

CHAPTER 2. BIRTH CERTIFICATES

Authority

N.J.S.A. 26:8-23.

Source and Effective Date

Effective: November 2, 2018. See: 50 N.J.R. 2418(a).

Chapter Expiration Date

Chapter 2, Birth Certificates, expires on November 2, 2025.

Chapter Historical Note

Chapter 2, Birth Certificates; Subchapter 1, Administrative Policy, was adopted as R.1972 d.135, effective August 1, 1972. See: 4 N.J.R. 122(b), 4 N.J.R. 186(b).

Subchapter 2, Fees, was adopted as R.1972 d.206, effective December 1, 1972. See: 4 N.J.R. 266(a). Chapter 2, Birth Certificates, was repealed and Chapter 2, Birth Certificates, was adopted as new rules by R.1993 d.397, effective August 16, 1993. See: 24 N.J.R. 4325(a), 25 N.J.R. 660(a), 25 N.J.R. 3771(a). Pursuant to Executive Order No. 66(1978), Chapter 2 expired on August 16, 1998.

Chapter 2, Birth Certificates, was adopted as new rules by R.1999 d.410, effective December 6, 1999. See: 30 N.J.R. 4107(a), 31 N.J.R. 4042(a).

Chapter 2, Birth Certificates, was readopted as R.2005 d.209, effective June 6, 2005. As a part of R.2005 d.209, Subchapter 2, Access to Records of Live Birth, was adopted as new rules and former Subchapter 2, Fees, was recodified as Subchapter 3, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). Chapter 2, Birth Certificates, expired on December 3, 2010.

Chapter 2, Birth Certificates, was adopted as new rules by R.2011 d.295, effective December 5, 2011. See: 42 N.J.R. 1460(a), 43 N.J.R. 3182(a).

Chapter 2, Birth Certificates, was readopted, effective November 2, 2018. See: Source and Effective Date.

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SUBCHAPTER 1. CREATION OF A RECORD OF LIVE BIRTH AND A CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH

8:2-1.1 Purpose and scope

These rules create the record of live birth and the Certificate of Birth Resulting in Stillbirth. The rules also permit the parents, at the time of birth, to choose any name for their child without restrictions, except for names which contain obscenities, numerical characters, or symbols. The rules set forth the options open to a parent in the naming of the child, and in the event of a stillbirth, the option not to name the child, and clarify whom the informant of the birth information should be.

Amended by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). Rewrote the section.

8:2-1.2 Definitions

The following words and terms, as used in this chapter, shall have following meanings, unless the context clearly indicates otherwise.

“Certificate of Birth Resulting in Stillbirth” means a certificate created from the information obtained from the fetal death certificate at the request of the parent of a stillborn child where the fetal death has been registered with the Department of Health and Senior Services.

“Certified copy” means a copy of a vital record issued on a special type of safety paper containing a variety of security features and stamped with the raised seal of the State of New Jersey or the seal of the municipality or county where the copies are issued, and verified by the Office of the State Registrar as true and correct.

“Certification” means a document containing information obtained from a vital record made available for informational purposes only. It cannot be used for proof of identity or for legal purposes. It is created on plain bond paper without the raised seal of the State of New Jersey or the seal of the municipality or county where the certifications are issued.

“Commissioner” means the State Commissioner of Health and Senior Services.

“Department” means the New Jersey State Department of Health and Senior Services.

“Fetal death” or “stillbirth” means death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy; the death is indicated by the fact that after such expulsion, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps.

“Genealogical records” means vital records traditionally requested for the purpose of obtaining the lineage of a person, family, or group from a family. Records of birth are considered genealogical after 80 years have passed from the date of birth.

“Identify” means to provide, by way of approved application, letter, or facsimile, detailed proof of knowledge of the vital record being requested and must include at a minimum, all information requested on the Vital Statistics and Registration application form.

“Informant” means the name of the individual providing the personal particulars for the preparation of the birth certificate.

“Licensed health care professional” means a physician, physician assistant, advanced practice nurse, registered nurse, licensed practical nurse, or any other health care professional licensed under Title 45 of the New Jersey Statutes or analogous statutes in other states. The licensed health care professional need not be the individual who performed the delivery in order to transmit the parent’s written request for a Certificate of Birth Resulting in Stillbirth to the State Registrar pursuant to N.J.A.C. 8:2-1.3.

“Live birth” means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of the pregnancy, which, after such expulsion or extraction, breathes, or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut

or the placenta is attached. Heartbeats are to be distinguished from transient cardiac contractions; respiration are to be distinguished from fleeting respiratory efforts or gasps.

“Local registrar” or “municipal registrar” means the local registrar of vital statistics of any district.

“State Registrar” means the New Jersey State Registrar of Vital Statistics.

“Surname” means the last complete name on a birth certificate without a hyphen or both names including the hyphen if the last names on the birth certificate are hyphenated.

“Vital record” means the birth, death, fetal death, marriage and domestic partnership records from which vital statistics are produced.

“Vital statistics” means statistics concerning births, deaths, fetal deaths, marriages and domestic partnerships established pursuant to P.L. 2003, c.246 (N.J.S.A. 26:8A-1 et seq.).

Amended by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). Added “Certificate of Birth Resulting in Stillbirth”, “Certified copy”, “Certification”, “Fetal death”, “Genealogical records”, “Identify”, “Licensed health care professional”, “Live birth”, “Local registrar”, “Vital record” and “Vital statistics”.

8-2-1.3 Creation of a Certificate of Birth Resulting in Stillbirth: application, issuance, and delayed reports

(a) A Certificate of Birth Resulting in Stillbirth shall be created by the State Registrar upon a parent’s written request that has been transmitted to the State Registrar by a licensed health care professional on the parent’s behalf. The State Registrar shall create the Certificate of Birth Resulting in Stillbirth based on information obtained from a fetal death certificate already on file with the State Registrar.

1. The written request may be made on the form designed and approved by the State Registrar for creation and issuance of a certified copy of a Certificate of Birth Resulting in Stillbirth or a reasonable facsimile thereof.

2. A copy of the Certificate of Birth Resulting in Stillbirth shall be filed by the State Registrar with the local registrar of the district in which the birth resulting in stillbirth occurred within three days following receipt by the State Registrar of the parent’s request for the certificate.

(b) The State Registrar or the local registrar shall provide a certified copy of the Certificate of Birth Resulting in Stillbirth exclusively to the parents on an “as requested” basis following the written request for creation of said certificate. Certificates of Birth Resulting in Stillbirth shall be made available to parents for documented fetal deaths beginning from the year 1969 to the present.

(c) In all cases where a Certificate of Birth Resulting in Stillbirth is not registered within one year after the date of delivery, a certificate marked “delayed” may be filed and registered by the State Registrar, provided that verifiable medical documentation of the stillbirth is provided to the State Registrar.

1. A certified copy of a “delayed” Certificate of Birth Resulting in Stillbirth shall be issued bearing the wording “Delayed Certificate of Birth Resulting in Stillbirth.”

(d) Subsequent to the initial issuance to the parent(s) of a Certificate of Birth Resulting in Stillbirth under (a) through (c) above, the State Registrar or the local

registrar may only issue a certified copy of a Certificate of Birth Resulting in Stillbirth to a person who satisfies the following requirements:

1. The person is able to identify the record; and
2. The person produces documentation verifying that he or she is the parent of the subject listed on the Certificate of Birth Resulting in Stillbirth.

(e) The State Registrar or local registrar may issue certifications containing information obtained from the Certificate of Birth Resulting in Stillbirth to requestors not identified in (d) above. All certifications issued under this subsection shall state that they are for informational purposes only and are not to be used for legal purposes.

New Rule, R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). Former N.J.A.C. 8:2-1.3, Designation of child's name, recodified to N.J.A.C. 8:2-1.4.

8:2-1.4 Designation of child's name

(a) The designation of a child's name including the surname is the right of the child's parent(s). The child may be given any chosen name(s) or surname, except that the State Registrar may reject a name that contains an obscenity, numerals, symbols, or a combination of letters, numerals, or symbols, or a name that is illegible. The chosen name shall be printed on the back of the birth record and the birth record shall be signed by one or both parents. The hospital official who witnesses the signing shall also sign the birth record.

1. Where either parent is unavailable for any reason, the choice of the child's name(s) rests with the parent who has custody of the newborn child. That parent shall state in writing on the back of the birth record that the other parent is not available; thereafter the recording parent shall be the sole informant for the purpose of compliance with N.J.S.A. 26:8-26 and this subchapter.

2. In cases where both parents have custody of the child, are both available, and disagree on the selection of a surname, the surname selected by one parent and the surname selected by the other parent shall both be entered on the certificate, separated by a hyphen, with the selected names entered in alphabetical order.

(b) The parents or custodian of the child shall have five days from the child's birth to decide the child's surname. If no designation is made within that time, and no surname has been registered pursuant to (a)2 above, or if the chosen surname is rejected by the State Registrar, for the reasons specified in (a) above, the child's surname shall be recorded as both parents surnames in alphabetical order separated by a hyphen. If the parents disagree on the selection of a given name, or if the State Registrar rejects the given name chosen by the parents or parent, for the reasons specified in (a) above, a dash (-) shall be entered in the space allotted for a given name on the certificate. After five days, any surname assigned by the registrar, a surname registered pursuant to (a)2 above, or the dash designation may only be changed through the procedures set out in N.J.S.A. 26:8-48 and 2A:52-4.

(c) The parent(s) may elect to record a name on the fetal death certificate; however, a name shall not be required.

(d) In the event that a parent(s) requests a Certificate of Birth Resulting in Stillbirth and the fetal death record on file indicates that no name was given on the original report, the State Registrar shall create the certificate without a name of the stillborn child and any subsequent certified copies will be issued in the same manner.

(e) A parent(s) who wishes to amend the fetal death record to add a name may do so by completing a correction form designed and approved by the State

Registrar with the Office of the State Registrar. Such correction shall also be made to the Certificate of Birth Resulting in Stillbirth. Copies of the correction form may be obtained from the local registrar's office or from the Office of the State Registrar, PO Box 370, Trenton, New Jersey, 08625-0370.

Recodified from N.J.A.C. 8:2-1.3 and amended by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). In (a), inserted references to symbols following references to numerals throughout the introductory paragraph; added (c) through (e). Former N.J.A.C. 8:2-1.4, Names of parents, recodified to N.J.A.C. 8:2-1.5.

8:2-1.5 Names of parents

(a) The woman giving birth shall be recorded as a parent.

(b) If the birthing parent is married at the time of the birth, or was married and the child was born within 300 days after the marriage was terminated by death, annulment or divorce, the spouse's name shall be listed on the birth record unless the spouse denies parentage and both the husband and wife agree and acknowledge the denial in writing on the Affidavit of Denial of Paternity form.

(c) If the birthing parent is not married, and was not married within 300 days of the birth, the name of the father should be provided. The name provided by the informant will only be entered on the birth record if both parents acknowledge the child in writing.

(d) The name recorded for either parent may be changed by order of a court of competent jurisdiction.

Recodified from N.J.A.C. 8:2-1.4 by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). Former N.J.A.C. 8:2-1.5, Informant, recodified to N.J.A.C. 8:2-1.6.

8:2-1.6 Informant

The custodial parent(s) of a child shall act as informant and provide the necessary information to complete the original birth certificate. The informant shall certify on forms provided by the State Registrar that the information provided is accurate and true to the best of the informant's knowledge.

Recodified from N.J.A.C. 8:2-1.5 by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a).

SUBCHAPTER 2. ACCESS TO RECORDS OF LIVE BIRTH

8:2-2.1 Certified copies

(a) The State Registrar or a local registrar may only issue a certified copy of a record of live birth to a person who satisfies the following requirements:

1. The person is able to identify the record;
2. The person provides, at a minimum, all of the information requested on the Vital Statistics and Registration application form; and
3. The person produces documentation verifying that he or she is:
 - i. The subject of the record of live birth;
 - ii. The subject's parent;
 - iii. The subject's legal guardian or legal representative;
 - iv. The subject's child, grandchild or sibling, if of legal age;
 - v. A State or Federal agency requesting the record for official purposes;
 - vi. A person requesting the record pursuant to a court order; or
 - vii. A person requesting the record under emergent circumstances, as determined on a case-by-case basis by the Commissioner.

8:2-2.2 Certifications

(a) The State Registrar or local registrar may issue certifications containing information obtained from the record of live birth to requestors not identified in N.J.A.C. 8:2B-3.1(a)3 so long as those requestors are first able to identify the record sought.

(b) All certifications issued under (a) above shall state that they are for informational purposes only and are not to be used for identification or legal purposes.

SUBCHAPTER 3. FEES**8:2-3.1 Fees; refund of fees; excess payment**

(a) Fees for birth record searches, copies of birth records or changes to birth records are specified in N.J.S.A. 26:8-40.1; 26:8-62; 26:8-63; 26:8-64; and 2A:52-4 (Vital Statistics).

1. For each search of records of live birth or stillbirth, whether or not a certification or certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, with the exception of searches under (a)2 below and searches for which there shall be no fee pursuant to N.J.S.A. 26:8-63.

2. For any search of genealogical records of birth or stillbirth, whether or not a certification or certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, plus a fee of \$1.00 for each additional year searched, except as provided by N.J.S.A. 26:8-63.

3. The fee for each additional copy of a record of live birth or stillbirth shall be \$2.00.

4. Fees for certified copies or certifications obtained from a local registrar shall be set by municipal ordinance.

(b) In the instance of individuals forwarding funds in excess of those fees specified in N.J.S.A. 26:8-40.1, 26:8-61, 26:8-62, 26:8-63, 26:8-64, and 2A:52-4 (Vital Statistics), the New Jersey State Department of Health and Senior Services will not make refunds of \$1.00 or less.

Amended by R.2005 d.209, effective July 5, 2005. See: 37 N.J.R. 172(b), 37 N.J.R. 2504(a). In (a), added 1 through 4.