

BIRTH REGISTRATION WORKGROUP MEETING NOTES

January 6, 2016

Regular text = paraphrased discussion

Italics=Department's response

Bold, italics, and indented=rule with changes highlighted

R9-19-201(A)

A question was asked about whether forms will be changed to ask for “parent” information, rather than for information about the mother and father.

Because statutes refer to “mother” and “father” rather than “parent,” Worksheets and other forms used to collect information to register a birth will specify “mother” and “father.”

R9-19-203(A)

When discussing the Department’s response in the Meeting Notes to the question about what happens if parents refuse to provide information on the Birth Worksheet, a question was asked about whether a “Refused” box could be included on the Worksheet to indicate that the parent was refusing to provide the information.

The information required on the Birth Worksheet and in rule is needed by public health agencies, including the Department, to inform public health policy, decisions, and activities. As such, the Department needs to ensure that efforts are made to obtain the information from parents. While the Department understands that sometimes some of the information may be unknown or that a parent may refuse to provide a piece of information, the Department wants a health care provider to explain the requirement and the rationale behind the requirement. If, after explaining the rationale/importance of the information, the health care provider is still unable to get the information from a parent, the health care provider may submit the information that has been provided, along with an indication that a parent has refused to or cannot provide other information, to the State Registrar or a local registrar or deputy local registrar. The State Registrar, local registrar, or deputy local registrar will review the information submitted/explanation as provided in R9-19-103 and determine whether there is sufficient information to register the birth.

R9-19-204

A question was asked about what information is submitted to indicate that a birth occurred at home, but the placenta was delivered at a hospital.

The Department has determined that if a child is born at home, regardless of where the placenta is delivered, it is the responsibility of the parents/family member to register the birth. However, a hospital may assist the family by submitting the record for birth registration.

R9-19-204(I)

A comment was made that an individual who is born before 1970, a tribal member, and applying for a delayed birth certificate may not know the dates of birth of the individual’s parents.

To address this concern and make the rules internally consistent, the Department plans to change the rule as follows, including the changes already documented in the Meeting Notes of the December 9, 2015 meeting:

- I. If an individual's birth occurred in Arizona before 1970, the individual is a member of a tribe recognized by the Federal Bureau of Indian Affairs Office of Federal Acknowledgement under 25 CFR Part 83, and the individual's birth is not registered, the individual or the individual's guardian may request the registration of the individual's birth by submitting to the State Registrar:**
- 2. The following information, in a Department-provided format:**
 - d. The individual's mother's:**
 - i. Name before first marriage,**
 - ii. Current last name, and**
 - iii. Date of birth, if known;**
 - e. If applicable according to A.R.S. § 36-334, the name and, if known, date of birth of the individual's father; and**

- f. A written statement attesting to the validity of the information required in subsections (I)(2)(a) through (e), signed by:
 - i. The individual; or
 - ii. If applicable, the individual's guardian or the person who has custody of the individual;
- 3. If the information is submitted by the individual's guardian, a copy of the court order establishing guardianship, certified by the issuing court;
- 4. An evidentiary document verifying the individual's official tribal enrollment, issued by the Tribal Authority of the federally recognized tribe and certified by the Tribal Authority, containing:
 - a. The individual's:
 - i. Name before first marriage;
 - ii. Date of birth; and
 - iii. Town, city, or county where the individual's birth occurred;
 - b. The individual's mother's name; and
 - c. If applicable according to A.R.S. § 36-334, the individual's father's name;
- 5. One or more other evidentiary documents that:
 - a. Support the information provided according to subsection (I)(2)(c) through (e), and
 - b. May include an affidavit from an independent source, attesting to personal knowledge of the individual's birth; and
- 6. The fee in R9-19-105 for a request to establish a delayed birth record and register the individual's birth.

R9-19-204(J)

A question was asked about whether subsection (J) is needed since the wording in the amended subsection (I)(5) has been changed to reflect that additional evidentiary documents may be submitted to support the birth registration.

With the changes made to the wording in subsection (I)(5), subsection (J) is no longer needed. The Department plans to remove subsection (J), re-letter subsequent subsections, and correct cross-references.

R9-19-207(E)(2)

A comment was made that the person submitting a request for a correction should provide an affidavit attesting to the validity of the corrected information.

The Department agrees and plans to change the rule as follows:

- E. In addition to the information in subsection (A), a person in subsection (D) requesting a correction to an individual's registered birth record shall submit to the State Registrar or a local registrar:
 - 1. The name and mailing address of the person requesting the correction;
 - 2. An affidavit attesting to the validity of the submitted correction, signed by the person requesting the correction;

R9-19-208(A)(2)(g)

A comment was made that the signed attestation should always be notarized and would, therefore, meet the definition of an affidavit.

The Department agrees and plans to change the rule and other applicable subsections in R9-19-208 as follows:

- g. Except as specified in subsections (C), (D), (K), (L), and (M), an affidavit attesting to the validity of the submitted amendment, signed by each person requesting the amendment.
- I. To amend the month or day of an individual's birth in the individual's registered birth record, the individual, if the individual is of legal age or is married, or the individual's parent or guardian shall submit to the State Registrar or a local registrar:
 - 1. The written request in subsection (A) that includes the month or day to be deleted and the month or day to be added;
- J. To amend the date of birth or place of birth of an individual's parent in the individual's registered birth record or to change the individual's mother's last name in the individual's registered birth record to the

individual's mother's last name before the individual's mother's first marriage, the individual, if the individual is of legal age or is married, or the individual's parent or guardian shall submit to the State Registrar or a local registrar:

1. The written request in subsection (A) that includes the specific information in the individual's registered birth record to be amended, including the date of birth, place of birth, or name to be deleted and the date of birth, place of birth, or name to be added;

O. To request an amendment to an individual's registered birth record when the individual has undergone a sex change operation or has had a chromosomal count that establishes the sex of the individual as different than in the individual's registered birth record, an individual, if the individual is of legal age or is married, or the individual's parent or guardian shall submit to the State Registrar or a local registrar:

1. The written request in subsection (A) to amend the sex included in the individual's registered birth record that includes:

a. The individual's sex currently in the individual's registered birth record; and

b. The requested change for the individual's sex to be included in the individual's registered birth record;

R9-19-208(B)

A question was asked about what a court order to amend an individual's registered birth record needs to contain. The court order must specify what information in an individual's registered birth record needs to be amended and how. The Department will change the definition as follows to clarify this:

B. Except as otherwise provided in this Section, to request an amendment to an individual's registered birth record, a person requesting the amendment shall submit to the State Registrar:

1. The written request in subsection (A);

2. A copy of a court order to amend the individual's registered birth record, certified by the issuing court and including the information to be amended, as specified according to subsection (A)(2)(e);

R9-19-208(B)(2)

A question was asked about what information is required to be listed for amending paternity based on a court order. The Department will add a new Subsection for amending an individual's birth record to add or amend father's information based on an administrative order or a court order establishing paternity. The Department will change the rule to add the following after the subsection for voluntary acknowledgements of paternity and make corresponding changes to subsequent subsections:

L. To request the amendment of an individual's registered birth record based on an administrative order or court order establishing paternity, a person shall submit to the State Registrar:

1. A copy of the administrative order or a court order establishing paternity, certified by the issuing entity;

2. The following information, which may be submitted as part of the administrative order or a court order establishing paternity or in a Department-provided format:

a. The information required in the written request in subsection (A); and

b. The following information about the father to be added to the individual's registered birth record:

i. Name;

ii. Date of birth;

iii. State, territory, or foreign country where the father was born; and

iv. If the person requesting the amendment is not the issuing entity:

(1) Social Security Number;

(2) Race;

(3) Whether the father is of Hispanic origin and if so, the type of Hispanic origin; and

(4) Highest degree or level of education completed by the father at the time of the individual's birth; and

3. The fee in R9-19-105 for a request to amend information in a registered birth record.

R9-19-208(F)(2)(c)

A question was asked about whether the document needs to have been created within six months after the individual's birth or one year, as stated in the draft rules.

The Department has determined that the "six month" requirement may have been too stringent and has changed the requirement so an individual's parent or guardian wanting to amend the individual's registered birth record more than 90 days but less than one year after the individual's birth may submit an evidentiary document created within one year after the individual's birth. No change will be made to the draft rule.

R9-19-209(B)

A question was asked about whether a person has the right to appeal the intent to cancel an individual's birth record.

The Department will change the rule as follows to clarify that a person has the right to appeal the intent to cancel an individual's registered birth record:

B. If the State Registrar intends to cancel an individual's registered birth record as prescribed in subsection (A), the State Registrar shall provide written notice of the intent to cancel and the right to appeal the intent to cancel, as prescribed in A.R.S. Title 41, Chapter 6, Article 6, to:

R9-19-210(A)(3) and (4)

With the changes made to R9-19-204, the Department has found that the cross-references in R9-19-210(A)(3) and (4) are now incorrect. The Department will change the rule as follows:

- A. A certified copy of a certificate of birth registration contains, as available, the information specified in:**
- 3. R9-19-204(F)(2)(c)(ii) through (v), (d)(ii) through (v), and (e)(i) through (iii) for a birth registered according to R9-19-204(F);**
 - 4. R9-19-204(I)(2)(c)(ii) through (v), (d), and (e) for a birth registered according to R9-19-204(I);**

R9-19-210(B)

A question was asked about whether a step-family member may request a copy of an individual's birth record.

Unless the step-family member can show a relationship to the individual through adoption, the step-family member is not eligible to receive a copy of the individual's birth record.

R9-19-211

A question was asked about who can get a copy of information in an original birth record after the birth record has been amended through adoption.

According to A.R.S. § 36-322, the State Registrar seals the original birth record after amending the record. Except as required by a court order, no information is released from a sealed record.