

TITLE 39
HEALTH AND SAFETY

CHAPTER 2
VITAL STATISTICS

39-240. SHORT TITLE -- LEGISLATIVE FINDINGS. (1) This act shall be known and may be cited as the "Idaho Vital Statistics Act."

(2) The legislature finds:

(a) As early as 1632, government officials began tracking vital statistics, specifically births, deaths, and marriages;

(b) Today, state and local vital records offices record over eleven million (11,000,000) vital events annually in the United States;

(c) Material facts included in vital records include the date of birth, the individual's sex, the location of birth, the parents' identities, and the date of death;

(d) The purpose of documenting factual information on vital records is to help the government fulfill one of its most basic duties: protecting the health and safety of its citizens;

(e) Numerous courts have recognized that the purpose of vital records is to maintain an accurate database of factual information regarding births, deaths, and other vital events in a given jurisdiction. See *Sea v. U.S. Citizenship & Immigration Servs.*, 2015 WL 5092509, at *4 (D. Minn. Aug. 28, 2015) ("The public does have an interest in having accurate records on vital statistics..."); *Ampadu v. U.S. Citizenship & Immigration Servs.*, Dist. Dir., 944 F. Supp. 2d 648, 655 (C.D. Ill. 2013) (acknowledging "the public's interest in having accurate records on vital statistics"); *Boiko v. Holder*, 2013 WL 709047, at *2 (D. Colo. Feb. 26, 2013) ("[T]he government, and the public at large, would appear to benefit from having the most accurate vital statistics records possible."); *J.R. v. Utah*, 261 F. Supp. 2d 1268, 1294 (D. Utah 2002) ("The State also has a significant interest in the accuracy of the records it keeps, particularly vital records like birth certificates.");

(f) According to the national research council committee on national statistics, factual information contained in vital records is used to help diagnose and solve problems that impact national health, including tracking and diagnosing disparities in mortality rates based on age and sex, identifying factors that account for the significant differences in life expectancy between males and females, measuring and seeking solutions to socioeconomic inequalities in health based on sex and age, and studying infant death rates based on sex, location, birth weight, and other information collected from vital records;

(g) Factual information from vital records is also necessary for national security. It is used to identify potential disease epidemics, such as the zika virus, that may disproportionately impact one sex over the other; expose covert bioterrorist attacks, such as determining whether a sudden increase in certain symptoms in a population is due to random chance or should be further investigated; and identify criminals and terrorists, where vital records can be used to uncover fraudulently obtained driver's licenses or passports; and

(h) Allowing individuals to alter their vital records, including birth certificates, based upon subjective feelings or experiences undermines the government's interest in having accurate vital records.

[39-240, added 1949, ch. 72, sec. 32, p. 117; am. and redesign. 39-240, 1983, ch. 7, sec. 1, p. 25; am. 2020, ch. 334, sec. 1, p. 970.]

39-241. DEFINITIONS. For the purposes of this chapter and this chapter only, the following terms shall be construed to have the meanings hereinafter set forth:

(1) "Adoptive parent" means an adult who has become a parent of a child through the legal process of adoption.

(2) "Advanced practice registered nurse" means a registered nurse licensed in this state who has gained additional specialized knowledge, skills and experience as defined in section [54-1402](#), Idaho Code, and includes the following four (4) roles: certified nurse midwife; clinical nurse specialist; certified nurse practitioner; and certified registered nurse anesthetist as defined by the applicable board of nursing rule.

(3) "Board" means the Idaho state board of health and welfare.

(4) "Certified copy" means the reproduction of an original vital record by typewritten, photographic or electronic means. Such reproductions, when certified by the state registrar, shall be used as the original.

(5) "Consent" means a verified written statement which has been notarized.

(6) "Dead body" means a lifeless human body or such parts of the human body or the bones thereof from the state of which it reasonably may be concluded that death occurred.

(7) "Director" means the director of the department of health and welfare.

(8) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction, 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.

(a) "Induced termination of pregnancy (induced abortion)" means the purposeful interruption of pregnancy with an intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth.

(b) "Spontaneous fetal death" means the expulsion or extraction of a product of human conception resulting in other than a live birth and which is not an induced termination of pregnancy.

(9) "Identifying information" includes the following information:

(a) The name of the qualified adoptee before placement in adoption;

(b) The name and address of each qualified birthparent as it appears in birth records;

(c) The current name, address and telephone number of the qualified adult adoptee; and

(d) The current name, address and telephone number of each qualified birthparent.

(10) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of 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; respirations are to be distinguished from fleeting respiratory efforts or gasps.

(11) "Person in charge of interment" means any person who places or causes to be placed a stillborn fetus or dead body or the ashes of the same, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.

(12) "Physician" means a person legally authorized to practice medicine and surgery, osteopathic medicine and surgery or osteopathic medicine in this state as defined in section [54-1803](#), Idaho Code.

(13) "Physician assistant" means any person who is a graduate of an acceptable training program and who is otherwise qualified to render patient services as defined in section [54-1803](#), Idaho Code.

(14) "Qualified adult adoptee" means an adopted person eighteen (18) years of age or older who was born in Idaho.

(15) "Qualified adult birth sibling" means a genetic, biological, or natural brother or sister or half-brother or half-sister, eighteen (18) years of age or older.

(16) "Qualified birthparent" means a genetic, biological, or natural parent whose rights were voluntarily or involuntarily terminated by a court or otherwise. "Birthparent" includes a man who is the parent of a child prior to the termination of parental rights.

(17) "Record" means the original certificate of an event and any replacement thereof filed for record by virtue of authority contained in this chapter, as well as instruments of any nature provided by this chapter as a means of effecting replacement of certificates.

(18) "Registrar" means the state registrar of vital statistics or a designated representative.

(19) "Relative" includes only an individual's spouse, birthparent, adoptive parent, sibling, or child who is eighteen (18) years of age or older.

(20) "Stillbirth" means a spontaneous fetal death of twenty (20) completed weeks gestation or more, based on a clinical estimate of gestation, or a weight of three hundred fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more.

(21) "Vital statistics" includes the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, stillbirths, induced terminations of pregnancy, marital status and data incidental thereto.

(22) "Voluntary adoption registry" or "registry" means a place where eligible persons, as described in section [39-259A](#), Idaho Code, may indicate their willingness to have their identity and whereabouts disclosed to each other under conditions specified in section [39-259A](#), Idaho Code.

[39-241, added 1949, ch. 72, sec. 1, p. 117; am. 1959, ch. 104, sec. 2, p. 221; am. 1974, ch. 23, sec. 61, p. 633; am. 1983, ch. 7, sec. 2, p. 25; am. 1985, ch. 59, sec. 1, p. 113; am. 2002, ch. 277, sec. 1, p. 810; am. 2007, ch. 243, sec. 1, p. 715; am. 2014, ch. 45, sec. 1, p. 117.]

39-242. DUTIES OF DIRECTOR. The director shall:

- (a) Establish a vital statistics unit with suitable offices properly equipped for the preservation of its official records;
- (b) Install statewide system of vital statistics;

(c) Supervise and require the enforcement of this chapter and the regulations of the board made pursuant thereto. The board is authorized to adopt, amend and repeal regulations for the purpose of carrying out the provisions of this chapter, in accordance with [chapter 52, title 67](#), Idaho Code.

[39-242, added 1949, ch. 72, sec. 2, p. 117; am. 1974, ch. 23, sec. 62, p. 633; am. 1983, ch. 7, sec. 3, p. 26.]

39-243. STATE REGISTRAR OF VITAL STATISTICS. The director shall designate and appoint a state registrar of vital statistics who shall be qualified in accordance with the standards prescribed by law or regulations of the board. Compensation shall be fixed in the same manner as the salary of other employees of the department.

[39-243, added 1949, ch. 72, sec. 3, p. 117; am. 1974, ch. 23, sec. 63, p. 633; am. 1983, ch. 7, sec. 4, p. 26.]

39-244. DUTIES OF STATE REGISTRAR. The state registrar, under the direction of the director, shall:

- (a) Have charge of the vital statistics unit;
- (b) Be official custodian of all its files and records;
- (c) Perform the duties prescribed by law and the regulations of the board;
- (d) Have supervisory power over local vital statistics registration and local registration officers;
- (e) Enforce this chapter and regulations of the board; and
- (f) Have the authority to delegate portions of the vital records responsibility to the duly appointed local registrar(s).

[39-244, added 1949, ch. 72, sec. 4, p. 117; am. 1974, ch. 23, sec. 64, p. 633; am. 1983, ch. 7, sec. 5, p. 26.]

39-245. CERTIFICATE FORMS. The form of certificates used under the provisions of this chapter shall be prescribed by the director and shall include as a minimum the items required by the respective standard certificates as recommended by the national agency in charge of vital statistics; provided, however, that the provisions of section [39-1005](#), Idaho Code, shall be given effect on a certificate to which that section is applicable.

[39-245, added 1949, ch. 72, sec. 5, p. 117; am. 1974, ch. 23, sec. 65, p. 633; am. 1983, ch. 7, sec. 6, p. 27.]

39-245A. CERTIFICATES OF BIRTH -- MATERIAL FACTS INCLUDED -- AMENDMENTS.

- (1) (a) The legislature finds that:
 - (i) There is a compelling interest in maintaining accurate, quantitative, biology-based material facts on Idaho certificates of birth that provide material facts fundamental to the performance of government functions that secure the public health and safety, including but not limited to identifying public health trends, assessing risks, conducting criminal investigations, and helping individuals determine their biological lineage, citizenship, or susceptibility to genetic disorders;

(ii) The equal protection clause of the fourteenth amendment to the United States constitution prohibits purposeful discrimination, not facially neutral laws of general applicability, such as a biology-based definition of sex that has been consistently applied since our nation's founding;

(iii) Decades of court opinion have upheld the argument that biological distinctions between male and female are a matter of scientific fact, and biological sex is an objectively defined category that has obvious, immutable, and distinguishable characteristics;

(iv) Identification of biological sex on a birth certificate impacts the health and safety of all individuals. For example, the society for evidence based gender medicine has declared that the conflation of sex and gender in health care is alarming, subjects hundreds of thousands of individuals to the risk of unintended medical harm, and will greatly impede medical research;

(v) Vital statistics are defined in section [39-241](#) (21), Idaho Code, as data, being the plural of datum, which is a known fact;

(vi) Idaho certificates of birth are of an evidentiary character and prima facie evidence of the facts recited therein, according to section [39-274](#), Idaho Code;

(vii) Age and sex, unlike the names of natural parents whose rights have been terminated, are legally applicable facts fundamental to the performance of public and private policies and contracts;

(viii) The failure to maintain accurate, quantitative vital statistics and legal definitions upon which the government and others may with confidence rely constitutes a breach of the public trust; and

(ix) The government has a compelling interest in maintaining the public trust and confidence and a duty to fulfill, to the best of its ability, those functions that rely on accurate vital statistics.

(b) Based on the findings in paragraph (a) of this subsection, the legislature directs that an Idaho certificate of birth shall document specific quantitative, material facts at the time of birth, as provided in subsection (2) of this section.

(2) Any certificate of birth issued under the provisions of this chapter shall include the following quantitative statistics and material facts specific to that birth: time of birth, date of birth, sex, birth weight, birth length, and place of birth.

(3) For purposes of this chapter, "sex" means the immutable biological and physiological characteristics, specifically the chromosomes and internal and external reproductive anatomy, genetically determined at conception and generally recognizable at birth, that define an individual as male or female.

(4) The quantitative statistics and material facts identified in subsection (2) of this section may be amended within one (1) year of the filing of the certificate by submitting to the registrar a notarized affidavit of correction that:

(a) Is on a form prescribed by the registrar;

(b) Is signed by:

(i) The parents identified on the certificate of birth; or

(ii) The child's legal guardian;

(c) Is signed by the physician or other person in attendance who provided the medical information and certified to the facts of birth; and

(d) Declares that the information contained on the certificate of birth incorrectly represents a material fact at the time of birth.

After one (1) year, the quantitative statistics and material facts identified in subsection (2) of this section may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the party challenging the acknowledgment.

(5) In those instances in which an individual suffers from a physiological disorder of sexual development and the individual's biological sex cannot be recognized at birth as male or female based upon externally observable reproductive anatomy, the physician shall make a presumptive determination of the individual's sex, which may thereafter be amended based on the appropriate combination of genetic analysis and evaluation of the individual's naturally occurring internal and external reproductive anatomy as provided in section (4) of this section.

(6) Notwithstanding any provision of this section to the contrary, a hospital may correct a birth certificate for a clerical or data entry error at any time by submitting a notarized affidavit on a form specified by the registrar with any appropriate supporting documentation.

[39-245A, added 2020, ch. 334, sec. 2, p. 971.]

39-246. LOCAL REGISTRATION DISTRICTS. The director shall establish registration districts and change the boundaries of the same from time to time which shall conform to political subdivisions, or combinations or parts thereof.

[39-246, added 1949, ch. 72, sec. 6, p. 117; am. 1974, ch. 23, sec. 66, p. 633.]

39-247. LOCAL REGISTRATION OFFICERS. The state registrar shall appoint local registration officers for such registration districts as are established by the director. Such local registration officers shall meet the qualifications fixed by the board, and shall perform such duties as are required by the chapter and the regulations of the board.

[39-247, added 1949, ch. 72, sec. 7, p. 117; am. 1983, ch. 7, sec. 7, p. 27.]

39-248. OTHER EMPLOYEES. The director shall provide such assistants as the vital statistics unit may require and determine the compensation and duties of persons thus employed.

[39-248, added 1949, ch. 72, sec. 8, p. 117; am. 1974, ch. 23, sec. 67, p. 633; am. 1983, ch. 7, sec. 8, p. 27.]

39-249. TRANSMITTAL OF CERTIFICATES AND LOCAL RECORDS. Local registration officers shall transmit all certificates filed with them to the state registrar in accordance with the regulations of the board. Complete and accurate copies of all certificates shall be made by the local registrar for local records purposes.

[39-249, added 1949, ch. 72, sec. 9, p. 117; am. 1983, ch. 7, sec. 9, p. 27.]

39-250. COMPLETION AND CORRECTION OF CERTIFICATES -- PROCEDURE -- OTHER ALTERATIONS PROHIBITED. A certificate of any event shall be completed, corrected, amended or otherwise altered after being filed with the vital statistics unit only in accordance with this chapter and rules promulgated by the board.

(1) A certificate that is amended under the provisions of this section shall be marked "amended," except as otherwise provided in this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be filed with or made a part of the record. The department shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or records within one (1) year after the date of the event without the certificate being marked "amended."

(2) Upon receipt of a notarized voluntary acknowledgment of paternity, the state registrar shall amend the certificate of birth to show such paternity if paternity is not already shown on the certificate of birth, and change the child's surname to that of the father, if both parents so request. Such certificate shall not be marked "amended."

(3) Upon receipt of both a notarized affidavit of nonpaternity signed by the husband attesting that he is not the father, and a notarized acknowledgment of paternity signed by the mother and the alleged father attesting that the alleged father is the father, the state registrar shall amend the certificate of birth to show such paternity, and change the child's name, if so requested by the mother and the alleged father. Such certificate shall not be marked "amended."

(4) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state and upon request of such person or the parent(s), guardian, or legal representative, the state registrar shall amend the certificate of birth to show the new name.

(5) When an applicant does not submit the minimum documentation required in the rules for amending a vital record in a manner otherwise permitted by rule, or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right to petition a court of competent jurisdiction for an order establishing the facts necessary to make the requested amendment.

(6) If an acknowledgment of paternity or affidavit of nonpaternity is rescinded pursuant to section [7-1106](#), Idaho Code, and the certificate of birth had been prepared or amended in accordance with the acknowledgment, the state registrar shall not release any copies of the certificate of birth except as required for a legal proceeding until a court order determining paternity has been provided to the state registrar. If the mother was married at the time of either conception or birth, or between conception and birth, the court shall also determine if the husband is the father of the child.

[I.C., sec. 39-250, as replaced by 1959, ch. 104, sec. 3, p. 221; am. 1983, ch. 7, sec. 10, p. 27; am. 1998, ch. 106, sec. 2, p. 364; am. 2010, ch. 78, sec. 1, p. 129.]

39-251. COMPENSATION OF LOCAL REGISTRARS. Each local registrar shall be paid a fee to be established by regulations adopted by the board, for:

(a) each certificate returned by the local registrar to the state registrar in accordance with the provisions of this chapter and the regulations of the board; and

(b) each report of no certificate filed during any calendar month. The board may establish a graduated scale for the payment of fees to local registrars, either by limiting the aggregate amount of fees to be paid or by graduating the fees according to the number of registrations.

[(39-251) 1949, ch. 72, sec. 12, p. 117; am. and redesignated 1983, ch. 7, sec. 11, p. 29.]

39-252. FEE FOR COPIES, SEARCHES AND OTHER SERVICES -- DEATH CERTIFICATES. (1) The state registrar shall be entitled to receive a fee of thirteen dollars (\$13.00) for the making of certified copies of records or for a search of the files when no copies are made, provided that the national agency in charge of vital statistics may obtain copies or certifications of data from records without payment of fees, provided that the state incurs no expense in connection therewith. The fee shall be reviewed by the board of health and welfare, and future changes in the fee and enactment of fees for other services shall be established by rules adopted by the board.

(2) For each certified copy of a death certificate there shall be charged an additional fee of one dollar (\$1.00) to be deposited in the state treasurer's local government investment pool, a fund hereby created for the Idaho state association of county coroners. Such moneys shall be used for the training of newly elected coroners and for the continuing education of county coroners and their deputies.

[(39-252) 39-253 added 1949, ch. 72, sec. 13, p. 117; am. 1970, ch. 2, sec. 1, p. 4; am. 1981, ch. 200, sec. 1, p. 353; am. & redesign. 1983, ch. 7, sec. 12, p. 29; am. 2010, ch. 355, sec. 1, p. 932.]

39-253. ACCOUNTING FOR FEES. Fees received from the certifications of such records, from a search of the files or for other services shall be accounted for as prescribed by the state controller.

[(39-253) 1949, ch. 72, sec. 14, p. 117; am. 1974, ch. 23, sec. 68, p. 633; am. 1976, ch. 51, sec. 8, p. 175; am. and redesignated 1983, ch. 7, sec. 13, p. 29; am. 1994, ch. 180, sec. 71, p. 474.]

39-254. PAYMENT OF FEES TO LOCAL REGISTRATION OFFICERS. All amounts payable to local registrars under the provisions of this chapter shall be paid by the respective treasurers of the incorporated city or county in which the registration district is situated out of the general fund of such incorporated city or county, upon certification by the state registrar. The state registrar shall certify to the auditors of the various counties and cities, not less than semiannually, or at such other regular times as may be deemed expedient, the names of the local registrars and the amounts due each at the rates fixed by the board by regulations promulgated pursuant to section [39-251](#), Idaho Code.

[(39-254) 1949, ch. 72, sec. 15, p. 117; am. and redesignated 1983, ch. 7, sec. 14, p. 29.]

39-255. REGISTRATION OF BIRTHS. A certificate of each birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs, or as otherwise directed by the state registrar, within fifteen (15) days of the date of birth. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(a) When a birth occurs in an institution or en route thereto, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate within fifteen (15) days of the date of birth. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth. When the physician, or other person in attendance, is physically unable to certify to the facts of birth within the time prescribed in this section, the person in charge of the institution may complete and sign the certificate.

(b) When a birth occurs outside an institution, the certificate shall be prepared and filed by:

(1) The physician or other person in attendance at or immediately after such birth; or

(2) When no physician or other person is present at or immediately after such birth: the father, or in the event of the death, disability or absence of the father, the mother; or in the event of the death or disability of the mother, the householder or owner of the premises where the birth occurred.

(c) The father, mother or guardian shall verify the facts entered on the certificate by their signature.

(d) When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and the place where the child is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state, but the certificate shall show the actual place of birth insofar as can be determined.

(e) (1) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

(i) Paternity has been determined otherwise by a court of competent jurisdiction; or

(ii) The husband has executed an affidavit of nonpaternity attesting that he is not the father, the mother has executed an acknowledgment of paternity attesting that the alleged father is the father, and the alleged father has executed an acknowledgment of paternity attesting that he is the father. Affidavits may be joint or individual or a combination thereof, and each signature shall be individually notarized. In such event, the alleged father shall be shown as the father on the certificate.

(2) If the mother was not married at the time of either conception or birth, or between conception and birth, the name of the father shall not be entered on the certificate without a notarized voluntary acknowledgment of paternity.

(3) In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the

child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(4) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

[(39-255) 1949, ch. 72, sec. 16, p. 117; am. and redesignated 1983, ch. 7, sec. 15, p. 30; am. 1995, ch. 28, sec. 1, p. 42; am. 1995, ch. 53, sec. 1, p. 121; am. 1998, ch. 106, sec. 3, p. 365.]

39-255A. REGISTRATION OF BIRTHS TO GESTATIONAL CARRIERS. (1) Subject to the requirements set forth in section [39-255](#), Idaho Code, a certificate of live birth shall be filed with the bureau of vital records and health statistics by the certifier with parentage as determined by the final court order of parentage issued pursuant to the provisions of [chapter 16, title 7](#), Idaho Code. The birth record shall include all the facts of birth, including the gestational carrier's demographic, medical, and health information. No certificate shall be deemed complete until every item of information required has been provided or its omission satisfactorily accounted for.

(2) Upon receipt by the bureau of the complete certificate of live birth from the certifier and the certified copy of the order of parentage, the bureau of vital records and health statistics shall accept the record for permanent filing. The birth certificate shall make no reference to the gestational carrier. The facts of birth as relating to the gestational carrier shall be filed with and remain part of the records of the bureau of vital records and health statistics in a sealed file with a certified copy of the order of parentage.

(3) In the absence of an order of parentage, the birth certificate shall be filed listing the gestational carrier as the mother of the child. The gestational carrier's information may not be removed, and an intended parent's information may not be listed on the birth certificate except:

(a) According to the provisions of section [39-255](#)(e), Idaho Code, to add a biological father; or

(b) Upon receipt of a certified copy of an order of parentage and a certified report of gestational birth. The report form will be prescribed and furnished by the state registrar. Copies of birth certificates showing the gestational carrier as the mother of the child shall not be issued except upon order of an Idaho court.

(4) Information necessary to prepare the report of gestational birth shall be furnished by the intended parent or parents or the attorney for the intended parent or parents. The order of parentage and the report of gestational birth shall contain all known facts of birth and the identity of the intended parent or parents.

(5) Upon receipt by the bureau of the certified report of gestational birth and the certified order of parentage, a new certificate of birth shall be established bearing the full name of the child born and the identity of the intended parent or parents. The new birth certificate shall make no reference to the gestational carrier and shall not be marked as amended. The new birth certificate shall supplant and constitute replacement of any birth certificate for the child previously filed with the bureau of vital records and health statistics and shall be the only birth certificate subject to issuance. The certified report of gestational birth and certified order of parentage shall be filed with and remain part of the records of the bureau of vital records and health statistics in a sealed file with the original certificate.

(6) In respect to form and nature of contents, the new birth certificate shall be identical to the birth certificate originally filed with the bureau of vital records and health statistics, except that the intended parent or parents shall be entered on the certificate as shown in the report of gestational birth. The child's name shall remain as shown on the original birth certificate unless the order of parentage specifically states how the bureau of vital records and health statistics should list the child's name on the birth certificate.

(7) An order of parentage may be amended only to correct a clerical error.

(8) All records and information specified in this section, other than a birth certificate issued pursuant to this section, and all records, files, and information of any court in this state relating to gestational birth and parentage proceedings shall not be open to inspection except on order of a court of record of this state; provided, however, that any Idaho magistrate judge may furnish a certified copy of an order of parentage to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order.

[39-255A, added 2023, ch. 228, sec. 4, p. 706.]

39-256. REGISTRATION OF FOUNDLINGS. A foundling certificate shall be filed for each child of unknown parentage within fifteen (15) days of the time the child was found and in the form prescribed by the board. The certificate shall be prepared by the person assuming custody of the child and shall be filed with the local registrar of the district in which the child was found. Such certificate shall be acceptable for all purposes in lieu of a certificate of birth.

[(39-256) 1949, ch. 72, sec. 17, p. 117; am. and redesignated 1983, ch. 7, sec. 16, p. 31.]

39-257. MARRIAGE OF NATURAL PARENTS OF PERSON BORN IN IDAHO -- JUDICIAL DETERMINATION OF PARENTAGE OF PERSON BORN IN IDAHO -- NEW BIRTH CERTIFICATES -- PROCEDURE. When a person born in Idaho has been legitimated by the subsequent marriage of said person's natural parents and immediately assumes or is assigned a name other than is shown on the recorded birth certificate, the birth certificate of such person may be replaced by a new and conventional certificate (prepared and filed by the state registrar), reflecting the name so assumed or assigned, upon proper application therefor filed by such legitimated person or the parents or one of them, but no one else. Such application shall be in writing and shall be accompanied by a copy of the relevant marriage certificate (if there was one issued and regardless of where it was issued), certified by the issuer or recorder of the same, and, in any event, an affidavit of each of the spouses, factually indicating such parentage, the time and place of the marriage, the identity of the child concerned and the child named in the original birth certificate and giving the assumed or assigned name of the child, which instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

When a person born in Idaho has had said person's natural parentage finally determined by an Idaho court, the court shall require the preparation of a report of paternity on a form prescribed and furnished by the state registrar. The report shall include such facts as necessary to complete the

amended birth certificate and be certified by the clerk of the court. If a court of some other state issued a decree or report of paternity, the state registrar may prepare and file a new and conventional birth certificate for that person, reflecting the name(s) of the parent(s) and the child's new name, if applicable, upon application made by that person or either or both of the persons adjudged to be the natural parent(s), or that person's guardian, but no one else. This application shall be accompanied by a certified copy of the court decree in question and an affidavit of one (1) person factually indicating that the decree involves the same person that the original birth certificate involved. These instruments shall be filed of record along with the old birth certificate, but separate from any replacement issued hereunder (which shall be filed separately).

It shall be the duty of each clerk of court in the state of Idaho to file with the state registrar certified copies of each final decree of paternity determination made by that court within fifteen (15) days after each of such decrees becomes final. Such certified copies of such decrees and all other instruments mentioned in this section, except any replacement certificate, are confidential and shall not be revealed to any person other than the registrant, if of age, the parents or the duly appointed legal representative of any of them, or upon court order issued in the interest of justice.

[(39-257) I.C., sec. 39-259, as replaced by 1959, ch. 104, sec. 4, p. 221; am. and redesignated 1983, ch. 7, sec. 17, p. 31; am. 1990, ch. 213, sec. 35, p. 509; am. 1993, ch. 315, sec. 1, p. 1167; am. 1995, ch. 31, sec. 1, p. 49.]

39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE ISSUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STATISTICS. (1) Whenever a final decree of adoption, issued by an Idaho court, declares a person born in Idaho to be adopted by someone other than his or her natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court.

(2) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The provision of such information shall be prerequisite to the issuance of a final decree in the matter of the court.

(3) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the bureau of vital records and health statistics in the state department of health and welfare.

(4) If a court of some other state issued a decree or report of adoption of a person actually born in Idaho, the certified copy or report may be similarly filed by the person involved or by the adoptive parents. Failure to file certified copies or reports of said decrees within said period of time, however, shall not bar issuance of a new birth certificate as hereinafter provided. This copy of said decree or report shall be filed with and remain a part of the records of the bureau of vital records and health statistics.

(5) Upon receipt by the bureau of vital records and health statistics of the certified report of adoption, a new certificate of birth shall be issued (but only in cases where such person's birth is already recorded with the bureau of vital records and health statistics) bearing among other things the name of the person adopted, as shown in the report of adoption, except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person. No such birth certificate shall have reference to the adoption of said person. Such birth certificate shall supplant and constitute a replacement of any birth certificate previously issued for said person and shall be the only birth certificate open to public inspection.

Provided however, upon good cause shown and the affidavit of the adoptive parents that a diligent search has been made, but no certificate of birth for the adoptive child can be located, the magistrate judge may order the adoptive child examined, at the expense of the adoptive parents, by a doctor of medicine licensed by the state of Idaho. The examination will be conducted pursuant to rules promulgated by the state board of health and welfare for the purpose of determining those matters required for the issuance of an original birth certificate. Upon the examination of the doctor made pursuant to the rules of the state board of health and welfare, the court may order the bureau of vital records and health statistics to issue an original birth certificate for the adoptive child based upon those facts determined by the examination and included in the court's order. In such case, a certified copy of the court order shall be provided to the bureau of vital records and health statistics.

(6) In respect to form and nature of contents, such a new birth certificate shall be identical with a birth certificate issued to natural parents for the birth of a child, except that the adoptive parents shall be shown as parents and the adopted person shall have the name assigned by the decree of adoption as shown on the report of adoption. In a case where a single person adopts another person, any new birth certificate may designate the adopting parent as adoptive.

(7) Whenever an adoption decree is amended, annulled, or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment, or rescindment to the bureau of vital records and health statistics in accordance with the time provisions in subsection (3) of this section. Unless otherwise directed by the court, the bureau of vital records and health statistics shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of record of this state.

(8) All records and information specified in this section, other than a new birth certificate issued hereunder, and all records, files, and information of any court in this state relating to adoption proceedings shall not be open to inspection except as provided in section [39-259A](#), Idaho Code, or upon the order of a court of record of this state; provided however, that the provisions of section [16-1616](#), Idaho Code, to the contrary notwithstanding, any magistrate judge may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

(9) For adoptions that occur on or after July 1, 2022, the provisions of this section shall apply, except that:

(a) The natural or adoptive parentage of each parent shall be demonstrated as determined by the registrar on the face of a new birth certificate described in subsection (6) of this section; and

(b) A copy of the original birth certificate, all medical and demographic information contained in the sealed file, and the report of adoption must be provided upon the signed request, on a form prescribed by the registrar, of the adoptee who is named on the birth certificate or such adoptee's legal representative, provided that:

(i) The adoptee must be eighteen (18) years or older;

(ii) The documents referenced in this paragraph will be released to the adult adoptee upon completion of the voluntary adoption registration process. In the event of a match on the voluntary adoption registry, a minimum thirty (30) day waiting period will apply, during which time a registered birth parent may:

1. Indicate a preferred method of contact, which method will be communicated to the adoptee at the time the documents are released;

2. Request no contact, which request will be communicated to the adoptee at the time the documents are released; or

3. Request that the registered birth parent's name be redacted before records are released, which request shall be effective for five (5) years. After the five (5) years have elapsed, the adoptee may again request documents according to this paragraph, and all provisions of this paragraph shall apply; and

(iii) The bureau of vital records and health statistics is not obligated to provide court records to the adoptee under the provisions of this paragraph.

[(39-258) 39-218, as replaced by 1959, ch. 104, sec. 1, p. 221; am. 1965, ch. 208, sec. 1, p. 477; am. 1974, ch. 23, sec. 60, p. 633; am. and redesignated 1983, ch. 7, sec. 18, p. 32; am. 1985, ch. 59, sec. 2, p. 114; am. 2005, ch. 391, sec. 53, p. 1309; am. 2012, ch. 20, sec. 21, p. 71; am. 2022, ch. 282, sec. 1, p. 893.]

39-259. ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES. (1) When it appears from a final decree of adoption issued by an Idaho court that a person born in a foreign country has been adopted in Idaho by someone other than the person's natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall contain evidence from sources determined to be reliable by the court as to the true or probable date and place of birth and parentage of such person; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall identify the order of adoption and be certified by the clerk of the court. Upon receipt by the state registrar of vital statistics of the report of adoption, the state registrar of vital statistics shall make and file a new birth certificate for the child when requested to do so by the court decreeing the adoption, the adoptive parents, or the adopted person. The new birth certificate shall show the true or probable foreign country (and city, town, village, or other local designation, if known) of birth and the true or probable date of birth as established by

the court and shown on the court report of adoption, the child's new name and parentage as stated in the report of adoption, and any other necessary facts as required by the state registrar. This birth certificate shall not be evidence of United States citizenship. The form and content of the certificate of foreign birth shall be established by the director.

(2) All records and information specified in this section, other than a new birth certificate issued hereunder, and all records, files, and information of any court in this state relating to adoption proceedings shall not be open to inspection except as provided in section [39-259A](#), Idaho Code, or upon the order of a court of record of this state; provided however, that the provisions of section [16-1616](#), Idaho Code, to the contrary notwithstanding, any probate court, or the judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

(3) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the bureau of vital records and health statistics in the state department of health and welfare.

(4) Whenever an adoption decree is amended, annulled, or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment, or rescindment to the bureau of vital records and health statistics in accordance with the time provisions in subsection (3) of this section. Unless otherwise directed by the court, the bureau of vital records and health statistics shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the Idaho birth certificate shall be removed from the file and along with the decree of annulment or rescindment shall be placed in the sealed file for that person. Such sealed file shall not be subject to inspection except upon order of a court of record of this state.

(5) For adoptions that occur on or after July 1, 2022, the provisions of this section shall apply, except that:

(a) The natural or adoptive parentage of each parent shall be demonstrated as determined by the registrar on the face of a new birth certificate described in subsection (1) of this section; and

(b) A copy of the foreign birth certificate, if available, all medical and demographic information contained in the sealed file, and the report of adoption must be provided upon the signed request, on a form prescribed by the registrar, of the adoptee who is named on the birth certificate or such adoptee's legal representative, provided that:

(i) The adoptee must be eighteen (18) years or older;

(ii) The documents referenced in this paragraph will be released to the adult adoptee upon completion of the voluntary adoption registration process. In the event of a match on the voluntary adoption registry, a minimum thirty (30) day waiting period will apply, during which time a registered birth parent may:

1. Indicate a preferred method of contact, which method will be communicated to the adoptee at the time the documents are released;

2. Request no contact, which request will be communicated to the adoptee at the time the documents are released; or

3. Request that the registered birth parent's name be redacted before records are released, which request shall be effective for five (5) years. After the five (5) years have

elapsed, the adoptee may again request documents according to this paragraph, and all provisions of this paragraph shall apply; and

(iii) The bureau of vital records and health statistics is not obligated to provide court records to the adoptee under the provisions of this paragraph.

[(39-259) added 1982, ch. 122, sec. 1, p. 348; am. and redesign. 1983, ch. 7, sec. 19, p. 23; am. 1985, ch. 59, sec. 3, p. 116; am. 1988, ch. 25, sec. 1, p. 32; am. 2005, ch. 391, sec. 54, p. 1311; am. 2022, ch. 282, sec. 2, p. 896.]

39-259A. VOLUNTARY ADOPTION REGISTRY FOR PROVIDING LIMITED ACCESS TO BIRTH INFORMATION OF ADULT ADOPTEEES. (a) The state registrar of vital statistics shall establish and maintain a confidential list of qualified adult adoptees who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified adult adoptee shall be accompanied by the adoptee's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified adult adoptee desires release of his identifying information if a match occurs after his death. The qualified adult adoptee may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed adoptee. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of this section.

(b) The state registrar of vital statistics shall establish and maintain a confidential list of qualified birth parents who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birth parent shall be accompanied by the birth parent's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birth parent desires release of his identifying information if a match occurs after his death. The qualified birth parent may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birth parent. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of sections [39-258](#)(8) and [39-259](#)(2), (3), and (4), Idaho Code. Any birth parent who, in terminating his parental rights, used an alias and this alias is listed in the original sealed birth certificate may also file a consent with the registry. A birth parent shall not be matched with a qualified adult adoptee without the consent of the other birth parent unless:

- (1) There is only one (1) birth parent listed on the birth certificate; or
- (2) The other birth parent is deceased; or
- (3) The other birth parent is unable to be located by the department of health and welfare or by a licensed child placement agency designated by the department of health and welfare, after a search, which shall consist, at a minimum, of a certified letter to the other birth parent at

the last known address and a newspaper advertisement made in the county of the last known address; such search to be completed within ninety (90) days and the cost of said search to be fully funded and completed by the birth parent seeking a match; said search to be in accordance with the rules and regulations promulgated by the department.

(c) The state registrar of vital statistics shall establish and maintain a confidential list of qualified adult birth siblings who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birth sibling shall be accompanied by the birth sibling's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birth sibling desires release of his identifying information if a match occurs after his death. The qualified birth sibling may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birth sibling. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of section [39-258](#)(8) and [39-259](#) (2), Idaho Code, and this section.

(d) The state registrar shall maintain a confidential list of relatives of deceased qualified adult adoptees and relatives of deceased qualified birth parents who have presented a consent regarding the release of identifying information about themselves. Any consent by such relative shall be accompanied by the person's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Such relative may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed relative. The state registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of this section.

(e) The state registrar shall regularly review the lists provided for in subsections (a), (b), (c), and (d) of this section and any other nonsealed administrative files or records within the office to determine if there is a match. If it appears that a match has occurred, then and only then is the registrar authorized to proceed to confirm the match through recourse to sealed documents on file in the office of the registrar. When a match is confirmed, the registrar shall notify each party, by its designated method only, prior to an exchange of identifying information. Nothing in this section shall be construed to allow any state or local governmental department, agency, or institution, or any employee thereof, to solicit any consent for the release of identifying information.

(f) When a match is made and both the adopted person and the birth parent or parents submit to the state registrar a notarized request for a copy of the original birth record of the adopted person, the state registrar shall issue such copy marked "NOT FOR OFFICIAL USE" at the usual cost of certificate copies.

(g) Nothing in this section shall be construed to allow the registrar to issue a copy of the original birth certificate to any registrant, except as provided for in subsection (f) of this section.

(h) Except upon order of a court of record of this state and notwithstanding any other provision of law, the information acquired by the registry shall not be disclosed under its public records law, sunshine or freedom of information legislation, rules, or practice.

(i) The initial fee to be charged each person requesting that his name be placed on the list provided for in subsections (a), (b), (c), and (d) of this section, and for the services provided by the registrar in establishing and implementing the registry pursuant to this section, shall be ten dollars (\$10.00). Except for the cost of the search described in subsection (b) (3) of this section, the fee shall cover all direct and indirect costs incurred pursuant to this section. The state board of health and welfare shall annually review the fees and expenses incurred pursuant to this section and, as needed, adjust the fees charged to cover the expenses of administering the provisions of this section.

[39-259A, added 1985, ch. 59, sec. 4, p. 117; am. 1990, ch. 213, sec. 36, p. 510; am. 1993, ch. 315, sec. 2, p. 1168; am. 2022, ch. 282, sec. 3, p. 897.]

39-260. REGISTRATION OF DEATHS AND STILLBIRTHS. (1) A certificate of each death which occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five (5) days after the occurrence. However, the board shall, by rule and upon such conditions as it may prescribe to assure compliance with the purposes of the vital statistics act, provide for the filing of death certificates without medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship; but provided, however, that medical certifications of cause of death shall be provided by the certifying physician, physician assistant, advanced practice registered nurse or coroner to the vital statistics unit within fifteen (15) days from the filing of the death certificate. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international airspace or in a foreign country or its airspace and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation.

The person in charge of interment or of removal of the body from the district shall be responsible for obtaining and filing the certificate. Said person shall obtain the required information from the following persons, over their respective signatures:

(a) Personal data shall be supplied by the person best qualified to supply them; and

(b) Except as otherwise provided, medical data shall be supplied by the physician, physician assistant or advanced practice registered nurse who attended the deceased during the last illness, who shall certify to

the cause of death according to his best knowledge, information and belief within seventy-two (72) hours from time of death. In the absence of the attending physician, physician assistant or advanced practice registered nurse or with said person's approval the certificate may be completed and signed by said person's associate, who must be a physician, physician assistant or advanced practice registered nurse, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

(2) The person in charge of interment or of removal of the body from the district shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data, and certify to the cause of death:

(a) When no physician, physician assistant or advanced practice registered nurse was in attendance during the last illness of the deceased;

(b) When the circumstances suggest that the death occurred as a result of other than natural causes; or

(c) When death is due to natural causes and the physician, physician assistant or advanced practice registered nurse who attended the deceased during the last illness or said person's designated associate who must be a physician, physician assistant or advanced practice registered nurse, is not available or is physically incapable of signing.

(3) When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of record of this state, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "presumptive" and shall show on its face the date of registration and shall identify the court and the date of decree.

(4) Each stillbirth, defined as a spontaneous fetal death of twenty (20) completed weeks gestation or more, based on a clinical estimate of gestation, or a weight of three hundred fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more, which occurs in this state shall be registered on a certificate of stillbirth within five (5) days after delivery with the local registrar of the district in which the stillbirth occurred. All induced terminations of pregnancy shall be reported in the manner prescribed in section [39-261](#), Idaho Code, and shall not be reported as stillbirths. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(a) When a stillbirth occurs in an institution, the person in charge of the institution or a designated representative shall prepare the certificate, obtain the signature of the physician, physician assistant or advanced practice registered nurse in attendance, except as otherwise provided in subsection (5) of this section, who shall provide the medical data, and forward the certificate to the mortician or person acting as such. In the absence of the attending physician, physician assistant or advanced practice registered nurse or with said person's approval the certificate may be completed and signed by said person's associate, who must be a physician, physician assistant or advanced practice registered nurse, the chief medical officer of the institution in which the stillbirth occurred, or the physician who performed an au-

topsy on the stillborn fetus, provided such individual has access to the medical history of the case and views the fetus at or after stillbirth. The mortician or person acting as such shall provide the disposition information and file the certificate with the local registrar.

(b) When a stillbirth occurs outside an institution, the mortician or person acting as such shall complete the certificate, obtain the medical data from and signature of the attendant at the stillbirth, except as otherwise provided in subsection (5) of this section, and file the certificate. If the attendant at or immediately after the stillbirth is not a physician, physician assistant or advanced practice registered nurse, the coroner shall investigate and sign the certificate of stillbirth.

(c) When a stillbirth occurs in a moving conveyance in the United States and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state and the place where the stillborn fetus is first removed shall be considered the place of stillbirth. When a stillbirth occurs in a moving conveyance while in international airspace or in a foreign country or its airspace and the stillborn fetus is first removed from the conveyance in this state, the stillbirth shall be registered in this state but the certificate shall show the actual place of stillbirth insofar as can be determined.

(d) When a stillborn fetus is found in this state and the place of stillbirth is unknown, it shall be reported in this state. The place where the stillborn fetus was found shall be considered the place of stillbirth.

(e) The name of the father shall be entered on the certificate of stillbirth as provided by section [39-255](#), Idaho Code.

(5) The person responsible for the preparation or completion of the stillbirth certificate as stated in subsection (4)(a) and (b) of this section shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data and certify to the cause of stillbirth:

(a) When the circumstances suggest that the stillbirth occurred as a result of other than natural causes, excepting legally induced abortions, as defined by section [39-241](#), Idaho Code; or

(b) When death is due to natural causes and the physician, physician assistant or advanced practice registered nurse in attendance at or immediately after the stillbirth or said person's designated associate is not available or is physically incapable of signing.

[(39-260) 1949, ch. 72, sec. 18, p. 117; am. 1972, ch. 111, sec. 1, p. 226; am. and redesignated 1983, ch. 7, sec. 20, p. 34; am. 1995, ch. 28, sec. 2, p. 44; am. 2002, ch. 277, sec. 2, p. 811; am. 2007, ch. 244, sec. 1, p. 719; am. 2014, ch. 45, sec. 2, p. 119.]

39-260A. REGISTRATION OF STILLBIRTHS TO A GESTATIONAL CARRIER. If a stillbirth occurs and the stillborn child was delivered under the terms of a gestational agreement entered and validated pursuant to [chapter 16, title 7](#), Idaho Code, then a certificate of stillbirth shall be filed with the bureau of vital records and health statistics according to the provisions of section [39-260](#) (4) and (5), Idaho Code. The certificate shall show the name of the gestational carrier and shall note her status as a gestational carrier. No certificate shall be deemed completed until every item of information required has been provided or its omission satisfactorily accounted for.

[39-260A, added 2023, ch. 228, sec. 5, p. 707.]

39-261. INDUCED ABORTION REPORTING FORMS -- COMPILATIONS. (a) The vital statistics unit shall establish an induced abortion reporting form, which shall be used for the reporting of every induced abortion performed in this state. However, no information shall be collected which would identify the woman who had the abortion. Such form shall be prescribed by the department and shall include as a minimum the items required by the standard reporting form as recommended by the national center for health statistics, of the United States department of health and human services.

The completed form shall be filed by the attending physician and sent to the vital statistics unit within fifteen (15) days after the end of each reporting month. The submitted form shall be an original, typed or written legibly in durable ink, and shall not be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for. Carbon copies shall not be acceptable.

(b) The department of health and welfare shall prepare and keep on permanent file compilations of the information submitted on the induced abortion reporting forms pursuant to such rules and regulations as established by the department of health and welfare, which compilations shall be a matter of public record.

[(39-261) 1977, ch. 163, sec. 1, p. 424; am. and redesignated 1983, ch. 7, sec. 22, p. 37.]

39-262. REGISTRATION OF MARRIAGE -- MARRIAGE CERTIFICATES FILED. Every person who performs a marriage ceremony shall prepare and sign a certificate of marriage in duplicate, one (1) of which shall be given to the parties and the other filed by said person within ten (10) days after the ceremony with the county recorder. Every county recorder shall forward to the state registrar on or before the 15th day of each calendar month the certificates of marriage which were filed with said recorder during the preceding calendar month. The form of certificate of marriage shall be prescribed by the board, in accordance with the provisions of sections [32-401](#) and [32-402](#), Idaho Code. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

[(39-262) 1949, ch. 72, sec. 27, p. 117; am. and redesignated 1983, ch. 7, sec. 24, p. 37.]

39-263. MARRIAGE LICENSE FEES. Every county recorder shall be paid a fee, to be established by regulations adopted by the board, for each marriage certificate recorded with said recorder and forwarded to the state registrar. The recording fee shall be as provided by section [31-3205](#), Idaho Code.

[(39-263) 1949, ch. 72, sec. 28, p. 117; am. and redesignated 1983, ch. 7, sec. 25, p. 38; am. 1984, ch. 29, sec. 3, p. 51; am. 1989, ch. 12, sec. 1, p. 13.]

39-265. REGISTRATION OF DIVORCES -- ANNULMENTS OF MARRIAGE. (a) A certificate of each divorce or annulment granted by any court in this state shall be filed by the clerk of the court with the vital statistics unit and shall be registered if it has been completed and filed in accordance with

this chapter. The certificate shall be prepared by the petitioner or the petitioner's legal representative on a form furnished by the state registrar and shall be presented to the clerk of the court with the petition. In all cases the completed certificate shall be prerequisite to the granting of the final decree. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for.

(b) Immediately after the decree becomes final, the certificate shall be forwarded by the clerk to the state registrar on the 15th day of the calendar month next succeeding.

[(39-265) 1949, ch. 72, sec. 29, p. 117; am. and redesignated 1983, ch. 7, sec. 27, p. 38.]

39-266. FEE FOR COURT CLERK. The clerk of the court shall be paid a fee for each certificate forwarded by the clerk to the state registrar in accordance with the provisions of this chapter and regulations of the board. Said fee to be collected as a part of the court costs and be assessed by the court according to law. Said fee to be established by regulations adopted by the board.

[(39-266) 1949, ch. 72, sec. 11, p. 117; am. and redesignated 1983, ch. 7, sec. 28, p. 39.]

39-267. DELAYED REGISTRATION. Any certificate required to be filed under this chapter accepted for filing after the time prescribed by the board shall be filed in accordance with the minimum standards prescribed by the national agency in charge of vital statistics.

(1) If a delayed certificate of birth is rejected under the provisions prescribed, a petition signed and sworn to by the petitioner may be filed with a court of competent jurisdiction for an order establishing a record of the date and place of birth and the parentage of the person whose birth is to be registered. An order entered following the procedure established in section [39-278](#), Idaho Code, shall be acceptable evidence for establishing a delayed certificate of birth in the vital statistics unit.

(2) If a delayed certificate of death is rejected under the provisions prescribed, a petition signed and sworn to by the petitioner may be filed with a court of competent jurisdiction for an order establishing a record of the date and place of death. An order entered following the procedure established in section [39-278](#), Idaho Code, shall be acceptable evidence for establishing a delayed certificate of death.

[(39-267) 1949, ch. 72, sec. 21, p. 117; am. and redesignated 1983, ch. 7, sec. 29, p. 39; am. 2010, ch. 78, sec. 2, p. 130.]

39-268. AUTHORIZATION FOR FINAL DISPOSITION. (1) The mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall make a written report to the registrar of the district in which death or stillbirth occurred or in which the body or stillborn fetus was found within twenty-four (24) hours after taking possession of the body or stillborn fetus, on a form prescribed and furnished by the state registrar and in accordance with rules promulgated by the board. Except as specified in subsection (2) of this section, the written report shall serve as permit to transport, bury or entomb the body or stillborn fetus within this state,

provided that the mortician or person acting as such shall certify that the physician, physician assistant or advanced practice registered nurse in charge of the patient's care for the illness or condition which resulted in death or stillbirth has been contacted and has affirmatively stated that said physician, physician assistant or advanced practice registered nurse or the designated associate according to section [39-260](#)(1)(b) or (4)(a), Idaho Code, will sign the certificate of death or stillbirth.

(2) The written report as specified in subsection (1) of this section shall not serve as a permit to:

- (a) Remove a body or stillborn fetus from this state;
- (b) Cremate the body or stillborn fetus; or
- (c) Make disposal or disposition of any body or stillborn fetus in any manner when inquiry is required under [chapter 43, title 19](#), Idaho Code, or section [39-260](#)(2) or (5), Idaho Code.

(3) In accordance with the provisions of subsection (2) of this section, the mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall obtain an authorization for final disposition prior to final disposal or removal from the state of the body or stillborn fetus. The physician, physician assistant, advanced practice registered nurse or coroner responsible for signing the death or stillbirth certificate shall authorize final disposition of the body or stillborn fetus, on a form prescribed and furnished by the state registrar. If the body is to be cremated, the coroner must also give additional authorization. In the case of stillbirths, the hospital may dispose of the stillborn fetus if the parent(s) so requests; authorization from the coroner is not necessary unless the coroner is responsible for signing the certificate of stillbirth.

(4) When a dead body or stillborn fetus is transported into the state, a permit issued in accordance with the law of the state in which the death or stillbirth occurred or in which the body or stillborn fetus was found shall authorize the transportation and final disposition within the state of Idaho.

(5) A permit for disposal shall not be required in the case of a dead fetus of less than twenty (20) weeks gestation and less than three hundred fifty (350) grams or twelve and thirty-five hundredths (12.35) ounces where disposal of the fetal remains is made within the institution where the delivery of the dead fetus occurred.

[(39-268) 1949, ch. 72, sec. 20, p. 117; am. 1972, ch. 123, sec. 1, p. 243; am. and redesignated 1983, ch. 7, sec. 30, p. 39; am. 2007, ch. 244, sec. 2, p. 721; am. 2014, ch. 45, sec. 3, p. 121.]

39-269. DISINTERMENT -- RULES. (1) No body or stillborn fetus shall be disinterred within the state of Idaho except upon a permit granted by the state registrar of vital statistics. The forms of disinterment permits shall be prepared by the state registrar.

(2) Disinterment and removal must be done under the personal supervision of a licensed mortician, and only upon verified application of the person or persons having the highest authority under the provisions of section [54-1142](#), Idaho Code. Only such persons as are actually necessary shall be present. The person having the highest authority under the provisions of section [54-1142](#), Idaho Code, may choose to be present or may choose the designee to attend in the person's place. The coffin shall not be opened either at place of disinterment or place of destination, except by special permit issued by the state registrar.

(3) In the case of disinterment of bodies dead by reason of contagious and infectious diseases, as shown by the certificate of death given by the certifying physician or coroner, the sexton and all other persons engaged in such removal or being present shall immediately thereafter change and disinfect their clothing and properly disinfect their hands, head and face, provided, that such disinterment may also be governed by rules promulgated by the state board of health and welfare and a synopsis of the same shall be printed on the back of every permit. In case of any contagious and infectious disease where remains are to be shipped to points in other states, permission must first be obtained from the state health officer of such state.

(4) The state registrar may also issue a special disinterment permit for legal purposes. This permit for legal purposes shall be granted only upon application of a prosecuting attorney, the attorney general of this state, or the coroner of the county in which the body is interred, stating therein such facts which make it evident to the state registrar that the ends of justice require that disinterment be permitted. Such special disinterment for legal purposes shall be governed by rules promulgated by the state board of health and welfare and a synopsis of the same shall be printed on the back of every such special disinterment permit for legal purposes.

(5) Bodies in a receiving vault when prepared by a licensed mortician shall not be regarded as disinterred bodies until after the expiration of thirty (30) days.

[(39-269) C.S., sec. 1633a, as added by 1923, ch. 89, sec. 1, p. 101; I.C.A., sec. 38-210; am. 1974, ch. 23, sec. 59, p. 633; am. and redesignated 1983, ch. 7, sec. 31, p. 41; am. 1994, ch. 105, sec. 5, p. 236; am. 2006, ch. 109, sec. 1, p. 302; am. 2023, ch. 203, sec. 1, p. 567.]

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the rules of the board, the provisions of section [74-102](#), Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the rules of the board.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request or at the direction of the state registrar to a state, federal or local public agency for child protection and child support enforcement purposes or for the purpose of investigation of fraud. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) As provided in [chapter 1, title 74](#), Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use, except as provided in section [34-433](#)(2), Idaho Code.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state reg-

istrar shall become public records and information shall be made available in accordance with [chapter 1, title 74](#), Idaho Code.

[(39-270) 39-264, added 1949, ch. 72, sec. 24, p. 117; am. 1978, ch. 73, sec. 1, p. 147; am. and redesignated 1983, ch. 7, sec. 32, p. 41; am. 1985, ch. 250, sec. 1, p. 584; am. 1990, ch. 213, sec. 37, p. 512; am. 1993, ch. 315, sec. 3, p. 1170; am. 2004, ch. 23, sec. 8, p. 29; am. 2005, ch. 391, sec. 55, p. 1312; am. 2015, ch. 141, sec. 83, p. 440; am. 2017, ch. 36, sec. 1, p. 56; am. 2021, ch. 33, sec. 2, p. 75; am. 2022, ch. 314, sec. 2, p. 1006.]

39-271. RECORDS OF INSTITUTIONS. Every person in charge of an institution, public or private, to which persons resort for treatment of diseases, confinements, or are committed by law, shall record all the personal and statistical particulars relative to those persons admitted or confined to their institutions that are required on the forms or the certificates prescribed by the board. The record shall be made by them at the time of admission of the patients and at such other times as may be required. The personal and statistical particulars and information shall be obtained from the individuals themselves, if it is practicable to do so, and when they can not be so obtained, they shall be secured in as complete a manner as possible from relatives, friends or other persons acquainted with the facts.

[(39-271) 1949, ch. 72, sec. 25, p. 117; am. and redesignated 1983, ch. 7, sec. 33, p. 42.]

39-272. DUTIES TO PROVIDE INFORMATION. For the purposes of compilation of the vital record, any person having knowledge of the facts shall furnish to the state registrar such information as they may possess regarding any birth, death, stillbirth, marriage or divorce.

[39-272, added 1983, ch. 7, sec. 34, p. 42.]

39-273. PENALTIES. (a) The following acts, if committed unlawfully, purposely and with the intent to deceive, shall be felonies punishable by a fine of not more than five thousand dollars (\$5,000) or imprisonment of not more than five (5) years, or both:

- (1) furnishing false or fraudulent information affecting any certificate, record or report required by this chapter; or
- (2) making, counterfeiting, altering, amending or mutilating of any certificate, record or report, or any certified copy of a certificate, record, or report authorized by this chapter; or
- (3) obtaining, possessing, using, selling, or furnishing, or attempting to obtain, possess, use, sell, or furnish, any certificate, record, or report, or certified copy of a certificate, record, or report, which has been unlawfully made, counterfeited, altered, amended, or mutilated; or
- (4) furnishing, selling or using any certificate, record or report, or any certified copy of a certificate, record or report, authorized by this chapter for the purpose of misrepresenting the age or identity of a person or misrepresenting the facts relating to a birth, death or adoption.

(b) The following acts, if committed with knowledge, recklessness or with criminal negligence, shall be misdemeanors punishable by a fine of not

more than one thousand dollars (\$1,000) or imprisonment of not more than one (1) year, or both:

(1) except where a different penalty is provided by this section, violating any of the provisions of this chapter or the regulations promulgated pursuant to this chapter by the board; or

(2) neglecting or refusing to perform any of the duties imposed pursuant to this chapter; or

(3) transporting, accepting for transport, interring, or otherwise disposing of a dead body or stillborn fetus without a permit or other authorization issued in accordance with the provisions of this chapter.

(c) In addition to the other penalties herein prescribed, any employee or officer of the department who knowingly, recklessly or negligently discloses any information in violation of section [39-270](#), Idaho Code, shall be subject to immediate dismissal from employment.

(d) In addition to any other sanction or penalty authorized by law, the registrar may hereby impose a fine which may not exceed two hundred fifty dollars (\$250) for each violation wherein a physician, hospital administrator or his designee, or other birth attendants, or coroner/deputy, or funeral director/mortician fails to sign a birth, or death or stillbirth certificate within fifteen (15) days of the death or within fifteen (15) days of the birth. Notice of intent to impose such fine must be given by the registrar to the alleged violator. Each day that a violation continues following the giving of the notice of intent may constitute a violation and the registrar may impose a fine which may not exceed fifty dollars (\$50.00) per day. In determining the amount of any fine to be imposed for a violation, the registrar shall consider the following factors:

(1) the gravity of the violation or extent to which the provisions of the applicable statute or rule were violated;

(2) any action taken by the alleged violator to correct the violation or assure that the violation will not reoccur;

(3) any previous violation.

[(39-273) 1949, ch. 72, sec. 26, p. 117; am. and redesignated 1983, ch. 7, sec. 35, p. 42; am. 1994, ch. 323, sec. 1, p. 1037.]

39-274. EVIDENTIARY CHARACTER OF RECORDS AND COPIES OF RECORDS. Any certificate filed in accordance with the provisions of this chapter and the regulations prescribed by the board, or any copy of such records or part thereof, duly certified by the state registrar, shall be prima facie evidence of the facts recited therein.

[(39-274) 1949, ch. 72, sec. 23, p. 117; am. and redesignated 1983, ch. 7, sec. 36, p. 44.]

39-275. APPLICABILITY. The provisions of this chapter also apply to all certificates of birth, death, marriage, divorce, stillbirth, and reports of induced abortion previously received by the vital statistics unit and in the custody of the state registrar.

[39-275, added 1983, ch. 7, sec. 37, p. 44.]

39-276. UNIFORMITY OF INTERPRETATION. This chapter shall be so construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

[(39-276) 1949, ch. 72, sec. 31, p. 117; am. and redesignated 1983, ch. 7, sec. 38, p. 44.]

39-277. AUTOPSIES FOR SUSPECTED CREUTZFELDT-JAKOB DISEASE. When an attending physician or hospital has reported to the department of health and welfare that Creutzfeldt-Jakob disease (CJD) or variant CJD is suspected in relation to a person's death, the state epidemiologist, as designated pursuant to department rule, shall cause to be performed an autopsy of the body, provided a definitive diagnosis has not been made prior to death and provided further that the person or persons having the highest authority under the provisions of section [54-1142](#), Idaho Code, do not refuse the performance of such autopsy. The state epidemiologist, in ordering an autopsy pursuant to this section, shall require the person or entity performing the autopsy to report the findings of such autopsy to the department of health and welfare.

[39-277, added 2006, ch. 241, sec. 1, p. 735.]

39-278. PROCEDURE FOR DELAYED REGISTRATION OR AMENDMENT OF VITAL RECORD. (1) Following exhaustion of any administrative procedures or remedies provided by this chapter or by department rule, if an applicant has been denied a request to amend a vital record as provided by section [39-250](#)(5), Idaho Code, or because the item for which an amendment is sought has already been once administratively denied, or if a delayed registration is rejected, including as provided in section [39-267](#), Idaho Code, the applicant may petition a court of competent jurisdiction of this state for an order establishing the facts necessary to establish or amend a vital record as provided in this section.

(2) The petition must be verified and must allege at least:

(a) If the petition is for a delayed registration of birth:

- (i) That the person for whom the delayed certificate is requested was born in this state;
- (ii) That the person's birth is not registered in another state or country;
- (iii) That a record for the person's birth cannot be found in the state's vital records;
- (iv) That despite diligent efforts the petitioner was unable to obtain the information and evidentiary documents required for the creation and registration of a delayed certificate of birth;
- (v) That the state registrar has issued a final rejection of the application for a delayed certificate of birth; and
- (vi) The following information:
 - 1. The original full name and sex of the registrant;
 - 2. The date of birth and place of birth, including the:
 - (A) Facility;
 - (B) City, town or location;
 - (C) County; and
 - 3. The full maiden name of the mother; and
 - 4. The full name of the father, unless the registrant was born out of wedlock.

(b) If the petition is for a delayed registration of death or still-birth:

- (i) That the person for whom the delayed certificate is requested died in this state;

- (ii) That the person's death is not registered in another state or country;
- (iii) That a record for the person's death cannot be found in the state's vital records;
- (iv) That despite diligent efforts the petitioner was unable to obtain the information and evidentiary documents required for the creation and registration of a delayed certificate of death;
- (v) That the state registrar has issued a final rejection of the application for a delayed certificate of death; and
- (vi) The following information:
 - 1. The full name and sex of the deceased;
 - 2. The date and place of death, including the:
 - (A) Facility;
 - (B) City, town or location;
 - (C) County; and
 - 3. For a stillbirth:
 - (A) The full maiden name of the mother; and
 - (B) The full name of the father, unless the mother was not married.
- (c) If the petition is for another amendment to a vital record, in a manner otherwise permitted by department rule:
 - (i) The identity of the record registered with the state registrar and the item in the record the petitioner requests to be amended;
 - (ii) The change requested and the purpose of the amendment;
 - (iii) The rule under which the amendment is otherwise permitted; and
 - (iv) That the state registrar has issued a final rejection of the application for the requested amendment and the reason for the rejection.
- (3) The petitioner must attach all evidentiary documents presented to the registrar and the written final letter of denial or rejection from the registrar.
- (4) The petitioner must provide a complete copy of the petition, together with notice of the date, time and place of the hearing, by mailing a copy thereof at least fourteen (14) days before the time set for the hearing, by certified, registered or ordinary first class mail, to the state registrar at the address given in the written final letter of denial or rejection. The state registrar or an authorized representative may appear and present evidence at the hearing.
- (5) If the court finds from the evidence presented that:
 - (a) The person for whom a delayed certificate of birth is requested was born in this state, it shall make findings as to:
 - (i) The original full name and sex of the registrant;
 - (ii) The date of birth and place of birth, including the:
 - 1. Facility;
 - 2. City, town or location;
 - 3. County; and
 - (iii) The full maiden name of the mother; and
 - (iv) The full name of the father, unless the registrant was born out of wedlock.
 - (b) The person for whom a delayed certificate of death is requested died in this state, it shall make findings as to:

- (i) The full name and sex of the deceased; and
- (ii) The date and place of death, including the:
 - 1. Facility;
 - 2. City, town or location; and
 - 3. County.

(c) The person requesting any other amendment to a vital record in a manner otherwise permitted by department rule has established the facts necessary for the amendment and the amendment is otherwise appropriate, it shall make an order amending the item in the vital record as requested.

(6) The order of the court shall include a description of the evidence presented and the date of the court's action.

(7) The order of the court shall not alter the fees otherwise required by the registrar for the requested amendment, or the time frames otherwise provided for the registrar to administratively establish or make the amendment requested.

[39-278, added 2010, ch. 78, sec. 3, p. 130.]

39-279. SEVERABILITY. The provisions of this chapter are hereby declared to be severable, and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

[39-279, added 2020, ch. 334, sec. 3, p. 973.]