering this chapter in the area set forth in the letter of appointment.

7 ~~(9)(11)(10)~~ "Person in charge of interment disposition of a dead body" means a ~~person~~ PERSON
 8 WHO PLACES OR CAUSES TO BE PLACED A DEAD BODY OR THE ASHES AFTER CREMATION IN A
 9 GRAVE, VAULT, URN, OR OTHER RECEPTACLE OR OTHERWISE DISPOSES OF THE BODY OR FETUS AND
 10 WHO IS A funeral director licensed under Title 37, chapter 19, an employee acting for a funeral director,
 11 or a person who first assumes custody of a dead body or fetus and who places or causes to be placed a
 12 dead body or the ashes after cremation in a grave, vault, urn, or other receptacle or otherwise disposes of
 13 the body or fetus.

14 ~~(10)(12)(11)~~ "Physician" means a person legally authorized to practice medicine in this state.

15 ~~(13)(12)~~ "Registration" means the process by which vital records are completed, filed, and
 16 incorporated into the official records of the department.

17 ~~(14)(13)~~ "Research" means a systematic investigation designed primarily to develop or contribute
 18 to generalizable knowledge.

19 ~~(15)(14)~~ "System of vital statistics" means the registration, collection, preservation, amendment,
 20 and certification of vital records. The term includes the collection of reports required by this chapter and
 21 related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

22 ~~(16)(15)~~ "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
 23 dissolution of marriage and related reports.

24 ~~(11)(17)(16)~~ "Vital statistics" ~~includes the registration, preparation, transcription, collection,~~
 25 ~~compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths,~~
 26 ~~marital status, and incidental supporting data~~ means the data derived from certificates or reports of birth,
 27 death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related
 28 reports."

29
 30 **Section 4.** Section 50-15-102, MCA, is amended to read:

1 **"50-15-102. Statewide system of vital statistics to be established.** The department shall establish
 2 a statewide system of vital statistics and adopt rules for gathering, recording, using, amending, and
 3 preserving vital statistics and vital records. ~~The department may adopt rules for the proper administration~~
 4 ~~of the system of vital statistics."~~

5
 6 **Section 5.** Section 50-15-103, MCA, is amended to read:

7 **"50-15-103. Duties of department.** The department shall:

8 (1) divide the state into registration districts and change districts as necessary;

9 ~~(2) gather, record, use, and preserve vital statistics;~~

10 ~~(3) enforce rules adopted by the department for gathering, recording, using, and preserving vital~~
 11 ~~statistics;~~

12 ~~(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital~~
 13 ~~statistics~~

14 (2) promulgate rules necessary to implement this chapter;

15 (3) administer and enforce the provisions of this chapter and rules adopted to implement this
 16 chapter;

17 ~~(4) direct, supervise, and control the activities of all persons when they are engaged in activities~~
 18 ~~pertaining to the operation of the system of vital statistics;~~

19 (5)(4) conduct training programs to promote uniformity of policy and procedures throughout the
 20 state in matters pertaining to the system of vital statistics;

21 ~~(6)(5) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant~~
 22 ~~to this chapter or prescribe other means for the transmission of data that will accomplish complete and~~
 23 ~~accurate reporting and registration; and~~

24 ~~(7)(6) prepare and publish reports of vital statistics of this state."~~

25
 26 **Section 6.** Section 50-15-111, MCA, is amended to read:

27 **"50-15-111. Certified copy fee.** (1) The department shall prescribe, by rule, a fee ~~of not less than~~
 28 ~~\$5~~ for:

29 (a) a certified copy of certificates or records;

30 (b) a search of files or records when a copy is not made;

1 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

2 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity
 3 determination or acknowledgment, or court order;

4 (e) filing a delayed registration of a vital event;

5 (f) the amendment of a vital record, after 1 year from the date of filing; and

6 (g) other services specified by this chapter or by rule.

7 (2) Fees received ~~for a certified copy of a certificate or a search of files shall~~ under subsection (1)
 8 must be deposited in the state special revenue fund to be used by the department for:

9 (a) the maintenance of indexes to ~~and costs for~~ vital records;

10 (b) the preservation of vital records; and

11 (c) ~~the modernization and automation~~ ADMINISTRATION of the system of vital statistics."

12
 13 **NEW SECTION. Section 7. Copies from system of vital statistics.** (1) Except as provided in
 14 subsections (4), (6), and (7), the department and county clerk and recorders shall, upon receipt of an
 15 application, issue a certified copy OR COPIES of a vital record or a part of a vital record to the registrant,
 16 the registrant's spouse, children, parents, or guardian, or an authorized representative. Other individuals
 17 may obtain certified copies when the individual demonstrates that the record is needed for the
 18 determination or protection of the individual's personal or property rights. The department shall adopt rules
 19 to further define those who may obtain copies of vital records filed under this chapter.

20 (2) All applications, forms, and procedures used in the issuance of certified copies of vital records
 21 in the state must be uniform and prepared or approved by the department. All certified copies must contain
 22 security features that deter the document from being altered, counterfeited, duplicated, or simulated
 23 without ready detection that there have been these changes to the document.

24 (3) Each copy issued must show the date of registration. Copies issued from amended records
 25 must be marked and must show the effective date of the amendment. Copies issued from delayed records
 26 must be marked, must include the date of registration, and must contain a statement of the evidence used
 27 to establish the delayed certificate. A copy issued of a certificate of foreign birth must indicate the fact
 28 of foreign birth and the date of birth (if known), must show the actual place of birth, and must state that
 29 the certificate is not proof of United States citizenship for the adoptive child.

30 (4) A certified copy or other copy of a death certificate containing information or data that would

1 identify any person or institution named in a certificate or report and the cause of death information may
2 not be issued, except as follows:

3 (a) upon specific request of the spouse, children, parents, or other next of kin of the decedent or
4 their respective authorized representatives, as specified by department rule;

5 (b) when a documented need for the cause of death to establish a legal right or claim has been
6 demonstrated, as specified by department rule;

7 (c) when the request for the copy is made by or on behalf of a person or entity that provides
8 monetary benefits to the decedent's survivors or beneficiaries, as may be specified by department rule;

9 (d) upon specific request by federal, state, or local agencies for research or administrative purposes
10 and when approved for release by the department;

11 (e) when needed for research activities and approved for release by the department; or

12 (f) upon receipt by the department of an order directed to the department from a court of
13 competent jurisdiction ordering the release.

14 (5) A certified copy of a vital record or any part of a vital record, issued in accordance with
15 subsections (1) through (3), must be considered for all purposes the same as the original ~~and is prima facie~~
16 ~~evidence of the facts stated in the original.~~ The admissibility of a certificate or vital record filed more than
17 1 year after the event or after a corrective record is filed, of a vital record that has been amended, or of
18 a certificate of foreign birth must be determined by the judicial or administrative body or official before
19 whom the certificate is offered as evidence.

20 (6) This section may not be construed to permit disclosure of confidential information contained
21 in a birth certificate for medical or health use or of information for statistical purposes only contained in a
22 certificate of marriage or report of dissolution of marriage unless disclosure is specifically authorized by law
23 for statistical or research purposes or unless ordered by a court.

24 (7) (a) When the department receives information that a certificate may have been registered
25 through fraud or misrepresentation, it shall withhold issuance of the certificate or any copy of that
26 certificate pending issuance of an order after an administrative contested case hearing before the
27 department to determine whether fraud or misrepresentation has occurred.

28 (b) The hearing provided for in subsection (7)(a) must be conducted pursuant to the Montana
29 Administrative Procedure Act. In the proceeding, the department shall notify the registrant or the
30 registrant's authorized representative and provide the registrant or the representative the opportunity to be

1 heard.

2 (c) If, upon conclusion of the hearing, fraud or misrepresentation is not found, the department may
3 issue the certificate or copies of the certificate in question.

4 (d) If, upon conclusion of the hearing, fraud or misrepresentation is found, the department may not
5 register the certificate unless ordered to do so by a court.

6 (e) An affected person may appeal the department's decision to the district court as provided in
7 Title 2, chapter 4, part 7.

8 (8) A person may not prepare or issue any certificate that purports to be an original, OR certified
9 copy, ~~or copy of a vital record~~, except as authorized in this chapter or rules adopted to implement this
10 chapter.

11 (9) The department may, by rule, prescribe details for the hearing and appellate procedures
12 contained in this section.

13

14 **NEW SECTION. Section 8. Disclosure of information from vital records or vital reports -- rules.**

15 (1) It is the policy of the state to protect the integrity of vital records and vital reports, to ensure their
16 proper use, and to ensure the efficient and proper administration of the system of vital statistics. In
17 furtherance of the policy, it is unlawful for any person to permit inspection of or to disclose information
18 contained in vital records or in vital reports or to copy or issue a copy of all or a part of a record or report
19 unless authorized by this chapter, by administrative rule, or by order of a court of competent jurisdiction.
20 Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital
21 records.

22 (2) The execution of a research agreement that protects the confidentiality of the information
23 provided to a researcher in response to a written request is required for disclosure of information that may
24 identify a person or institution named in any vital record or report. This agreement must be made in
25 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
26 the release by the researcher of any information that might identify a person or institution, other than
27 releases that may be provided for in the agreement.

28 (3) This section does not prohibit the release of information or data that does not identify a person
29 or institution named in a vital record or report.

30 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from

1 records, as prescribed by this section and rules issued to implement this section, must be made before the
2 department in the case of a county clerk and recorder and to a district court in the case of the department.
3 A challenge before the department must be in the form of a contested case pursuant to the Montana
4 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
5 filing an original action pursuant to the Montana Rules of Civil Procedure.

6 (5) ~~One hundred THIRTY years after the date of birth or 50 years after the date IMMEDIATELY~~
7 ~~UPON THE FILING WITH THE DEPARTMENT OF A RECORD~~ of death, marriage, or dissolution of marriage,
8 ~~the records of these events in the custody of the department are available to the public without restriction.~~
9 IMMEDIATELY UPON THE FILING OF A RECORD WITH THE DEPARTMENT, THE FACT THAT A BIRTH OR
10 DEATH HAS OCCURRED OR A RECORD OF MARRIAGE OR DISSOLUTION OF MARRIAGE MAY BE
11 RELEASED TO THE PUBLIC WITHOUT RESTRICTION. NOTWITHSTANDING THE RESTRICTIONS
12 PROVIDED IN [SECTION 7], COMPLETE BIRTH OR DEATH RECORDS MAY BE RELEASED TO THE PUBLIC
13 30 YEARS AFTER THE DATE OF BIRTH OR DEATH. The department shall adopt rules that provide for the
14 continued safekeeping of the records.

15 (6) The department may provide the national center for health statistics or a successor agency with
16 copies of records, reports, or data from the system of vital statistics that are required for national statistics.
17 The department shall enter into an agreement with the center, indicating the scope of disclosure of
18 information, as required by this chapter or rules implementing this chapter, concerning the use of records,
19 reports, or data for statistical or research purposes. The agreement must set forth the financial support
20 to be provided by the center for the collection, processing, and transmission of the records, reports, or
21 data. Upon written request of the center, the department may approve, by amendment to the agreement,
22 additional statistical or research uses of the records, reports, or data supplied under the agreement.

23 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
24 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
25 statistics if the copies or data is used solely in the conduct of the agency's official duties. THE
26 DEPARTMENT SHALL, UPON REQUEST BY THE DEPARTMENT OF SOCIAL AND REHABILITATION
27 SERVICES, THE DEPARTMENT OF FAMILY SERVICES, OR A LICENSED ADOPTION AGENCY, PROVIDE
28 A BIRTH CERTIFICATE AND RELATED RECORDS FOR PURPOSES OF ADOPTION, TERMINATION OF
29 PARENTAL RIGHTS, CUSTODY ACTIONS, PATERNITY ACTIONS, CHILD SUPPORT ACTIONS, SOCIAL
30 SECURITY ELIGIBILITY DETERMINATIONS, OR INDIAN TRIBAL ENROLLMENT DETERMINATIONS.

1 (8) Subject to this chapter and rules implementing this chapter, the department may, by agreement,
2 transmit copies of records and other reports required to be compiled by this chapter to offices of vital
3 statistics outside this state when the records or reports concern residents of those jurisdictions or persons
4 born in those jurisdictions. The agreement must specify the statistical and administrative purposes for
5 which the records may be used, and the agreement must provide instructions concerning proper retention,
6 confidentiality requirements, and disposition of the copies. Copies received by the department from offices
7 of vital statistics in other states must be handled as provided for in this subsection.

8
9 NEW SECTION. Section 9. Preservation of vital records. To preserve vital records, the department
10 may prepare typewritten, photographic, electronic, or other reproductions of certificates, vital records, or
11 reports kept by the department. The reproductions when certified and approved by the department must
12 be accepted as the original records, ~~and the documents from which permanent reproductions have been~~
13 ~~made may be disposed of as provided by department rule.~~ THE DEPARTMENT SHALL MAINTAIN
14 ORIGINAL VITAL RECORDS INTACT AND IN THEIR ORIGINAL FORM ON FILE AT THE DEPARTMENT.

15
16 NEW SECTION. Section 10. Content of certificates, records, and reports. (1) In order to promote
17 and maintain nationwide uniformity in the system of vital statistics, the department, in the preparation of
18 the forms of certificates, vital records, or reports required by this chapter or rules adopted under this
19 chapter, may include the elements in forms and the forms recommended by the national center for health
20 statistics for implementing a system of vital statistics.

21 (2) Each certificate, record, report, and other document required by this chapter must be prepared
22 in a format approved by the department. All vital records must contain the date of filing.

23 (3) Information required in certificates, forms, records, or reports authorized by this chapter may
24 be filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by the
25 department.

26
27 NEW SECTION. Section 11. Birth registration. (1) A certificate of birth must be filed as specified
28 in this section with the department for each live birth that occurs in this state. Unless otherwise directed
29 by the department, the certificate must be filed within the time prescribed by the department by rule after
30 the birth. The birth certificate must be registered if it has been completed and filed in accordance with this

1 section and rules adopted to implement this section.

2 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by
3 the attending physician or the physician's designee.

4 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or
5 the person's authorized designee shall obtain the personal data concerning the newborn child, prepare the
6 certificate, and certify that the child was born alive at the place, at the time, and on the date stated.
7 Certification may be by signature or by an approved electronic process. The person referenced in this
8 subsection shall file the certificate as directed in subsection (1). The physician or other person in
9 attendance at the birth shall provide the medical information required by the certificate within 72 hours after
10 the birth.

11 (4) The department shall, by rule, determine what evidence may be required to establish the facts
12 of birth if the birth occurs at a place other than a health care facility. In accordance with rules promulgated
13 by the department, the certificate must be prepared and filed by one of the following persons in the
14 indicated order of priority in subsections (4)(a) through ~~(4)(f)~~ (4)(E):

15 (a) the physician or the physician's designee OR A MIDWIFE LICENSED PURSUANT TO TITLE 37,
16 CHAPTER 27, in attendance at or immediately after the birth;

17 (b) a person in attendance at or immediately after the birth;

18 (c) the father or the mother;

19 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
20 where the birth occurred; OR

21 ~~(e) a midwife licensed pursuant to Title 37, chapter 27; or~~

22 ~~(f)(E)~~ the local registrar, if 50-15-202 applies.

23 (5) When a birth occurs on a moving conveyance within the United States and the newborn child
24 is first removed from the conveyance in this state, the birth must be registered in this state by a person
25 listed in subsection (4) and the place where the child is first removed from the conveyance is considered
26 the place of birth. When a birth occurs on a moving conveyance while in international waters or air space
27 or in a foreign country or its air space and the child is first removed from the conveyance in this state, the
28 birth must be registered by a person listed in subsection (4) in this state, but the certificate must indicate
29 the actual place of birth insofar as the place can be determined.

30 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to

1 be the mother, unless otherwise provided by state law or determined by a court of competent jurisdiction
2 prior to the filing of the birth certificate. Information about the father must be entered as provided in
3 subsection (7).

4 (7) (a) If the mother was married at the time of conception or birth or between conception and
5 birth, the name of the husband must be entered on the certificate as the father of the child, unless:

6 (i) other paternity has been determined by a court of competent jurisdiction;

7 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is
8 not the father of the child. Affidavits must be notarized, and signatures of the mother and of the husband
9 must be individually notarized on any joint affidavit. If affidavits are filed, information about the father must
10 be omitted from the certificate.

11 (iii) the mother executes an affidavit attesting that the husband is not the father and names a
12 putative father, the putative father executes an affidavit attesting paternity, and the husband executes an
13 affidavit denying paternity. Affidavits may be joint or individual or a combination of joint and individual
14 affidavits. Each signature on an affidavit must be individually notarized. If all affidavits are filed, the
15 putative father must be shown as the father on the certificate.

16 (b) If the mother was not married at the time of conception or birth or between conception and
17 birth, the name of the father may not be entered on the certificate without an affidavit of paternity signed
18 by the mother and the person to be named as the father.

19 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father
20 and surname of the child must be entered on the certificate of birth in accordance with the finding and
21 order of the court.

22 (d) If the father is not named on the certificate of birth, information about the father may not be
23 entered on the certificate.

24 (e) Affidavits required under this subsection (7) must be filed with the department.

25 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data
26 to be entered on the certificate in order to permit the filing of the certificate within the time prescribed in
27 subsection (1).

28 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the
29 date of birth must be registered by the natural parents, the adoptive parents, or the person having legal
30 custody of the child, on the standard form of live birth certificate in the manner prescribed in this section

1 and by rule. The certificate may not be designated as delayed. The department may require additional
2 evidence in support of the facts of birth.

3
4 **Section 12.** Section 50-15-204, MCA, is amended to read:

5 **"50-15-204. Delayed or amended birth certificate.** (1) ~~(a) After the time prescribed by the~~
6 ~~department, a person born in this state may file a birth certificate upon submitting proof as required by the~~
7 ~~department or by any court.~~ If a certificate of birth for a person born in this state has not been filed within
8 1 year of the birth, a delayed certificate of birth may be filed in accordance with rules adopted by the
9 department. A delayed certificate of birth may not be registered until the requirements regarding facts
10 pertaining to the delayed certificate, as specified by rule, have been met.

11 (b) A birth of a person in this state whose name has not been registered within 1 year after the
12 birth must be registered on a delayed certificate of birth form. The delayed certificate must contain the date
13 of registration and a summary statement of the information submitted to explain the delayed registration.

14 (c) A delayed certificate of birth may not be registered for a deceased person.

15 (d) The department may not register a delayed certificate of birth if an applicant for a delayed
16 certificate of birth does not submit the minimum documentation required by rule for delayed registration
17 or if the department has cause to question the validity or adequacy of the applicant's sworn statement or
18 the documentation provided to establish the facts and the deficiencies are not corrected. The department
19 shall advise the applicant of the reasons for the refusal to register the delayed certificate of birth. The
20 department shall advise the applicant of the right to seek an order from a court of competent jurisdiction
21 to obtain registration of the delayed certificate of birth as provided in [section 13].

22 (e) The department may, by rule, provide for the dismissal of an application for registration of a
23 delayed certificate of birth that is not actively pursued.

24 (2) ~~A person~~ THE DEPARTMENT OR ITS DESIGNEE may amend a birth, death, or fetal death
25 certificate upon submitting proof as required by the department.

26 (3) THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING THE CIRCUMSTANCES UNDER
27 WHICH VITAL RECORDS MAY BE CORRECTED OR AMENDED AND THE PROCEDURE TO CORRECT OR
28 AMEND THOSE RECORDS.

29 ~~(3)(4) If birth certificates are accepted 6 months or more after the time prescribed for filing or are~~
30 altered by the department after filing, the certificate shall must show the date of the ~~delayed filing or~~

1 alteration and the mark "~~delayed~~" or "altered". A summary statement of the evidence in support of the
2 ~~delayed filing or alteration shall~~ must be endorsed on the certificate.

3 ~~(4)~~(5) The probative value of a "delayed" or "altered" certificate of birth is determined by the
4 judicial or administrative body before whom the certificate is offered as evidence."
5

6 **NEW SECTION. Section 13. Judicial birth facts procedure.** (1) If the department declines to
7 register a certificate of birth under the provisions of 50-15-204 or [section 11], a petition signed and sworn
8 to by the petitioner may be filed with the district court, seeking an order establishing a record of the date
9 and place of the birth and the parentage of the person whose birth is to be registered.

10 (2) The petition must be made on a form adopted or approved by the department and must allege:

11 (a) that the person for whom a certificate of birth is sought was born in this state;

12 (b) that a certificate of birth of the person cannot be found at the department or at the office of
13 the clerk and recorder;

14 (c) that diligent efforts by the petitioner have failed to obtain the evidence to establish entitlement
15 to a certificate of birth required in accordance with this chapter and rules adopted pursuant to this chapter;

16 (d) that the department has declined to file a certificate of birth; and

17 (e) other allegations as may be required by law.

18 (3) The petition must be accompanied by all documentary evidence that was submitted to the
19 department in support of the applicant's registration and by a statement of the reasons why the department
20 declined to register the certificate of birth.

21 (4) The district court shall fix a time and place for hearing the petition and shall give the department
22 30 days' notice of the hearing. The department through its authorized representative shall appear and
23 testify as a witness in the proceeding if determined necessary by the court.

24 (5) If the district court finds, from the evidence presented, that the person for whom a certificate
25 of birth is sought was born in this state, it shall make findings as to the date and place of birth, parentage,
26 and other relevant facts and shall issue an order establishing the certificate of birth. The order must include
27 the findings and birth data to be registered, a description of the evidence presented, and the date of the
28 court's action.

29 (6) The clerk of the court shall forward the order referred to in subsection (5) to the department
30 not later than the 10th calendar day of the month following the month in which it was entered. The order

1 must be registered by the department and constitutes the court-ordered certificate of birth.

2
 3 **NEW SECTION. Section 14. Certificates of birth following adoption, legitimation, or determination**
 4 **or acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person
 5 born in this state when the department receives the following:

6 (a) a certificate of adoption, as provided in [section 16], a certificate of adoption prepared and filed
 7 in accordance with the laws of another state or foreign country, or a certified copy of the decree of
 8 adoption, together with the information necessary to identify the original certificate of birth and to establish
 9 a new certificate of birth; or

10 (b) a request that a new certificate be established if the request shows that:

11 ~~(i) the person has been legitimated;~~

12 ~~##(II)~~ a district court has determined the paternity of the person; or

13 ~~##(III)~~ both parents have acknowledged the paternity of the person and request that the surname
 14 be changed from that shown on the original certificate.

15 (2) The date of birth and the city and county of birth must be stated in the newly established
 16 certificate of birth. The department shall substitute the new certificate of birth for the original certificate
 17 of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court
 18 determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon
 19 order of a district court, as provided by rule, or as otherwise provided by state law.

20 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the
 21 certificate of birth as provided in rules adopted by the department.

22 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the
 23 original certificate of birth issued before the adoption to its place in the files and the certificate of birth
 24 issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection,
 25 except upon order of a district court or as provided by rule adopted by the department.

26 (5) Upon written request of both parents and receipt of a sworn acknowledgment AND OTHER
 27 CREDIBLE EVIDENCE of paternity signed by both parents of a child born outside of marriage, the
 28 department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on
 29 the certificate of birth.

30 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth

1 is to be established under this section and the date and place of birth have not been determined in the
 2 adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with
 3 the department, as provided in 50-15-204, before a new certificate of birth may be established. The new
 4 certificate of birth must be prepared on a form prescribed by the department.

5 (7) When a new certificate of birth is established by the department, the department may direct
 6 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this
 7 state either be sealed from inspection or be forwarded to the department for sealing from inspection.

8 (8) (a) The department shall, upon request of the adopting parents, prepare and register a
 9 certificate of birth in this state for a person born in a foreign country who is not a citizen of the United
 10 States and who was adopted through a district court in this state.

11 (b) The certificate of birth must be established by the department upon receipt of a certificate of
 12 adoption, conforming to the requirements of [section 16], from the court that reflects entry of an order of
 13 adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate
 14 of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or
 15 older.

16 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual
 17 country of birth. A statement must be included on the certificate indicating that it is not evidence of United
 18 States citizenship for the child for whom it is issued.

19 (d) After registration of the certificate of birth in the new name of the adopted person, the
 20 department shall seal and file the certificate of adoption, which is not subject to inspection, except upon
 21 order of the district court, as provided by rule, or as otherwise provided by state law.

22 (9) The department may promulgate rules necessary to implement this section.

23
 24 **Section 15.** Section 50-15-303, MCA, is amended to read:

25 **"50-15-303. Certificates of dissolution of marriage, adoption, or declaration of invalidity of**
 26 **marriage, or annulment of adoption.** Before the 10th day of each month, the clerk of the court shall prepare
 27 and forward to the department a certificate for each decree of dissolution of marriage, adoption, or
 28 declaration of invalidity of marriage, or annulment of adoption that became final during the preceding
 29 calendar month. Certificates ~~shall~~ must be on forms prescribed by the department."
 30

1 **NEW SECTION. Section 16. Certificates of adoption or annulment of adoption -- report of amended**
2 **or annulled adoption decree.** (1) For each adoption decreed by a district court, the decree must require
3 the clerk of the court to prepare a certificate of adoption on a form prescribed and furnished by the
4 department. The certificate of adoption must include facts that are necessary to locate and identify the
5 ~~certificate of birth of the person adopted~~ **THE DATE AND PLACE OF BIRTH OF THE ADOPTED PERSON** or,
6 in the case of a person who was born in a foreign country, evidence from sources determined to be reliable
7 by **THE PATIENT'S SPOUSE, ADULT CHILDREN, PARENTS, OR** the district court as to the date and place
8 of birth of the person. The certificate of adoption must also contain information necessary to establish a
9 new certificate of birth for the person adopted and must identify the order of adoption. The clerk of the
10 court shall certify the certificate of adoption.

11 (2) Information necessary for the clerk of the court to prepare the certificate of adoption must be
12 furnished, by each petitioner for adoption on a form prescribed by the department, at the time that the
13 petition for adoption is filed. A person or agency having knowledge of facts, as described in subsection
14 (1), may be required by the court to supply the court with information necessary to complete the certificate
15 of adoption. The district court may make the provision of the information for the preparation of a certificate
16 of adoption a prerequisite to the issuance of a final decree.

17 (3) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a
18 report. The report must include the facts that are necessary to identify the original certificate of adoption
19 and the facts amended in the adoption decree that are necessary to properly amend the birth record.

20 (4) No later than the 16th day of each calendar month or more frequently, as directed by the
21 department, the clerk of the court shall forward to the department certificates of adoption, reports of
22 annulment of adoption, and amendments of decrees of adoption that were entered in the preceding month,
23 together with any related reports required by the department.

24 (5) When the department receives a certificate of adoption, report of annulment of adoption, or
25 amendment of a decree of adoption for a person born outside this state, the department shall forward the
26 certificate, report, or amendment to the state registrar or the agency charged with registering vital statistics
27 in the state where the person was born.

28 (6) If the birth of an adopted child occurred in a foreign country and the adopted child was not a
29 citizen of the United States at the time of birth, the department shall prepare a "Certificate of Foreign Birth"
30 as required by [section 14]. If the adopted child was born in Canada, the department shall send a copy of

1 the certificate of adoption, report of annulment of adoption, or amendment of a decree of adoption to the
2 appropriate registration authority in Canada.

3 (7) If the adopted child born in a foreign country was a citizen of the United States at the time of
4 birth, the department may not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents
5 of the procedures for obtaining a revised certificate of birth for their child through the United States
6 department of state.

7 (8) A deceased person cannot be adopted.

8
9 **Section 17.** Section 50-15-403, MCA, is amended to read:

10 **"50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of
11 disposition of a dead body or fetus THAT WEIGHS AT LEAST 350 GRAMS AT DEATH OR, IF THE WEIGHT
12 IS UNKNOWN, HAS REACHED 20 COMPLETED WEEKS OF GESTATION AT DEATH shall obtain personal
13 data on the deceased or, in the case of a fetal death, on the parents that is required by the department from
14 persons best qualified to supply the data and enter it on the death or fetal death certificate.

15 (2) The person in charge of disposition of the dead body or fetus shall present the death certificate
16 to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death.
17 The person in charge of disposition shall obtain the completed certification of the cause of death from the
18 physician or coroner and shall, within the time that the department may by rule prescribe, file the death or
19 fetal death certificate with the local registrar in the registration area where the death occurred.

20 ~~(3) A fetal death certificate is not required to be filed for a fetus of less than 350 grams at death~~
21 ~~or, if the weight is unknown, for a fetus that has not reached 20 completed weeks of gestation at death."~~

22
23 **Section 18.** Section 50-15-405, MCA, is amended to read:

24 **"50-15-405. Authorization for removal of body from place of death.** (1) Except as provided in
25 subsection (2), a dead body may be removed from the place of death only upon the written authorization
26 or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at
27 death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

28 (2) If the death requires inquiry under 46-4-122, the written authorization may only be granted by
29 the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner
30 fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated,

1 the coroner may grant oral authorization for ~~removal~~ cremation of the body, which must be reduced to
2 writing as specified under subsection (1) by the coroner.

3 (3) The written authorization to move a dead body or, when applicable, to cremate a dead body
4 must be made in ~~triplicate~~ quadruplicate on a form provided by the department. The person in charge of
5 disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided
6 with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition,
7 as necessary.

8 (4) A written authorization issued under this section permits removal, transportation, and final
9 disposition of a dead body."

10

11 **Section 19.** Section 50-16-542, MCA, is amended to read:

12 **"50-16-542. Denial of examination and copying.** (1) A health care provider may deny access to
13 health care information by a patient if the health care provider reasonably concludes that:

14 (a) knowledge of the health care information would be injurious to the health of the patient;

15 (b) knowledge of the health care information could reasonably be expected to lead to the patient's
16 identification of an individual who provided the information in confidence and under circumstances in which
17 confidentiality was appropriate;

18 (c) knowledge of the health care information could reasonably be expected to cause danger to the
19 life or safety of any individual;

20 (d) the health care information was compiled and is used solely for litigation, quality assurance,
21 peer review, or administrative purposes;

22 (e) the health care information might ~~disclose birth out of wedlock or provide information from~~
23 ~~which knowledge of birth out of wedlock might be obtained and which~~ contain information is protected
24 from disclosure pursuant to ~~50-15-206~~ [sections 7 and 8];

25 (f) the health care provider obtained the information from a person other than the patient; or

26 (g) access to the health care information is otherwise prohibited by law.

27 (2) Except as provided in 50-16-521, a health care provider may deny access to health care
28 information by a patient who is a minor if:

29 (a) the patient is committed to a mental health facility; or

30 (b) the patient's parents or guardian ~~have~~ has not authorized the health care provider to disclose

1 the patient's health care information.

2 (3) If a health care provider denies a request for examination and copying under this section, the
3 provider, to the extent possible, shall segregate health care information for which access has been denied
4 under subsection (1) from information for which access cannot be denied and permit the patient to examine
5 or copy the ~~disclosable~~ information subject to disclosure.

6 (4) If a health care provider denies a patient's request for examination and copying, in whole or
7 in part, under subsection (1)(a) or (1)(c), ~~he~~ the provider shall permit examination and copying of the record
8 by another health care provider who is providing health care services to the patient for the same condition
9 as the health care provider denying the request. The health care provider denying the request shall inform
10 the patient of the patient's right to select another health care provider under this subsection."

11

12 NEW SECTION. Section 20. Repealer. Sections 50-15-110, 50-15-112, 50-15-113, 50-15-201,
13 50-15-205, and 50-15-206, MCA, are repealed.

14

15 NEW SECTION. Section 21. Codification instructions. (1) [Sections 7 through 10] are intended
16 to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15,
17 part 1, apply to [sections 7 through 10].

18 (2) [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 50, chapter
19 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [sections 11, 13, and 14].

20 (3) [Section 16] is intended to be codified as an integral part of Title 50, chapter 15, part 3, and
21 the provisions of Title 50, chapter 15, part 3, apply to [section 16].

22

23 NEW SECTION. SECTION 22. COORDINATION INSTRUCTION. IF SENATE BILL NO. 150 IS
24 PASSED AND APPROVED AND IF IT CONTAINS A SECTION THAT AMENDS 40-8-126, THEN [SECTION
25 2 OF THIS ACT] READS AS FOLLOWS:

26 "40-8-126. Confidentiality and disclosure of record and proceedings -- appointment and duties of
27 confidential intermediary. (1) Unless the court ~~shall orders~~ otherwise ~~order~~, all hearings held in proceedings
28 under this part ~~shall be~~ are confidential and ~~shall must~~ be held in closed court without admittance of any
29 person other than interested parties and their counsel.

30 (2) All papers and records pertaining to the adoption ~~shall must~~ be kept as a permanent record of

1 the court and withheld from inspection. ~~No~~ A person shall may not have access to ~~such~~ the records,
2 except:

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

5 (b) as provided in subsection (7); or

6 ~~(b)(c)~~ as provided in 50-15-206 [sections 7 and 8].

7 (3) All files and records pertaining to ~~said~~ adoption proceedings ~~in the county departments of public~~
8 ~~welfare, the department of social and rehabilitation services,~~ retained by the department of family services,
9 or any authorized ~~agencies shall be~~ agency are confidential and must be withheld from inspection, except
10 ~~upon order of court for good cause shown or as provided in 50-15-206~~ as provided in [sections 7 and 8]
11 and except that the department or authorized agency may disclose:

12 (a) nonidentifying information to an adoptee, an adoptive or biological parent, or an extended family
13 member of an adoptee or biological parent; and

14 (b) identifying information to a court-appointed confidential intermediary upon order of the court
15 or as provided in [sections 7 and 8].

16 (4) When an adoptee reaches 18 years of age, the adoptee, an adoptive or biological parent, or
17 an extended family member of the adoptee or biological parent may petition the court for disclosure of the
18 identity of the adoptee, biological son, biological daughter, or biological parent. A petition for disclosure
19 must contain the following information:

20 (a) the name, address, and identification of the petitioner;

21 (b) the date of the adoptee's birth;

22 (c) the county and state where the adoption occurred;

23 (d) the date of the adoption; and

24 (e) any information known to the petitioner concerning the biological parents, the adoptive parents,
25 and the adoptee that could assist in locating the person being sought.

26 (5) After a petition for disclosure has been filed under subsection (4), the court shall appoint a
27 confidential intermediary who shall:

28 (a) conduct a confidential search for the person sought, as requested in the petition for disclosure;

29 (b) refrain from disclosing directly or indirectly any identifying information to the petitioner, unless
30 ordered to do so by the court; and

1 (c) make a written report of the results of the search to the court not later than 6 months after
2 appointment.

3 (6) Upon appointment, a confidential intermediary is entitled to be paid a reasonable fee plus actual
4 expenses incurred in conducting the search. The fee and expenses must be paid by the petitioner.

5 (7) A confidential intermediary may inspect otherwise confidential records of the court, the
6 department, or an authorized agency for use in the search. The confidential intermediary may not disclose
7 the contents of the records or any results of a search unless authorized by the court.

8 (8) If a confidential intermediary is unable to locate the person being sought within 6 months of
9 appointment, the confidential intermediary shall recommend to the court whether a further search is
10 warranted and state the reasons for the recommendation. If the court finds that a further search is
11 warranted, the court may order that the search be continued for a specified time.

12 (9) If a confidential intermediary locates the person being sought, a confidential inquiry must be
13 made as to whether the located person consents to having that person's present identity disclosed to the
14 petitioner. The court may request that the confidential intermediary assist in arranging contact between the
15 petitioner and the located person.

16 (10) If a confidential intermediary locates the person being sought and the located person does not
17 consent to having that person's identity disclosed, identifying information regarding that person may be
18 disclosed only upon order of the court for good cause shown.

19 (11) If the person being sought is found to be deceased, the court may order disclosure of the
20 identity of the deceased to the petitioner."

21
22 **NEW SECTION. Section 23. Severability.** If a part of [this act] is invalid, all valid parts that are
23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
24 applications, the part remains in effect in all valid applications that are severable from the invalid
25 applications.

26
27 **NEW SECTION. Section 24. Effective date.** [This act] is effective January 1, 1996.

28 -END-

GOVERNOR'S AMENDMENTS TO
HOUSE BILL NO. 89
(REFERENCE COPY)
April 7, 1995

1. Page 17, line 7.

Strike: "THE PATIENT'S SPOUSE, ADULT CHILDREN, PARENTS, OR"

2. Page 20, line 8.

Following: "by"

Insert: "the patient's spouse, adult child, or parent or guardian
or by"

1 HOUSE BILL NO. 89

2 INTRODUCED BY PECK

3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE VITAL STATISTICS LAWS TO
 6 STANDARDIZE PROCEDURES AND TO CONFORM TO NATIONAL STANDARDS; CLARIFYING THE
 7 INFORMATION AVAILABLE FROM THE SYSTEM OF VITAL STATISTICS; REVISING BIRTH REGISTRATION
 8 REQUIREMENTS; REVISING PROCEDURES AND CRITERIA FOR ISSUING A DELAYED OR ALTERED BIRTH
 9 CERTIFICATE; REVISING THE JUDICIAL PROCEDURE FOR ESTABLISHING THE FACTS OF BIRTH;
 10 REVISING THE LAWS GOVERNING CERTIFICATES OF ADOPTION AND ANNULMENT OF ADOPTION;
 11 PROVIDING FOR CERTIFICATES OF FOREIGN BIRTH; REVISING THE LAWS FOR CERTIFICATES OF BIRTH
 12 FOLLOWING ADOPTION, LEGITIMATION, OR ESTABLISHMENT OF PATERNITY; REVISING STANDARDS
 13 FOR PRESERVING VITAL RECORDS; REVISING THE CONTENT OF VITAL RECORDS; AMENDING SECTIONS
 14 37-27-321, 40-8-126, 50-15-101, 50-15-102, 50-15-103, 50-15-111, 50-15-204, 50-15-303, 50-15-403,
 15 50-15-405, AND 50-16-542, MCA; REPEALING SECTIONS 50-15-110, 50-15-112, 50-15-113, 50-15-201,
 16 50-15-205, AND 50-15-206, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

17
18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because the bill gives the department of health and
 20 environmental sciences authority to adopt administrative rules.

21 The legislature intends that the rules:

22 (1) address the process for establishing and maintaining a statewide system of vital statistics and
 23 vital records;

24 (2) define persons who may obtain copies of vital records and the showing necessary to obtain
 25 vital records;

26 (3) establish which persons may prepare or issue certified copies of certificates of birth or vital
 27 records;

28 (4) establish the process and scope of disclosure of information to the public and governmental
 29 agencies as well as adequate standards for security and confidentiality of vital records;

30 (5) establish a system for preservation or disposal of vital records;

- 1 (6) establish the process and guidelines for registration of births;
- 2 (7) establish the process for establishing, maintaining, or dismissing applications for delayed
3 certificates of birth;
- 4 (8) establish forms necessary to track vital statistics by courts or other governmental entities;
- 5 (9) establish a system of issuance and maintenance of certificates of birth following adoption,
6 legitimation, or establishment of paternity;
- 7 (10) establish a system for issuance and maintenance of records of dissolution or annulment of
8 marriage; and
- 9 (11) establish a system for the issuance and maintenance of certificates of adoption and annulment
10 of adoption.

11

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

13

14 **Section 1.** Section 37-27-321, MCA, is amended to read:

15 **"37-27-321. Filing of birth certificate.** (1) When a birth occurs with a licensed direct-entry
16 midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by
17 ~~50-15-201 [section 11]~~, with the department of health and environmental sciences ~~within 30 days of the~~
18 ~~birth of the newborn.~~

19 (2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for
20 the suspension or revocation of a license granted under this chapter."

21

22 **Section 2.** Section 40-8-126, MCA, is amended to read:

23 **"40-8-126. Confidentiality of record and proceedings.** (1) Unless the court ~~shall~~ orders otherwise
24 ~~order~~, all hearings held in proceedings under this part ~~shall be~~ are confidential and ~~shall~~ must be held in
25 closed court without admittance of any person other than interested parties and their counsel.

26 (2) All papers and records pertaining to the adoption ~~shall~~ must be kept as a permanent record of
27 the court and withheld from inspection. ~~No~~ A person ~~shall~~ may not have access to ~~such~~ the records,
28 except:

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

1 (b) as provided in ~~50-15-206~~ [sections 7 and 8].

2 (3) All files and records pertaining to ~~said~~ the adoption proceedings in the county departments of
3 public welfare, the department of social and rehabilitation services, the department of family services, or
4 any authorized agencies ~~shall be~~ are confidential and must be withheld from inspection, except upon order
5 of court for good cause shown or as provided in ~~50-15-206~~ [sections 7 and 8]."

6
7 **Section 3.** Section 50-15-101, MCA, is amended to read:

8 **"50-15-101. Definitions.** Unless the context requires otherwise, in parts 1 through 4, the following
9 definitions apply:

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

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

13 (3) "Department" means the department of health and environmental sciences provided for in Title
14 2, chapter 15, part 21.

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

16 (5) "Fetal death" means ~~a birth after 20 weeks of gestation, or before 20 weeks of gestation if the~~
17 ~~fetus weighs more than 500 grams at the time of delivery, that is not a live birth~~ death of the fetus prior
18 to the complete expulsion or extraction from its mother as a product of human conception, notwithstanding
19 the duration of pregnancy. The death is indicated by the fact that after expulsion or extraction, the fetus
20 does not breathe or show any other evidence of life, such as beating of the heart, pulsation of the umbilical
21 cord, or definite movement of voluntary muscles. Heartbeats are distinguished from transient cardiac
22 contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

23 (6) "Final disposition" means the burial, interment, cremation, removal from the state, or other
24 authorized disposition of a dead body or fetus.

25 ~~(6)(7)~~ (7) "Invalid marriage" means a marriage decreed by a district court to be invalid for the reasons
26 contained in 40-1-402.

27 ~~(8)~~ "Legitimate" means to place a child born before marriage of the child's parents in the same
28 status as children born during marriage.

29 ~~(7)(9)(8)~~ (8) "Live birth" means the birth of a child who shows evidence of life after being entirely
30 outside the mother complete expulsion or extraction from the mother as a product of human conception,

1 notwithstanding the duration of pregnancy. The birth is indicated by the fact that after expulsion or
 2 extraction, the child breathes or shows any other evidence of life, such as beating of the heart, pulsation
 3 of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are distinguished from
 4 transient cardiac contractions. Respirations are distinguished from fleeting respiratory efforts or gasps.

5 ~~(8)(10)(9)~~ "Local registrar" means a person appointed by the department to act as its agent in
 6 administering this chapter in the area set forth in the letter of appointment.

7 ~~(9)(11)(10)~~ "Person in charge of ~~interment~~ disposition of a dead body" means a ~~person~~ PERSON
 8 WHO PLACES OR CAUSES TO BE PLACED A DEAD BODY OR THE ASHES AFTER CREMATION IN A
 9 GRAVE, VAULT, URN, OR OTHER RECEPTACLE OR OTHERWISE DISPOSES OF THE BODY OR FETUS AND
 10 WHO IS A funeral director licensed under Title 37, chapter 19, an employee acting for a funeral director,
 11 or a person who first assumes custody of a dead body or fetus and who places or causes to be placed a
 12 dead body or the ashes after cremation in a grave, vault, urn, or other receptacle or otherwise disposes of
 13 the body or fetus.

14 ~~(10)(12)(11)~~ "Physician" means a person legally authorized to practice medicine in this state.

15 ~~(13)(12)~~ "Registration" means the process by which vital records are completed, filed, and
 16 incorporated into the official records of the department.

17 ~~(14)(13)~~ "Research" means a systematic investigation designed primarily to develop or contribute
 18 to generalizable knowledge.

19 ~~(15)(14)~~ "System of vital statistics" means the registration, collection, preservation, amendment,
 20 and certification of vital records. The term includes the collection of reports required by this chapter and
 21 related activities, including the tabulation, analysis, publication, and dissemination of vital statistics.

22 ~~(16)(15)~~ "Vital records" means certificates or reports of birth, death, fetal death, marriage, and
 23 dissolution of marriage and related reports.

24 ~~(11)(17)(16)~~ "Vital statistics" ~~includes the registration, preparation, transcription, collection,~~
 25 ~~compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths,~~
 26 ~~marital status, and incidental supporting data~~ means the data derived from certificates or reports of birth,
 27 death, fetal death, induced termination of pregnancy, marriage, and dissolution of marriage and related
 28 reports."

29
 30 **Section 4.** Section 50-15-102, MCA, is amended to read:

1 **"50-15-102. Statewide system of vital statistics to be established.** The department shall establish
 2 a statewide system of vital statistics and adopt rules for gathering, recording, using, amending, and
 3 preserving vital statistics and vital records. ~~The department may adopt rules for the proper administration~~
 4 ~~of the system of vital statistics."~~

5
 6 **Section 5.** Section 50-15-103, MCA, is amended to read:

7 **"50-15-103. Duties of department.** The department shall:

8 (1) divide the state into registration districts and change districts as necessary;

9 ~~(2) gather, record, use, and preserve vital statistics;~~

10 ~~(3) enforce rules adopted by the department for gathering, recording, using, and preserving vital~~
 11 ~~statistics;~~

12 ~~(4) give instructions and prescribe forms for gathering, recording, preserving, and using vital~~
 13 ~~statistics~~

14 (2) promulgate rules necessary to implement this chapter;

15 (3) administer and enforce the provisions of this chapter and rules adopted to implement this
 16 chapter;

17 ~~(4) direct, supervise, and control the activities of all persons when they are engaged in activities~~
 18 ~~pertaining to the operation of the system of vital statistics;~~

19 (5)(4) conduct training programs to promote uniformity of policy and procedures throughout the
 20 state in matters pertaining to the system of vital statistics;

21 ~~(6)(5) prescribe, furnish, and distribute forms required by this chapter or rules adopted pursuant~~
 22 ~~to this chapter or prescribe other means for the transmission of data that will accomplish complete and~~
 23 ~~accurate reporting and registration; and~~

24 ~~(7)(6) prepare and publish reports of vital statistics of this state."~~

25
 26 **Section 6.** Section 50-15-111, MCA, is amended to read:

27 **"50-15-111. Certified copy fee.** (1) The department shall prescribe, by rule, a fee ~~of not less than~~
 28 ~~\$5~~ for:

29 (a) a certified copy of certificates or records;

30 (b) a search of files or records when a copy is not made;

1 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

2 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity
 3 determination or acknowledgment, or court order;

4 (e) filing a delayed registration of a vital event;

5 (f) the amendment of a vital record, after 1 year from the date of filing; and

6 (g) other services specified by this chapter or by rule.

7 (2) Fees received ~~for a certified copy of a certificate or a search of files shall~~ under subsection (1)
 8 must be deposited in the state special revenue fund to be used by the department for:

9 (a) the maintenance of indexes to ~~and costs for~~ vital records;

10 (b) the preservation of vital records; and

11 (c) the ~~modernization and automation~~ ADMINISTRATION of the system of vital statistics."

12
 13 **NEW SECTION. Section 7. Copies from system of vital statistics.** (1) Except as provided in
 14 subsections (4), (6), and (7), the department and county clerk and recorders shall, upon receipt of an
 15 application, issue a certified copy OR COPIES of a vital record or a part of a vital record to the registrant,
 16 the registrant's spouse, children, parents, or guardian, or an authorized representative. Other individuals
 17 may obtain certified copies when the individual demonstrates that the record is needed for the
 18 determination or protection of the individual's personal or property rights. The department shall adopt rules
 19 to further define those who may obtain copies of vital records filed under this chapter.

20 (2) All applications, forms, and procedures used in the issuance of certified copies of vital records
 21 in the state must be uniform and prepared or approved by the department. All certified copies must contain
 22 security features that deter the document from being altered, counterfeited, duplicated, or simulated
 23 without ready detection that there have been these changes to the document.

24 (3) Each copy issued must show the date of registration. Copies issued from amended records
 25 must be marked and must show the effective date of the amendment. Copies issued from delayed records
 26 must be marked, must include the date of registration, and must contain a statement of the evidence used
 27 to establish the delayed certificate. A copy issued of a certificate of foreign birth must indicate the fact
 28 of foreign birth and the date of birth (if known), must show the actual place of birth, and must state that
 29 the certificate is not proof of United States citizenship for the adoptive child.

30 (4) A certified copy or other copy of a death certificate containing information or data that would

1 identify any person or institution named in a certificate or report and the cause of death information may
2 not be issued, except as follows:

3 (a) upon specific request of the spouse, children, parents, or other next of kin of the decedent or
4 their respective authorized representatives, as specified by department rule;

5 (b) when a documented need for the cause of death to establish a legal right or claim has been
6 demonstrated, as specified by department rule;

7 (c) when the request for the copy is made by or on behalf of a person or entity that provides
8 monetary benefits to the decedent's survivors or beneficiaries, as may be specified by department rule;

9 (d) upon specific request by federal, state, or local agencies for research or administrative purposes
10 and when approved for release by the department;

11 (e) when needed for research activities and approved for release by the department; or

12 (f) upon receipt by the department of an order directed to the department from a court of
13 competent jurisdiction ordering the release.

14 (5) A certified copy of a vital record or any part of a vital record, issued in accordance with
15 subsections (1) through (3), must be considered for all purposes the same as the original ~~and is prima facie~~
16 ~~evidence of the facts stated in the original~~. The admissibility of a certificate or vital record filed more than
17 1 year after the event or after a corrective record is filed, of a vital record that has been amended, or of
18 a certificate of foreign birth must be determined by the judicial or administrative body or official before
19 whom the certificate is offered as evidence.

20 (6) This section may not be construed to permit disclosure of confidential information contained
21 in a birth certificate for medical or health use or of information for statistical purposes only contained in a
22 certificate of marriage or report of dissolution of marriage unless disclosure is specifically authorized by law
23 for statistical or research purposes or unless ordered by a court.

24 (7) (a) When the department receives information that a certificate may have been registered
25 through fraud or misrepresentation, it shall withhold issuance of the certificate or any copy of that
26 certificate pending issuance of an order after an administrative contested case hearing before the
27 department to determine whether fraud or misrepresentation has occurred.

28 (b) The hearing provided for in subsection (7)(a) must be conducted pursuant to the Montana
29 Administrative Procedure Act. In the proceeding, the department shall notify the registrant or the
30 registrant's authorized representative and provide the registrant or the representative the opportunity to be

1 heard.

2 (c) If, upon conclusion of the hearing, fraud or misrepresentation is not found, the department may
3 issue the certificate or copies of the certificate in question.

4 (d) If, upon conclusion of the hearing, fraud or misrepresentation is found, the department may not
5 register the certificate unless ordered to do so by a court.

6 (e) An affected person may appeal the department's decision to the district court as provided in
7 Title 2, chapter 4, part 7.

8 (8) A person may not prepare or issue any certificate that purports to be an original, OR certified
9 copy, ~~or copy of a vital record~~, except as authorized in this chapter or rules adopted to implement this
10 chapter.

11 (9) The department may, by rule, prescribe details for the hearing and appellate procedures
12 contained in this section.

13

14 **NEW SECTION. Section 8. Disclosure of information from vital records or vital reports -- rules.**

15 (1) It is the policy of the state to protect the integrity of vital records and vital reports, to ensure their
16 proper use, and to ensure the efficient and proper administration of the system of vital statistics. In
17 furtherance of the policy, it is unlawful for any person to permit inspection of or to disclose information
18 contained in vital records or in vital reports or to copy or issue a copy of all or a part of a record or report
19 unless authorized by this chapter, by administrative rule, or by order of a court of competent jurisdiction.
20 Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital
21 records.

22 (2) The execution of a research agreement that protects the confidentiality of the information
23 provided to a researcher in response to a written request is required for disclosure of information that may
24 identify a person or institution named in any vital record or report. This agreement must be made in
25 compliance with this chapter or rules adopted to implement this chapter. Each agreement must prohibit
26 the release by the researcher of any information that might identify a person or institution, other than
27 releases that may be provided for in the agreement.

28 (3) This section does not prohibit the release of information or data that does not identify a person
29 or institution named in a vital record or report.

30 (4) A challenge to a decision of a custodian of vital records to refuse disclosing information from

1 records, as prescribed by this section and rules issued to implement this section, must be made before the
 2 department in the case of a county clerk and recorder and to a district court in the case of the department.
 3 A challenge before the department must be in the form of a contested case pursuant to the Montana
 4 Administrative Procedure Act. An appeal of the department's decision to district court must be made by
 5 filing an original action pursuant to the Montana Rules of Civil Procedure.

6 (5) ~~One hundred THIRTY years after the date of birth or 50 years after the date IMMEDIATELY~~
 7 ~~UPON THE FILING WITH THE DEPARTMENT OF A RECORD of death, marriage, or dissolution of marriage,~~
 8 ~~the records of these events in the custody of the department are available to the public without restriction.~~
 9 IMMEDIATELY UPON THE FILING OF A RECORD WITH THE DEPARTMENT, THE FACT THAT A BIRTH OR
 10 DEATH HAS OCCURRED OR A RECORD OF MARRIAGE OR DISSOLUTION OF MARRIAGE MAY BE
 11 RELEASED TO THE PUBLIC WITHOUT RESTRICTION. NOTWITHSTANDING THE RESTRICTIONS
 12 PROVIDED IN [SECTION 7], COMPLETE BIRTH OR DEATH RECORDS MAY BE RELEASED TO THE PUBLIC
 13 30 YEARS AFTER THE DATE OF BIRTH OR DEATH. The department shall adopt rules that provide for the
 14 continued safekeeping of the records.

15 (6) The department may provide the national center for health statistics or a successor agency with
 16 copies of records, reports, or data from the system of vital statistics that are required for national statistics.
 17 The department shall enter into an agreement with the center, indicating the scope of disclosure of
 18 information, as required by this chapter or rules implementing this chapter, concerning the use of records,
 19 reports, or data for statistical or research purposes. The agreement must set forth the financial support
 20 to be provided by the center for the collection, processing, and transmission of the records, reports, or
 21 data. Upon written request of the center, the department may approve, by amendment to the agreement,
 22 additional statistical or research uses of the records, reports, or data supplied under the agreement.

23 (7) Federal, state, and local governmental agencies may, subject to this chapter and rules
 24 implementing this chapter, upon request, be furnished copies of records or data from the system of vital
 25 statistics if the copies or data is used solely in the conduct of the agency's official duties. THE
 26 DEPARTMENT SHALL, UPON REQUEST BY THE DEPARTMENT OF SOCIAL AND REHABILITATION
 27 SERVICES, THE DEPARTMENT OF FAMILY SERVICES, OR A LICENSED ADOPTION AGENCY, PROVIDE
 28 A BIRTH CERTIFICATE AND RELATED RECORDS FOR PURPOSES OF ADOPTION, TERMINATION OF
 29 PARENTAL RIGHTS, CUSTODY ACTIONS, PATERNITY ACTIONS, CHILD SUPPORT ACTIONS, SOCIAL
 30 SECURITY ELIGIBILITY DETERMINATIONS, OR INDIAN TRIBAL ENROLLMENT DETERMINATIONS.

1 (8) Subject to this chapter and rules implementing this chapter, the department may, by agreement,
2 transmit copies of records and other reports required to be compiled by this chapter to offices of vital
3 statistics outside this state when the records or reports concern residents of those jurisdictions or persons
4 born in those jurisdictions. The agreement must specify the statistical and administrative purposes for
5 which the records may be used, and the agreement must provide instructions concerning proper retention,
6 confidentiality requirements, and disposition of the copies. Copies received by the department from offices
7 of vital statistics in other states must be handled as provided for in this subsection.

8
9 **NEW SECTION. Section 9. Preservation of vital records.** To preserve vital records, the department
10 may prepare typewritten, photographic, electronic, or other reproductions of certificates, vital records, or
11 reports kept by the department. The reproductions when certified and approved by the department must
12 be accepted as the original records, ~~and the documents from which permanent reproductions have been~~
13 ~~made may be disposed of as provided by department rule.~~ **THE DEPARTMENT SHALL MAINTAIN**
14 **ORIGINAL VITAL RECORDS INTACT AND IN THEIR ORIGINAL FORM ON FILE AT THE DEPARTMENT.**

15
16 **NEW SECTION. Section 10. Content of certificates, records, and reports.** (1) In order to promote
17 and maintain nationwide uniformity in the system of vital statistics, the department, in the preparation of
18 the forms of certificates, vital records, or reports required by this chapter or rules adopted under this
19 chapter, may include the elements in forms and the forms recommended by the national center for health
20 statistics for implementing a system of vital statistics.

21 (2) Each certificate, record, report, and other document required by this chapter must be prepared
22 in a format approved by the department. All vital records must contain the date of filing.

23 (3) Information required in certificates, forms, records, or reports authorized by this chapter may
24 be filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by the
25 department.

26
27 **NEW SECTION. Section 11. Birth registration.** (1) A certificate of birth must be filed as specified
28 in this section with the department for each live birth that occurs in this state. Unless otherwise directed
29 by the department, the certificate must be filed within the time prescribed by the department by rule after
30 the birth. The birth certificate must be registered if it has been completed and filed in accordance with this

1 section and rules adopted to implement this section.

2 (2) If a birth occurs in a health care facility, the birth certificate must be completed and filed by
3 the attending physician or the physician's designee.

4 (3) If a birth occurs in or en route to a health care facility, the person in charge of the facility or
5 the person's authorized designee shall obtain the personal data concerning the newborn child, prepare the
6 certificate, and certify that the child was born alive at the place, at the time, and on the date stated.
7 Certification may be by signature or by an approved electronic process. The person referenced in this
8 subsection shall file the certificate as directed in subsection (1). The physician or other person in
9 attendance at the birth shall provide the medical information required by the certificate within 72 hours after
10 the birth.

11 (4) The department shall, by rule, determine what evidence may be required to establish the facts
12 of birth if the birth occurs at a place other than a health care facility. In accordance with rules promulgated
13 by the department, the certificate must be prepared and filed by one of the following persons in the
14 indicated order of priority in subsections (4)(a) through ~~(4)(f)~~ (4)(E):

15 (a) the physician or the physician's designee OR A MIDWIFE LICENSED PURSUANT TO TITLE 37,
16 CHAPTER 27, in attendance at or immediately after the birth;

17 (b) a person in attendance at or immediately after the birth;

18 (c) the father or the mother;

19 (d) in the absence of the father and the inability of the mother, the person in charge of the premises
20 where the birth occurred; OR

21 ~~(e) a midwife licensed pursuant to Title 37, chapter 27; or~~

22 ~~(f)(E)~~ the local registrar, if 50-15-202 applies.

23 (5) When a birth occurs on a moving conveyance within the United States and the newborn child
24 is first removed from the conveyance in this state, the birth must be registered in this state by a person
25 listed in subsection (4) and the place where the child is first removed from the conveyance is considered
26 the place of birth. When a birth occurs on a moving conveyance while in international waters or air space
27 or in a foreign country or its air space and the child is first removed from the conveyance in this state, the
28 birth must be registered by a person listed in subsection (4) in this state, but the certificate must indicate
29 the actual place of birth insofar as the place can be determined.

30 (6) For the purposes of birth registration, the woman who gives birth to the child is considered to

1 be the mother, unless otherwise provided by state law or determined by a court of competent jurisdiction
2 prior to the filing of the birth certificate. Information about the father must be entered as provided in
3 subsection (7).

4 (7) (a) If the mother was married at the time of conception or birth or between conception and
5 birth, the name of the husband must be entered on the certificate as the father of the child, unless:

6 (i) other paternity has been determined by a court of competent jurisdiction;

7 (ii) the mother and the husband execute joint or separate affidavits attesting that the husband is
8 not the father of the child. Affidavits must be notarized, and signatures of the mother and of the husband
9 must be individually notarized on any joint affidavit. If affidavits are filed, information about the father must
10 be omitted from the certificate.

11 (iii) the mother executes an affidavit attesting that the husband is not the father and names a
12 putative father, the putative father executes an affidavit attesting paternity, and the husband executes an
13 affidavit denying paternity. Affidavits may be joint or individual or a combination of joint and individual
14 affidavits. Each signature on an affidavit must be individually notarized. If all affidavits are filed, the
15 putative father must be shown as the father on the certificate.

16 (b) If the mother was not married at the time of conception or birth or between conception and
17 birth, the name of the father may not be entered on the certificate without an affidavit of paternity signed
18 by the mother and the person to be named as the father.

19 (c) If paternity of a child is determined by a court of competent jurisdiction, the name of the father
20 and surname of the child must be entered on the certificate of birth in accordance with the finding and
21 order of the court.

22 (d) If the father is not named on the certificate of birth, information about the father may not be
23 entered on the certificate.

24 (e) Affidavits required under this subsection (7) must be filed with the department.

25 (8) Either parent of the child, or another informant, shall verify the accuracy of the personal data
26 to be entered on the certificate in order to permit the filing of the certificate within the time prescribed in
27 subsection (1).

28 (9) A certificate of birth filed after the time prescribed in subsection (1) but within 1 year from the
29 date of birth must be registered by the natural parents, the adoptive parents, or the person having legal
30 custody of the child, on the standard form of live birth certificate in the manner prescribed in this section

1 and by rule. The certificate may not be designated as delayed. The department may require additional
2 evidence in support of the facts of birth.

3
4 **Section 12.** Section 50-15-204, MCA, is amended to read:

5 **"50-15-204. Delayed or amended birth certificate.** (1) ~~(a) After the time prescribed by the~~
6 ~~department, a person born in this state may file a birth certificate upon submitting proof as required by the~~
7 ~~department or by any court.~~ If a certificate of birth for a person born in this state has not been filed within
8 1 year of the birth, a delayed certificate of birth may be filed in accordance with rules adopted by the
9 department. A delayed certificate of birth may not be registered until the requirements regarding facts
10 pertaining to the delayed certificate, as specified by rule, have been met.

11 (b) A birth of a person in this state whose name has not been registered within 1 year after the
12 birth must be registered on a delayed certificate of birth form. The delayed certificate must contain the date
13 of registration and a summary statement of the information submitted to explain the delayed registration.

14 (c) A delayed certificate of birth may not be registered for a deceased person.

15 (d) The department may not register a delayed certificate of birth if an applicant for a delayed
16 certificate of birth does not submit the minimum documentation required by rule for delayed registration
17 or if the department has cause to question the validity or adequacy of the applicant's sworn statement or
18 the documentation provided to establish the facts and the deficiencies are not corrected. The department
19 shall advise the applicant of the reasons for the refusal to register the delayed certificate of birth. The
20 department shall advise the applicant of the right to seek an order from a court of competent jurisdiction
21 to obtain registration of the delayed certificate of birth as provided in [section 13].

22 (e) The department may, by rule, provide for the dismissal of an application for registration of a
23 delayed certificate of birth that is not actively pursued.

24 (2) ~~A person~~ THE DEPARTMENT OR ITS DESIGNEE may amend a birth, death, or fetal death
25 certificate upon submitting proof as required by the department.

26 (3) THE DEPARTMENT SHALL ADOPT RULES ESTABLISHING THE CIRCUMSTANCES UNDER
27 WHICH VITAL RECORDS MAY BE CORRECTED OR AMENDED AND THE PROCEDURE TO CORRECT OR
28 AMEND THOSE RECORDS.

29 ~~(3)(4) If birth certificates are accepted 6 months or more after the time prescribed for filing or are~~
30 altered by the department after filing, the certificate ~~shall~~ must show the date of the ~~delayed filing or~~

1 alteration and the mark "~~delayed~~" or "altered". A summary statement of the evidence in support of the
2 ~~delayed filing or alteration shall~~ must be endorsed on the certificate.

3 ~~(4)~~(5) The probative value of a "delayed" or "altered" certificate of birth is determined by the
4 judicial or administrative body before whom the certificate is offered as evidence."
5

6 **NEW SECTION. Section 13. Judicial birth facts procedure.** (1) If the department declines to
7 register a certificate of birth under the provisions of 50-15-204 or [section 11], a petition signed and sworn
8 to by the petitioner may be filed with the district court, seeking an order establishing a record of the date
9 and place of the birth and the parentage of the person whose birth is to be registered.

10 (2) The petition must be made on a form adopted or approved by the department and must allege:

11 (a) that the person for whom a certificate of birth is sought was born in this state;

12 (b) that a certificate of birth of the person cannot be found at the department or at the office of
13 the clerk and recorder;

14 (c) that diligent efforts by the petitioner have failed to obtain the evidence to establish entitlement
15 to a certificate of birth required in accordance with this chapter and rules adopted pursuant to this chapter;

16 (d) that the department has declined to file a certificate of birth; and

17 (e) other allegations as may be required by law.

18 (3) The petition must be accompanied by all documentary evidence that was submitted to the
19 department in support of the applicant's registration and by a statement of the reasons why the department
20 declined to register the certificate of birth.

21 (4) The district court shall fix a time and place for hearing the petition and shall give the department
22 30 days' notice of the hearing. The department through its authorized representative shall appear and
23 testify as a witness in the proceeding if determined necessary by the court.

24 (5) If the district court finds, from the evidence presented, that the person for whom a certificate
25 of birth is sought was born in this state, it shall make findings as to the date and place of birth, parentage,
26 and other relevant facts and shall issue an order establishing the certificate of birth. The order must include
27 the findings and birth data to be registered, a description of the evidence presented, and the date of the
28 court's action.

29 (6) The clerk of the court shall forward the order referred to in subsection (5) to the department
30 not later than the 10th calendar day of the month following the month in which it was entered. The order

1 must be registered by the department and constitutes the court-ordered certificate of birth.

2

3 **NEW SECTION. Section 14. Certificates of birth following adoption, legitimation, or determination**
4 **or acknowledgment of paternity.** (1) The department shall establish a new certificate of birth for a person
5 born in this state when the department receives the following:

6 (a) a certificate of adoption, as provided in [section 16], a certificate of adoption prepared and filed
7 in accordance with the laws of another state or foreign country, or a certified copy of the decree of
8 adoption, together with the information necessary to identify the original certificate of birth and to establish
9 a new certificate of birth; or

10 (b) a request that a new certificate be established if the request shows that:

11 ~~(i) the person has been legitimated;~~

12 ~~(ii)(I)~~ a district court has determined the paternity of the person; or

13 ~~(iii)(II)~~ both parents have acknowledged the paternity of the person and request that the surname
14 be changed from that shown on the original certificate.

15 (2) The date of birth and the city and county of birth must be stated in the newly established
16 certificate of birth. The department shall substitute the new certificate of birth for the original certificate
17 of birth in the files. The original certificate of birth and the evidence of adoption, legitimation, court
18 determination of paternity, or paternity acknowledgment may not be subject to inspection, except upon
19 order of a district court, as provided by rule, or as otherwise provided by state law.

20 (3) Upon receipt of a report of an amended decree of adoption, the department shall amend the
21 certificate of birth as provided in rules adopted by the department.

22 (4) Upon receipt of a report or decree of annulment of adoption, the department shall restore the
23 original certificate of birth issued before the adoption to its place in the files and the certificate of birth
24 issued upon adoption and evidence pertaining to the adoption proceeding may not be open to inspection,
25 except upon order of a district court or as provided by rule adopted by the department.

26 (5) Upon written request of both parents and receipt of a sworn acknowledgment **AND OTHER**
27 **CREDIBLE EVIDENCE** of paternity signed by both parents of a child born outside of marriage, the
28 department shall reflect the paternity on the child's certificate of birth if paternity is not already shown on
29 the certificate of birth.

30 (6) If a certificate of birth is not on file for the adopted child for whom a new certificate of birth

1 is to be established under this section and the date and place of birth have not been determined in the
2 adoption or paternity proceedings pertaining to the child, a delayed certificate of birth must be filed with
3 the department, as provided in 50-15-204, before a new certificate of birth may be established. The new
4 certificate of birth must be prepared on a form prescribed by the department.

5 (7) When a new certificate of birth is established by the department, the department may direct
6 that all copies of the original certificate of birth in the custody of any other custodian of vital records in this
7 state either be sealed from inspection or be forwarded to the department for sealing from inspection.

8 (8) (a) The department shall, upon request of the adopting parents, prepare and register a
9 certificate of birth in this state for a person born in a foreign country who is not a citizen of the United
10 States and who was adopted through a district court in this state.

11 (b) The certificate of birth must be established by the department upon receipt of a certificate of
12 adoption, conforming to the requirements of [section 16], from the court that reflects entry of an order of
13 adoption, proof of the date and place of the child's birth, and a request for the establishment of a certificate
14 of birth from the court, the adopting parents, or the adopted person, if the person is 18 years of age or
15 older.

16 (c) The certificate of birth must be labeled "Certificate of Foreign Birth" and must contain the actual
17 country of birth. A statement must be included on the certificate indicating that it is not evidence of United
18 States citizenship for the child for whom it is issued.

19 (d) After registration of the certificate of birth in the new name of the adopted person, the
20 department shall seal and file the certificate of adoption, which is not subject to inspection, except upon
21 order of the district court, as provided by rule, or as otherwise provided by state law.

22 (9) The department may promulgate rules necessary to implement this section.

23
24 **Section 15.** Section 50-15-303, MCA, is amended to read:

25 **"50-15-303. Certificates of dissolution of marriage, ~~adoption,~~ or declaration of invalidity of**
26 **marriage, ~~or annulment of adoption.~~** Before the 10th day of each month, the clerk of the court shall prepare
27 and forward to the department a certificate for each decree of dissolution of marriage, ~~adoption,~~ or
28 declaration of invalidity of marriage, ~~or annulment of adoption~~ that became final during the preceding
29 calendar month. Certificates ~~shall~~ must be on forms prescribed by the department."
30

1 NEW SECTION. Section 16. Certificates of adoption or annulment of adoption -- report of amended
2 or annulled adoption decree. (1) For each adoption decreed by a district court, the decree must require
3 the clerk of the court to prepare a certificate of adoption on a form prescribed and furnished by the
4 department. The certificate of adoption must include facts that are necessary to locate and identify ~~the~~
5 ~~certificate of birth of the person adopted~~ THE DATE AND PLACE OF BIRTH OF THE ADOPTED PERSON or,
6 in the case of a person who was born in a foreign country, evidence from sources determined to be reliable
7 by THE PATIENT'S SPOUSE, ADULT CHILDREN, PARENTS, OR the district court as to the date and place
8 of birth of the person. The certificate of adoption must also contain information necessary to establish a
9 new certificate of birth for the person adopted and must identify the order of adoption. The clerk of the
10 court shall certify the certificate of adoption.

11 (2) Information necessary for the clerk of the court to prepare the certificate of adoption must be
12 furnished, by each petitioner for adoption on a form prescribed by the department, at the time that the
13 petition for adoption is filed. A person or agency having knowledge of facts, as described in subsection
14 (1), may be required by the court to supply the court with information necessary to complete the certificate
15 of adoption. The district court may make the provision of the information for the preparation of a certificate
16 of adoption a prerequisite to the issuance of a final decree.

17 (3) Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a
18 report. The report must include the facts that are necessary to identify the original certificate of adoption
19 and the facts amended in the adoption decree that are necessary to properly amend the birth record.

20 (4) No later than the 16th day of each calendar month or more frequently, as directed by the
21 department, the clerk of the court shall forward to the department certificates of adoption, reports of
22 annulment of adoption, and amendments of decrees of adoption that were entered in the preceding month,
23 together with any related reports required by the department.

24 (5) When the department receives a certificate of adoption, report of annulment of adoption, or
25 amendment of a decree of adoption for a person born outside this state, the department shall forward the
26 certificate, report, or amendment to the state registrar or the agency charged with registering vital statistics
27 in the state where the person was born.

28 (6) If the birth of an adopted child occurred in a foreign country and the adopted child was not a
29 citizen of the United States at the time of birth, the department shall prepare a "Certificate of Foreign Birth"
30 as required by [section 14]. If the adopted child was born in Canada, the department shall send a copy of

1 the certificate of adoption, report of annulment of adoption, or amendment of a decree of adoption to the
2 appropriate registration authority in Canada.

3 (7) If the adopted child born in a foreign country was a citizen of the United States at the time of
4 birth, the department may not prepare a "Certificate of Foreign Birth" and shall notify the adoptive parents
5 of the procedures for obtaining a revised certificate of birth for their child through the United States
6 department of state.

7 (8) A deceased person cannot be adopted.

8

9 **Section 17.** Section 50-15-403, MCA, is amended to read:

10 **"50-15-403. Preparation and filing of death or fetal death certificate.** (1) A person in charge of
11 disposition of a dead body or fetus THAT WEIGHS AT LEAST 350 GRAMS AT DEATH OR, IF THE WEIGHT
12 IS UNKNOWN, HAS REACHED 20 COMPLETED WEEKS OF GESTATION AT DEATH shall obtain personal
13 data on the deceased or, in the case of a fetal death, on the parents that is required by the department from
14 persons best qualified to supply the data and enter it on the death or fetal death certificate.

15 (2) The person in charge of disposition of the dead body or fetus shall present the death certificate
16 to the certifying physician or the coroner having jurisdiction for medical certification of the cause of death.
17 The person in charge of disposition shall obtain the completed certification of the cause of death from the
18 physician or coroner and shall, within the time that the department may by rule prescribe, file the death or
19 fetal death certificate with the local registrar in the registration area where the death occurred.

20 ~~(3) A fetal death certificate is not required to be filed for a fetus of less than 350 grams at death~~
21 ~~or, if the weight is unknown, for a fetus that has not reached 20 completed weeks of gestation at death."~~

22

23 **Section 18.** Section 50-15-405, MCA, is amended to read:

24 **"50-15-405. Authorization for removal of body from place of death.** (1) Except as provided in
25 subsection (2), a dead body may be removed from the place of death only upon the written authorization
26 or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at
27 death or the physician's designee, the coroner having jurisdiction, or a mortician licensed under 37-19-302.

28 (2) If the death requires inquiry under 46-4-122, the written authorization may only be granted by
29 the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner
30 fails to act. However, when the only reason for inquiry under 46-4-122 is that the body is to be cremated,

1 the coroner may grant oral authorization for ~~removal~~ cremation of the body, which must be reduced to
2 writing as specified under subsection (1) by the coroner.

3 (3) The written authorization to move a dead body or, when applicable, to cremate a dead body
4 must be made in ~~triplicate~~ quadruplicate on a form provided by the department. The person in charge of
5 disposition of the dead body, the coroner having jurisdiction, and the local registrar must each be provided
6 with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition,
7 as necessary.

8 (4) A written authorization issued under this section permits removal, transportation, and final
9 disposition of a dead body."

10

11 **Section 19.** Section 50-16-542, MCA, is amended to read:

12 **"50-16-542. Denial of examination and copying.** (1) A health care provider may deny access to
13 health care information by a patient if the health care provider reasonably concludes that:

14 (a) knowledge of the health care information would be injurious to the health of the patient;

15 (b) knowledge of the health care information could reasonably be expected to lead to the patient's
16 identification of an individual who provided the information in confidence and under circumstances in which
17 confidentiality was appropriate;

18 (c) knowledge of the health care information could reasonably be expected to cause danger to the
19 life or safety of any individual;

20 (d) the health care information was compiled and is used solely for litigation, quality assurance,
21 peer review, or administrative purposes;

22 (e) the health care information might ~~disclose birth out of wedlock or provide information from~~
23 ~~which knowledge of birth out of wedlock might be obtained and which~~ contain information is protected
24 from disclosure pursuant to ~~50-15-206~~ [sections 7 and 8];

25 (f) the health care provider obtained the information from a person other than the patient; or

26 (g) access to the health care information is otherwise prohibited by law.

27 (2) Except as provided in 50-16-521, a health care provider may deny access to health care
28 information by a patient who is a minor if:

29 (a) the patient is committed to a mental health facility; or

30 (b) the patient's parents or guardian ~~have~~ has not authorized the health care provider to disclose

1 the patient's health care information.

2 (3) If a health care provider denies a request for examination and copying under this section, the
3 provider, to the extent possible, shall segregate health care information for which access has been denied
4 under subsection (1) from information for which access cannot be denied and permit the patient to examine
5 or copy the ~~disclosable~~ information subject to disclosure.

6 (4) If a health care provider denies a patient's request for examination and copying, in whole or
7 in part, under subsection (1)(a) or (1)(c), ~~he the provider~~ shall permit examination and copying of the record
8 by THE PATIENT'S SPOUSE, ADULT CHILD, OR PARENT OR GUARDIAN OR BY another health care
9 provider who is providing health care services to the patient for the same condition as the health care
10 provider denying the request. The health care provider denying the request shall inform the patient of the
11 patient's right to select another health care provider under this subsection."
12

13 NEW SECTION. Section 20. Repealer. Sections 50-15-110, 50-15-112, 50-15-113, 50-15-201,
14 50-15-205, and 50-15-206, MCA, are repealed.
15

16 NEW SECTION. Section 21. Codification instructions. (1) [Sections 7 through 10] are intended
17 to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15,
18 part 1, apply to [sections 7 through 10].

19 (2) [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 50, chapter
20 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [sections 11, 13, and 14].

21 (3) [Section 16] is intended to be codified as an integral part of Title 50, chapter 15, part 3, and
22 the provisions of Title 50, chapter 15, part 3, apply to [section 16].
23

24 NEW SECTION. SECTION 22. COORDINATION INSTRUCTION. IF SENATE BILL NO. 150 IS
25 PASSED AND APPROVED AND IF IT CONTAINS A SECTION THAT AMENDS 40-8-126, THEN [SECTION
26 2 OF THIS ACT] READS AS FOLLOWS:

27 "40-8-126. Confidentiality and disclosure of record and proceedings -- appointment and duties of
28 confidential intermediary. (1) Unless the court ~~shall orders~~ otherwise ~~order~~, all hearings held in proceedings
29 under this part ~~shall be~~ are confidential and ~~shall~~ must be held in closed court without admittance of any
30 person other than interested parties and their counsel.

1 (2) All papers and records pertaining to the adoption ~~shall~~ must be kept as a permanent record of
 2 the court and withheld from inspection. ~~No~~ A person ~~shall~~ may not have access to ~~such~~ the records,
 3 except:

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

6 (b) as provided in subsection (7); or

7 ~~(b)(c)~~ as provided in ~~50-15-206~~ [sections 7 and 8].

8 (3) All files and records pertaining to ~~said~~ adoption proceedings ~~in the county departments of public~~
 9 ~~welfare, the department of social and rehabilitation services, retained by the department of family services,~~
 10 or any authorized ~~agencies shall be~~ agency are confidential and must be withheld from inspection, except
 11 upon order of court for good cause shown or as provided in ~~50-15-206~~ as provided in [sections 7 and 8]
 12 and except that the department or authorized agency may disclose:

13 (a) nonidentifying information to an adoptee, an adoptive or biological parent, or an extended family
 14 member of an adoptee or biological parent; and

15 (b) identifying information to a court-appointed confidential intermediary upon order of the court
 16 or as provided in [sections 7 and 8].

17 (4) When an adoptee reaches 18 years of age, the adoptee, an adoptive or biological parent, or
 18 an extended family member of the adoptee or biological parent may petition the court for disclosure of the
 19 identity of the adoptee, biological son, biological daughter, or biological parent. A petition for disclosure
 20 must contain the following information:

21 (a) the name, address, and identification of the petitioner;

22 (b) the date of the adoptee's birth;

23 (c) the county and state where the adoption occurred;

24 (d) the date of the adoption; and

25 (e) any information known to the petitioner concerning the biological parents, the adoptive parents,
 26 and the adoptee that could assist in locating the person being sought.

27 (5) After a petition for disclosure has been filed under subsection (4), the court shall appoint a
 28 confidential intermediary who shall:

29 (a) conduct a confidential search for the person sought, as requested in the petition for disclosure;

30 (b) refrain from disclosing directly or indirectly any identifying information to the petitioner, unless

1 ordered to do so by the court; and

2 (c) make a written report of the results of the search to the court not later than 6 months after
3 appointment.

4 (6) Upon appointment, a confidential intermediary is entitled to be paid a reasonable fee plus actual
5 expenses incurred in conducting the search. The fee and expenses must be paid by the petitioner.

6 (7) A confidential intermediary may inspect otherwise confidential records of the court, the
7 department, or an authorized agency for use in the search. The confidential intermediary may not disclose
8 the contents of the records or any results of a search unless authorized by the court.

9 (8) If a confidential intermediary is unable to locate the person being sought within 6 months of
10 appointment, the confidential intermediary shall recommend to the court whether a further search is
11 warranted and state the reasons for the recommendation. If the court finds that a further search is
12 warranted, the court may order that the search be continued for a specified time.

13 (9) If a confidential intermediary locates the person being sought, a confidential inquiry must be
14 made as to whether the located person consents to having that person's present identity disclosed to the
15 petitioner. The court may request that the confidential intermediary assist in arranging contact between the
16 petitioner and the located person.

17 (10) If a confidential intermediary locates the person being sought and the located person does not
18 consent to having that person's identity disclosed, identifying information regarding that person may be
19 disclosed only upon order of the court for good cause shown.

20 (11) If the person being sought is found to be deceased, the court may order disclosure of the
21 identity of the deceased to the petitioner."

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

27
28 **NEW SECTION. Section 24. Effective date.** [This act] is effective January 1, 1996.

29 -END-