

Observations concerning H.111 in the 2017 Vermont legislature

The bill reforms the vital records law.

These observations are made by Vermont resident Gerard Ashton. I release this document to the public domain and it therefore may be copied by anyone without further permission.

MY BACKGROUND AND EXPERIENCES

There are two main reasons this bill caught my interest.

I volunteer as an emergency medical technician. In that capacity I often encounter people who have just died. On occasion I have encountered women who were in labor. Fortunately for all concerned they were able to get to a hospital before giving birth.

I am a notary public, and so am concerned with identifying people. The birth certificate is widely regarded as the source document for a person's "legal name" or "full name" (I leave it to others to decide if such concepts really exist or what they mean). I sometimes encounter people who are confused or ambivalent about what their name is. I have also encountered quite a few people in the last few years whose ancestors have obviously been living in Vermont for many generations, but the recent increased identification requirements at the DMV meant they could not obtain driver licenses, and had to settle for driving privilege cards. I certainly hope that changes to the vital records laws will strike a good balance between preventing identity theft and providing legitimate applicants with the certificates they are entitled to.

REPORTS

For births, the bill amends 18 V.S.A. § 5071 with respect to who shall report a birth to the State Registrar. The report must be made "the attending physician or midwife or, if no attending physician or midwife is **present**, a parent of the child or a legal guardian of a mother under 18 years of age" [emphasis added]. It also requires "each parent" to provide information to complete the report.

The bill also requires whoever assumes custody of a child of unknown parentage to report the birth.

The bill seems to leave a few gaps and uncertainties, some of which are unpleasant to contemplate.

Consider the case of a field childbirth where emergency medical personnel are present, but not a physician or midwife. Or consider the case where the birth occurs in a hospital, but the medical personnel in the room at the moment of birth are not physicians or midwives. Since these personnel are operating under the orders of a physician, either orders expressly given for the case at hand, or standing orders (such as those contained in the EMS protocols issued by the Vermont Health Department) the physician might, or might not, be considered "present" since he/she is represented by personnel acting under his/her orders.

Since physicians, midwives, and hospitals have more experience reporting births, it might be more desirable to make it clear that a physician or midwife who is not physically present, but is represented by other medical professionals under his/her supervision, is responsible for making the report. Otherwise, it would fall to the parent(s) to make the report.

A dire situation is where the mother dies in childbirth, or is so sick that she cannot make a report for an extended period of time. If a physician or midwife was not present at the birth, it is not clear who should report the birth, or who the State Registrar would be authorized to accept a report from,

Another dire situation is a child who has died, each of the parents have died or are unknown, and the deaths have occurred where no physician or midwife was present. Since no one assumes custody of the child, it is unclear who should report the birth, or who the State Registrar should accept a report from.

NAME ON BIRTH CERTIFICATES

Helena Gardner provided [Examples of Vital Events Certificates](#) to the House Government Operations Committee. All these certificates include "suffix" with the "name" box. Many ordinary citizens, as well as low level government officials with little legal training (such as myself, a notary public) tend to look to birth certificates as establishing a person's legal name. The presence of the suffix within the name box creates an implication that the suffix is part of a person's name. From that follows the idea that if a person wants to change his suffix, the person must, or should, go to court for a name change.

But many other sources indicate that a suffix is not part of a person's name, it is just a description. It common, but not universal, for descendants to change their suffixes upon the death of an ancestor with the same name.

Considering the uncertainty and (possibly) needless expenses created for those born in Vermont by the placement of "suffix" within the "name" box, I think the legislature should obtain competent legal advice to determine whether a suffix is, or is not, part of a name, and require

the Health Commissioner and/or State Registrar to design the vital record certificates accordingly.

COPIES BY PERSONS OTHER THAN THE STATE REGISTRAR

Vital record certificates are so widely used and demanded that the expense of obtaining certified copies can be a financial burden. Local government agencies may be inclined to make copies for internal use of certificates presented by a constituent. The holders of certificates may ask a notary to certify a copy; while this is a horrible idea, there is no obvious prohibition of this in the bill. If the notary refuses to certify a copy, the holder of the certificate may prepare a copy of the certificate and an affidavit that the copy is a true copy, and ask the notary to notarize the affidavit. I suspect this would be perfectly legal, but might create an aura of legitimacy around the copy that isn't justified.