

Mr. Ashton,
Reps. Townsend and Devereux asked me to respond to your email sent last Thursday, based largely on input from the Department of Health, and some input from me. Your comments are in blue italics, and the responses are in nonitalicized black font.

Best,
Helena

Who reports a birth.

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.

According to the Department of Health, hospitals and medical providers understand that the current statute (and the bill) are referring to the physician who is attending the birth. “Attending” and “present” are general terms that do not strictly require physical presence. The Department of Health noted that while it prefers that it be the physician who was physically present to complete the certificate, in reality there may be an intern present for the vital event but the attending physician – the doc assigned – does the death certificate since he/she is most knowledgeable.

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,

The current statute (and the bill) are clear on this topic – the parent of a child reports the birth if no one else was present. This happens infrequently (perhaps twice a year) and usually is a minor with their partner or their parent there at the time. In the very very rare cases that a mother gives birth completely alone, we always are informed because the mother, neighbor, or whoever typically notifies the hospitals, ambulance, etc. The mother and baby are taken to the hospital, we get the report from the hospital. Or, in other cases, the Health Department sends a public health nurse to the home to do a check on the mother and child, and the nurse assists the mother in reporting the birth.

Any mother who dies in childbirth is investigated by the Chief Medical Examiner. The investigation will result in appropriate documentation (death certificates for mom and child, or a birth certificate for child if survived). However, the Health Department has not had any cases like this in anyone’s recent memory in its office.

These are theoretical questions on situations that always involve medical personnel or family at some stage. In the view of the Health Department, there isn’t a need to add new language to the statute to cover such extremely rare events, and that is already understood to be addressed by the medical personnel attending to the situation after it has occurred.

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.

Again, under this theoretical scenario, the Chief Medical Examiner is assigned to the case and investigates the events. He/she then handles the death certificates (as stated in current law and in the bill). If the baby was born and died immediately, along with the parents, the CME would be the physician who does the birth certificate as part of the investigation. However, the Health Dep't doesn't think this has ever occurred – if it did, then not in several decades. But again, current statutes (which would not be changed under the bill language) already accounts for the situation.

Is Suffix part of a Name.

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 uncertainly 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.

The suffix is considered part of a person's **legal** name. This is not just in Vermont – it is the case in all states and the federal agencies that require names, such as Social Security Administration and Passport. The federal agencies require the Health Dep't to send suffix and all nation-wide verifications of births and deaths are performed on the full name, which includes suffix.

Federal agencies need to know when **any** part of a legal name is changed – this includes suffix. If a person were to change their suffix (say from SR to JR), and the birth certificate was not amended to show the change, then that person will be denied a Passport, driver's license, and other federal benefits because their full legal name will no longer match what is in the federal databases or what is displayed on the copy of the birth certificate. If agencies don't see the change listed, then they will assume it to be a fraudulent document and start an investigation.

Therefore, making the change described above would not only put Vermont in violation of the requirements from federal agencies, it would create considerable harm to any Vermonter in the future who needs something from a federal agency (and may get them caught in an investigation unnecessarily).

In the Health Department's view, there is no need to specify in statute that suffix is part of the legal name.

Copies from Notaries

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.

Under the bill, a notary would not be able to “certify” a copy of a certificate, as the bill prohibits unauthorized persons (including notaries, unless the notary is a town clerk) from certifying vital event certificates. See p. 1, lines 18-20 and p.20, lines 6-7 and 10-11 of the bill. <http://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0111/H-0111%20As%20Introduced.pdf>

From: Maida Townsend
Sent: Thursday, February 09, 2017 7:18 PM
To: HOUSE_GOVERNMENT_OPERATIONS
Cc: Helena Gardner
Subject: Fw: H.111, An act relating to vital records

fyi.

From: Gerard Ashton <ashton@ieee.org>
Sent: Thursday, February 9, 2017 4:49 PM
To: Maida Townsend
Subject: H.111, An act relating to vital records

As an emergency medical technician I often deal with deaths; I haven't assisted at a birth yet, but the potential exists. As a notary public, I deal with names, which are first established by birth certificates. That's why this bill attracted my attention.

I made some observations, which I attach in a Microsoft Word document.

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