



## Louisiana Laws Regarding Hospital Birth Certificate Reporting

### *Selections from Louisiana Revised Statutes, Title 40*

#### **§34. Vital records forms**

A.(1) The certificate forms prescribed by the state registrar shall include, as a minimum, birth certificates, death certificates, paternity acknowledgment affidavits, and any other forms recommended by the national office in charge of gathering vital statistics. Only these forms shall be used in registering, recording, and preserving the vital information required by this Chapter. These forms shall be typewritten in black type or written in jet black ink or transferred by electronic means. Additionally each certificate of a birth occurring in a licensed hospital shall be typewritten in black type or computer generated. Whenever a form is changed, the new form shall be furnished to the person charged with preparing it not less than thirty days prior to the date upon which the form shall be required to be used.

(2) The Louisiana Department of Health shall promulgate rules and regulations in accordance with the Administrative Procedure Act to allow electronic registration in lieu of typewritten or written birth, death, fetal death, marriage, and divorce certificates.

B. The forms shall be printed and supplied or provided by electronic means by the state registrar.

*The above statute gives Vital Records the authority to supply mandatory birth registration forms electronically (done via LEERS). Any new form must be furnished to users by Vital Records at least 30 days prior to its mandatory use. Note that while specific items to be included are named in the proceeding statutes, the state registrar is given authority in this statute to require additional items.*

#### **§34.1. Original birth certificate; required contents**

A. An original birth certificate shall contain, as a minimum, the items provided in R.S. 40:34.2 through 34.9.

B. In the case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the biological parents shall be considered the parents of the child.

#### **§34.2. Original birth certificate; required contents; name of child**

The name of the child shall be entered on the original birth certificate in accordance with the following provisions:

(1) First name.

(a) If the child dies without a first name before the certificate is filed, enter the words "died unnamed" in this blank.

(b) If the living child has not yet been given a first name at the date of filing of the certificate, leave blank the space for the first name of the child and enter the name later when supplied by affidavit.

(2) Surname.

(a) Except as otherwise provided in Subparagraph (c) of this Paragraph, if the child is born to a mother who either is married or was married within three hundred days prior to the birth of the child, the surname of the child shall be recorded in accordance with the following requirements:

(i) If the mother is married at the time of the birth of the child, and if the mother was not married to another man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the current husband of the mother.

(ii) If the mother, though married to one man at the time of the birth of the child, was married to another man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the former husband of the mother.

(iii) If the mother, though unmarried at the time of the birth of the child, was married to a man within three hundred days prior to the birth of the child, the surname of the child shall be the surname of the former husband of the mother.

(iv) In any of these cases, if both the man whose surname should be given to the child and the mother agree, the surname of the child may be the maiden name or surname of the mother or a combination of the surname of the man and the maiden name or surname of the mother.

(b) If the child is born to a mother who neither is married nor was married within three hundred days prior to the birth of the child, the surname of the child shall be the maiden name or surname of the mother, at her discretion. If the father has acknowledged his child by authentic act and if both the mother and the father agree, the surname of the child may be the maiden name or surname of the mother, the surname of the father, or a combination of the surname of the father and the maiden name or surname of the mother.

(c) In the case of a child born to a mother who either is married or was married within three hundred days prior to the birth of the child, including cases in which both a person presumed to be the father pursuant to the Civil Code and a biological father exist, the surname of the biological father who has been judicially declared to be the father of the child in a filiation or paternity proceeding shall be the surname of the child. If the biological father and the mother agree, the surname of the child shall be the maiden name or surname of the mother or a combination of the surname of the biological father and the maiden name or surname of the mother.

(d) In the case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the surname of the child's biological parents shall be the surname of the child.

*The above statutes state the contents required to be provided in the birth certificate. This includes the requirement for the child's surname to be the same as the father's surname, or if both parties agree the child's surname may be a combination of the mother's surname or maiden name and the father's surname. Vital Records legal counsel has advised that **no part of either parent's surname may be dropped** in the process of creating the child's combined surname.*

**§34.3. Original birth certificate; required contents; sex of child**

The sex of the child shall be entered on the original birth certificate.

**§34.4. Original birth certificate; required contents; circumstances of birth**

The circumstances of the birth of the child shall be entered on the original birth certificate. These circumstances shall include all of the following:

- (1) Time of birth.
- (2) Date of birth, including the year, the month, and the day.
- (3) Place of birth, address, including city or town and state; if in a hospital or other institution, its name.
- (4) Whether a plural birth. A separate certificate is required for each child in a plural birth.
- (5) If a plural birth, the number of each child in order of birth.

**§34.5. Original birth certificate; required contents; name of father**

A. If the child is born to a mother who either is married or was married within three hundred days prior to the birth of the child, the full name of the father shall be recorded in the same manner provided for the recordation of the surname of the child in R.S. 40:34.2(2)(a) and (c).

B. If the child is born to a mother who neither is married nor was married within three hundred days prior to the birth of the child, the full name of the father who has acknowledged his child by authentic act shall be included on the birth record of the child, but only if the father and mother agree.

C. In the case of a child born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the full name of the biological father shall be listed as the father.

D. In all other cases, the name of the father and other information pertaining to the father shall not appear on the birth certificate and the surname of the child shall be recorded as the maiden name or surname of the mother, at her discretion.

E. Nothing in this Section shall preclude the Department of Children and Family Services, office of children and family services, child support enforcement section from obtaining an admission of paternity from the biological father for submission in a judicial proceeding, or prohibit the issuance of an order in a judicial proceeding which bases a legal finding of paternity on an admission of paternity by the biological father and on any other additional showing required by state law.

*The above statutes state the requirements for listing a father on the certificate depending on the mother's marital status around the time of the birth of the child.*

**§34.6. Original birth certificate; required contents; name of mother**

The full name of the mother of the child, including her maiden name and current surname, shall be entered on the original birth certificate; however, if the child was born of a surrogate birth parent as a result of an enforceable gestational carrier contract, as provided in R.S. 9:2720, the maiden name of the biological mother shall be listed as the mother.

**§34.7. Original birth certificate; required contents; other information regarding the parents**

The following information regarding the parents shall also be entered on the original birth certificate:

- (1) Respective ages of parents on their last birthday, in years.
- (2) Races of parents as reported by the parents.
- (3) Ethnicities of parents as reported by the parents.
- (4) Residences of parents.
- (5) Birthplaces of parents, at least the state or foreign country, if known.
- (6) Number of children born to this mother.
- (7) Number of children born to this mother living.
- (8) Social security account numbers issued to the parents, if obtainable; however, these numbers shall not be printed on the birth certificate of the child, but shall be entered only as a part of vital records.

**§34.8. Original birth certificate; required contents; certification of attendant**

The certification of the attending physician, midwife, or other person in attendance, including a statement of the year, month, day, and hour of birth, shall be entered on the original birth certificate. This certification shall be signed by the physician, midwife, or other person in attendance, with the address and date of signature.

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**§44. Compulsory registration of births; rejection of certificates**

A.(1) A certificate of every childbirth shall be filed with the local registrar within fifteen days after birth in the parish in which the birth occurred or, at the direction of the state registrar, the certificate shall be filed directly with the central vital records registry. In the event that any information or signature required by this Chapter has not been obtained within the time allowed, the person responsible for preparing the certificate shall nevertheless file the certificate with such information and signatures as have been obtained and shall demonstrate that a reasonable effort has been made to obtain the missing information or signature. For the purposes of this Section, a request by certified mail to the last known address of the person or entity having the needed information or required to sign

after an attempt to contact the person or entity by regular mail, telephone, or both, shall constitute reasonable effort.

(2) In the event that a signature other than the physician's signature has not been obtained, then the hospital shall also certify on a separate document that the information contained on the certificate accurately reflects the contents of the medical record. The state registrar or local registrar shall then sign the certificate in place of the missing signature.

B. No certificate shall be returned for completion which complies with this Section. No certificate which is otherwise accurate and legible shall be rejected for minor blemishes or aesthetic flaws, except that certificates which contain erasures, liquid paper, type-overs, or other evidence of alteration in the legal section shall not be accepted by the state registrar nor shall documents be accepted which are not machine readable due to information overlap with lines or text on the birth certificate form.

C. A certificate not in compliance with this Section or otherwise properly rejected shall be returned within fifteen days of receipt by the local registrar to the person charged by R.S. 40:45 with preparing it. That person shall, within fifteen days of receipt, obtain the missing information or signature or demonstrate that a reasonable effort has been made to obtain the missing information or signature.

*The above statutes deal with the requirements for certifying the medical information on a birth record, and gives a timeframe of 15 days from the birth to file the certificate. If the required information has not been collected after that time, the record should be registered with the missing information (done via discrepancy letter, flagging the record for non-issue until the mother resolves the outstanding issues).*

#### **§45. Preparation of birth certificates; by whom made**

A. When a birth occurs in a hospital where prior arrangements for delivery had been made or in route thereto, the person in charge of the institution or his or her designated representative shall obtain, or make a reasonable effort, as defined in R.S. 40:44, to obtain the personal data, prepare the certificate, secure, or make a reasonable effort, as defined in R.S. 40:44, to secure the signatures required, and file the certificate as directed in R.S. 40:44. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within seven days after the birth. If the physician, or other person in attendance, does not certify to the facts of birth within the seven day period, the person in charge of the hospital shall complete and sign the certificate.

B. For births occurring outside of hospitals, the certificate shall be prepared and filed by the physician, midwife, or other person in attendance at the birth, or, if not so attended, by one of the parents who shall file it with the local registrar. If neither of the parents of the newborn child, unattended by either physician or midwife, is able to prepare a birth certificate, the local registrar shall secure the necessary information from either of them or from any person having direct knowledge of

the birth and prepare and file the certificate in accordance with duly promulgated regulation as provided in R.S. 40:33(C).

C. 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 place where it is first removed shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or 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. Such registration shall further comply with duly promulgated regulation as provided in R.S. 40:33(C).

D. Whoever assumes the custody of a live born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within five days to the vital records registry the following information:

- (1) The date and place of finding.
- (2) The sex, race, and approximate birth date of child.
- (3) The name and address of the person or institution with whom the child has been placed for care.
- (4) The name given to the child by the custodian of the child; or
- (5) The other data required by the state registrar through regulations.

E. The place where the child was found shall be entered as the place of birth.

F. A report registered under this Section shall constitute the certificate of birth for the child.

G. If the child is identified and a certificate of birth is later found or obtained, the report registered under this Section shall be placed in a special file and shall not be subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

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*The above statutes deal with births that occur outside of hospitals. These births are to be filed with the local registrar at the Parish Health Unit in the parish where the birth occurred.*

#### **§46.9. Married mother physically separated from husband prior to and at time of birth**

A. If, following the birth of a child to a married woman, a birth certificate was prepared for the child in accordance with R.S. 40:34.2(2), if the husband and the mother of the child lived separate and apart continuously for one hundred eighty days prior to the time of conception of the child and did not reconcile since the beginning of the one hundred eighty-day period, and if the biological father of the child is a man other than the husband of the mother, then the birth certificate of the child may be amended so that the surname of the child is the maiden name of the mother, or, if the mother, her

husband, and the biological father of the child agree, the surname of the child may be that of the biological father or a combination of the surname of the biological father and the maiden name of the mother. The Louisiana Department of Health, office of public health, shall develop a form for the purposes of implementing this Section.

B. Upon the petition of the mother of the child, a court may, for good cause shown, order the state registrar to enter, as the surname of the child, the maiden name or surname of the mother or a combination of the surname of the biological father and the maiden name or surname of the mother, whichever she may choose, even if that man does not concur.

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*The above statute deals with what was previously handled as a three-party acknowledgment of paternity. This three-party acknowledgment no longer exists in Louisiana law, but this statute provides for a situation where the child's surname may be changed to that of a willing biological father if the signatures of the mother and mother's husband (or ex-husband divorced under 300 days from the date of birth) are obtained.*

#### **§46.12. Hospital-based paternity program**

A. Any hospital in the state which provides birthing services shall have a program that allows for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child.

B. During the period immediately before or after the birth of a child to an unmarried woman, a hospital-based program established in accordance with this Section shall, at a minimum:

(1) Provide to both the mother and alleged father, if he is present in the hospital:

(a) Written materials about paternity establishment.

(b) The forms necessary to voluntarily acknowledge paternity.

(c) A written description of the rights, responsibilities, and alternatives as provided in R.S. 9:392(A) which are involved in acknowledging paternity.

(d) The opportunity to speak with hospital personnel, either by telephone or in person, who are trained to clarify information and answer questions about paternity establishment.

(2) Provide the mother and alleged father, if he is present, the opportunity to voluntarily acknowledge paternity in the hospital in accordance with the Civil Code and R.S. 9:392.

(3) Afford due process safeguards.

(4) Forward completed acknowledgments to the state registrar.

C. Hospital support personnel that provide birthing services shall possess notarial powers to administer oaths to and authenticate signatures of any persons in connection with execution of a formal acknowledgment of paternity in accordance with this Section. Any oaths administered or signatures authenticated pursuant to this Section shall have the same force and effect as if taken or signed before a duly commissioned notary public.

D. Hospital personnel shall forward an acknowledgment of paternity to the state registrar who shall forward copies of same to the Department of Children and Family Services, office of children and family services, child support enforcement section. A statewide database shall be maintained by the Department of Children and Family Services in accordance with federal regulations.

E. A voluntary acknowledgment executed in accordance with this Section shall be signed by both parents and the parents' signatures shall be authenticated by a person possessing notarial powers in accordance with state laws.

F. The Department of Children and Family Services, office of children and family services, child support enforcement section shall provide to all birthing hospitals in the state:

(1) Written materials about paternity establishment.

(2) Forms necessary to voluntarily acknowledge paternity.

(3) Copies of a written description of the rights, responsibilities, and alternatives as provided in R.S. 9:392(A) which are involved in acknowledging paternity.

(4) Training, guidance, and written instructions relative to voluntary acknowledgment of paternity, as necessary to operate the hospital-based program.

(5) An assessment of each birthing hospital's program on at least an annual basis.

G. Except in the case of intentional misconduct, no hospital or any agent or employee thereof shall be held civilly or criminally liable for any action or omission arising out of the performance of, attempted performance of, or failure or inability to perform the duties imposed herein.

*The above statute deals with the Hospital-based paternity program, including procedures that must be followed when an unmarried father is placed on a birth certificate in the hospital.*