

1985 BILL 38

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 38

VITAL STATISTICS AMENDMENT ACT, 1985

MR. WOO

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

BILL 38

1985

VITAL STATISTICS AMENDMENT ACT, 1985

(Assented to _____, 1985)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1 *The Vital Statistics Act is amended by this Act.*

2 *Section 3(5) to (10) are repealed and the following is substituted:*

(5) Except as provided in subsections (6) and (8), the birth of a child of a married woman shall be registered as follows:

(a) if the husband and mother, according to the statement in subsection (2), use the same surname

(i) showing that surname,

(ii) showing the husband's surname hyphenated or combined with the mother's maiden surname if the husband and mother jointly so request, or

(iii) showing the maiden surname of the mother if the husband and mother jointly so request;

(b) if, according to the statement in subsection (2), the husband and mother use different surnames

(i) showing the surnames of the husband and the mother hyphenated in alphabetical order, or

(ii) if the husband and mother jointly so request, showing

(A) one of their surnames, or

(B) the husband's surname hyphenated or combined with the mother's surname.

(6) Except as provided in subsection (8), when a child is born to a married woman, if she files with the district registrar a statutory declaration

(a) that at the time of the conception she was living separate and apart from her husband, and

(b) that her husband is not the father of the child,

Explanatory Notes

1 This Bill will amend chapter V-4 of the Revised Statutes of Alberta 1980.

2 Section 3 presently reads in part:

(5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child.

(6) When a child is born to a married woman, if she files with the district registrar a statutory declaration

(a) that at the time of the conception she was living separate and apart from her husband, and

(b) that her husband is not the father of the child,

no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case

(c) the particulars of the person so acknowledging may be given as the particulars of the father, or

(d) the birth may be registered showing the surname of the person so acknowledging as the surname of the child,

or both, and, if the request is made after the registration of the birth, the Director may amend the registration in accordance with the request by making the necessary notation thereon.

(7) Except as provided in subsection (8), the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child and no particulars as to the father shall be given.

(8) When an unmarried woman who is the mother of a child and a person acknowledging himself to be the father jointly so request in writing,

(a) the particulars of the person so acknowledging may be given as the particulars of the father, or

(b) the birth may be registered showing the surname of the person so acknowledging as the surname of the child

the registration of the birth of the child shall show the surname of the mother as the surname of the child and no particulars as to the father shall be given in the statement required under subsection (2).

(7) Except as provided in subsection (8), the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child and no particulars as to the father shall be given in the statement required under subsection (2).

(8) If a married woman who has made a statutory declaration under subsection (6) or an unmarried woman, as the case may be, and a person acknowledging himself to be the father jointly so request in writing

(a) the particulars of the person so acknowledging may be given as the particulars of the father, or

(b) the birth may be registered if the person so acknowledging and the mother jointly so request, showing

(i) one of their surnames, or

(ii) the surnames of the person so acknowledging hyphenated or combined with the mother's surname

or both clauses (a) and (b).

(9) If a request under subsection (8) is made after the original registration of birth, the Director may amend the registration in accordance with the request by making the necessary notation thereon.

(10) Notwithstanding anything in this section, no surname shall contain more than 2 surnames combined or hyphenated, and if the husband or person acknowledging, as the case may be, or the mother or both have a hyphenated surname, only 1 of the names in that surname shall be used.

(10.1) For the purposes of subsections (5)(b)(i) and (8)(b)(i) if subsection (10) applies the one name to be used is the name that alphabetically precedes the other.

(10.2) Where a joint request is required under subsection (5) or (8)(b) and one of the persons is incapable of making the request, the joint request is not required

(a) if that person has died, or

(b) if the Court of Queen's Bench, on application, makes an order that the joint request is not required.

3 Section 8 is amended

(a) in subsection (2), by striking out "and deliver to the funeral director";

(b) in subsection (3), by striking out "and shall deliver it to the funeral director";

or both and, if the request is made after the registration of the birth, the Director may amend the registration in accordance with the request by making the necessary notation thereon.

(9) Notwithstanding anything in this section, the birth of a child may be registered showing

(a) the surname of the husband hyphenated or combined with the surname of the mother, if subsection (5) applies to the registration, or

(b) the surname of the person acknowledging himself to be the father hyphenated or combined with the surname of the mother, if subsection (6) or (8) applies to the registration,

on and in accordance with the joint request in writing of the mother and the husband or the person acknowledging, as the case may be.

(10) When a request is made pursuant to subsection (9) after the registration of the birth, the Director may amend the registration in accordance with the request by making the necessary notation thereon.

3 Section 8 presently reads:

8(1) Every stillbirth in Alberta shall be registered as provided herein.

(2) When a stillbirth occurs, the person who would have been responsible for the registration thereof as provided in section 3, if it had been a birth, shall complete and deliver to the funeral director a statement in the prescribed form respecting the stillbirth.

(c) by repealing subsection (7) and substituting the following:

(7) On receipt of the registration of a stillbirth and the medical certificate, the district registrar shall forthwith prepare and issue a burial permit to the person requiring it for the purpose of the burial, cremation, removal or other disposition of the body of the stillborn child.

4 Section 15 is amended

*(a) in subsection (2), by striking out “and shall within 24 hours of signing the medical certificate cause the medical certificate to be delivered to the funeral director in the prescribed manner and a copy of the medical certificate to be sent to the Chief Medical Examiner appointed under the *Fatality Inquiries Act*”;*

(b) by repealing subsection (4)(a).

(3) *The physician in attendance at a stillbirth, or, if there is no physician in attendance, a physician or a medical examiner shall complete the medical certificate included in the prescribed form showing the cause of the stillbirth and shall deliver it to the funeral director.*

(4) *If a district registrar is satisfied that there was no physician and no medical examiner within a reasonable distance from the place where a stillbirth has occurred and that it is not reasonably practicable to have the medical certificate completed as provided in subsection (3), the district registrar may, in lieu of the medical certificate, prepare and sign a certificate prepared from the statements of relatives of the parents of the stillborn child or of other persons having adequate knowledge of the facts.*

(5) *On receipt of the statement, the funeral director shall complete the statement setting forth the proposed date and place of burial, cremation or other disposition of the body and shall deliver the statement to the district registrar.*

(6) *On receipt of the statement the district registrar, if he is satisfied as to its truth and sufficiency, shall register the stillbirth by signing the statement, and thereupon the statement constitutes the registration of the stillbirth.*

(7) *On the registration of a stillbirth, the district registrar shall forthwith prepare and deliver to the person requiring them for the purpose of the burial, cremation or other disposition of the body of the stillborn child,*

- (a) an acknowledgment that the stillbirth is registered, and*
- (b) a burial permit.*

(8) *Subject to this section, sections 2 to 4 and sections 14 to 19 apply, with all necessary modifications, to stillbirths.*

4 Section 15(2) and (4)(a) presently read:

(2) *When*

(a) *a physician*

- (i) has attended the deceased person in relation to his final illness at least once during the 14 days immediately preceding the death,*
- (ii) is able to certify the medical cause of death with reasonable accuracy, and*
- (iii) has no reason to believe that the deceased died under circumstances which require the notification of a medical examiner under the Fatality Inquiries Act,*

(b) *the death was natural and a physician*

- (i) is able to certify the medical cause of death with reasonable accuracy, and*
- (ii) has received the consent of a medical examiner to complete and sign the medical certificate of death,*

or

(c) *a medical examiner conducts an investigation into the death pursuant to the Fatality Inquiries Act,*

the physician or the medical examiner, as the case may be, shall within 48 hours of the death, complete and sign a medical certificate in the prescribed form stating therein the cause of death according to the International Classification and shall within 24 hours of signing the medical

5 *Section 16(2) is repealed.*

6 *Section 18 is amended*

(a) by repealing subsections (1), (2) and (3) and substituting the following:

18(1) On receipt of the registration of death and a medical certificate of death or interim medical certificate of death, a district registrar shall prepare and issue to the funeral director a burial permit.

(2) No person shall bury, cremate or otherwise dispose of the body of a person who dies in Alberta unless a burial permit in respect of the deceased has been obtained from a district registrar.

(3) When the body of any person is to be removed to a place outside Alberta for burial, cremation or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket or other container.

(b) by repealing subsections (4)(a) and (6).

certificate cause the medical certificate to be delivered to the funeral director in the prescribed manner and a copy of the medical certificate to be sent to the Chief Medical Examiner appointed under the Fatality Inquiries Act.

(4) When an interim medical certificate is issued under subsection (3), the physician or the medical examiner, as the case may be, shall

(a) forthwith cause the interim medical certificate to be provided to the funeral director in the prescribed manner, and

5 Section 16(2) presently reads:

(2) When it is impracticable to deliver the statement respecting a death to the proper district registrar, the statement may be delivered to the nearest district registrar, who shall

(a) register the death by signing the statement and issue an acknowledgment of the registration of the death and a burial permit, and

(b) forward the registration forthwith to the proper district registrar.

6 Section 18 presently reads:

18(1) On the registration of a death under section 16(1), the district registrar shall prepare and issue to the funeral director

(a) an acknowledgment that the death is registered, and

(b) a burial permit.

(2) No person shall

(a) bury or otherwise dispose of the body of a person who dies in Alberta, or

(b) remove it from the registration district in which the death occurred or the body was found, except with the approval of the district registrar, or temporarily for the purpose of preparing the body for burial,

unless the death is registered as provided herein, and an acknowledgment of the registration of the death and a burial permit has been obtained from the district registrar.

(3) When the body of any person is to be removed by a common carrier to the place of burial or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket.

(4) The funeral director, at the place of burial or other disposition, shall

(a) remove any copies of the burial permit affixed to the outside of the casket,

(b) deliver the prescribed copy of the burial permit to the person conducting the funeral or religious service, and

(c) deliver the prescribed copy of the burial permit to the cemetery owner.

(5) When a death occurs outside Alberta and the burial or other disposition of the body is to take place in Alberta, a burial permit or any other document that is prescribed under the law of Alberta or country in which death occurs, signed by the district registrar or other proper officer and countersigned by a medical examiner, is sufficient authority for the burial or other disposition of the body.

(6) Subsections (2) and (3) do not apply to the removal of the body of any person for the purposes of the Fatality Inquiries Act.

7 *The heading preceding section 24 is amended by striking out “Corrections or”.*

8 *Section 30 is repealed.*

9 *Section 32 is amended*

(a) in subsection (2), by adding the following after clause (a):

(a.1) to the person to whom the registration applies, if he is an adult,

(a.2) to a person who is shown on the registration as the mother or father of the person in respect of whom the registration applies,

(b) by adding the following after subsection (7):

(7.1) Notwithstanding subsections (2), (4), (6) and (7), a certified copy, photographic print or certificate, as the case may be, of the registration may be issued to any person if

(a) in the case of subsection (2), 100 years has elapsed since the date of the birth,

(b) in the case of subsection (4), 75 years has elapsed since the date of the marriage, and

(c) in the case of subsections (6) and (7), 50 years has elapsed since the date of the death or stillbirth, as the case may be.

(7) Notwithstanding subsections (1) and (3),

(a) the district registrar may issue a burial permit if an interim medical certificate has been issued pursuant to section 15(5), and

(b) when the district registrar issues a burial permit under clause (a), the body may be buried or otherwise disposed of even though the registration of death has not been completed.

7 The heading presently reads:

Corrections or Errors in Registrations

8 Section 30 presently reads:

30 *The Director shall as soon as possible*

(a) give notice to the Director of Maintenance and Recovery of the birth of a child out of wedlock that is registered in his office,

(b) give notice of the birth of a child that has been registered in that manner that suggests that the parents were at the time of registration unmarried or unknown, and

(c) furnish to the Director of Maintenance and Recovery any particulars as to the birth of the child that he requires.

9 Section 32 presently reads:

32(1) *Any person, on applying, furnishing information satisfactory to the Director and paying the prescribed fee, may, if the Director is satisfied that it is not to be used for any unlawful or improper purpose, obtain a certificate in the prescribed form in respect of the registration of the birth of any person, and the certificate shall contain at least the following particulars of the registration:*

(a) *the name of the person;*

(b) *the date of birth;*

(c) *the place of birth;*

(d) *the sex of the person;*

(e) *the date of registration;*

(f) *the serial number of the registration.*

(2) *A certified copy or photographic print of the registration of a birth or of an extract from it may be issued only*

(a) *to a person who requires it to comply with the Child Welfare Act or Part 2 of the Maintenance and Recovery Act,*

(b) *to an officer of the Crown in right of Alberta who requires it for use in the discharge of his official duties, or*

(c) *to a person on the authority in writing of the Minister or on the order of a judge of a court,*

and only on application in the prescribed form and payment of the prescribed fee.

(3) *Any person, on applying, furnishing information satisfactory to the Director and paying the prescribed fee, may, if the Director is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in the prescribed form in respect of the registration of a marriage, and the certificate shall contain at least the following particulars of the registration:*

(a) *the names of the parties to the marriage;*

- (b) *the date of the marriage;*
 - (c) *the place at which the marriage was solemnized;*
 - (d) *the date of registration;*
 - (e) *the serial number of the registration.*
- (4) *A certified copy or photographic print of the registration of a marriage, may be issued only*
- (a) *to a party to the marriage,*
 - (b) *to the legal representative of a party to the marriage,*
 - (c) *to a person on the authority in writing of the Minister, or*
 - (d) *to a person on the order of a judge of a court,*
- and only on application in the prescribed form and payment of the prescribed fee.*
- (5) *Any person, on applying, furnishing information satisfactory to the Director and paying the prescribed fee, may, if the Director is satisfied that it is not to be used for an unlawful or improper purpose and subject to subsection (6), obtain a certificate in the prescribed form in respect of the registration of a death.*
- (6) *No certificate issued in respect of the registration of a death shall be issued in a manner that discloses the cause of death as certified on the medical certificate, except*
- (a) *to any adult next of kin, as defined in the Fatality Inquiries Act, of the deceased,*
 - (b) *on the authority in writing of the Minister, or*
 - (c) *on the order of a judge of a court.*
- (7) *A certified copy or photographic print of the registration of a death or stillbirth may be issued only*
- (a) *to a person on the authority in writing of the Minister,*
 - (b) *to a person on the order of a judge of a court, or*
 - (c) *to a person who satisfies the Director that he requires it to accompany an application to disinter a body made under this Act,*
- and only on application in the prescribed form and payment of the prescribed fee.*
- (8) *Any person, on applying in the prescribed form and paying the prescribed fee, may, with the approval of the Director and subject to the same limitations as those respecting certified copies and photographic prints set out in subsections (2), (4) and (7), obtain a certificate in the prescribed form in respect of the record of a baptism, marriage or burial filed under section 20.*
- (9) *In respect of the issuance of the certificates, certified copies and photographic prints, or any of them, mentioned in subsections (2), (4), (6), (7) and (8), the Minister may in writing dispense with the authority required from him by those subsections or may so dispense with that authority in cases and circumstances specified by him.*
- (10) *No certificate, certified copy or photographic print shall be issued under this Act in respect of the registration of an adoption or change of name.*

10 Section 40 is amended

(a) by repealing subsection (2);

(b) in subsection (3) by striking out "\$200" and substituting "\$1000".

11 Section 43(1) is amended by striking out "\$50" and substituting "\$500".

12 Section 44(2) is repealed.

13 Section 45 is repealed.

14 Section 46(1) is repealed and the following is substituted:

46(1) Subject to subsection (2) and any other Act, a person who removes the body of a deceased person from Alberta without the prescribed burial permit is guilty of an offence and liable to a fine not exceeding \$1000.

15 Section 47 is amended by striking out "\$100" and substituting "\$500".

16 Section 49 is amended

(a) by striking out "Lieutenant Governor in Council" and substituting "Minister";

(b) by repealing clauses (e), (f) and (g);

(c) by repealing clause (h) and substituting the following:

(h) respecting the imposition of fees and prescribing the amount of the fees for anything done or permitted to be done under this Act or the regulations;

10 Section 40 presently reads:

40(1) No district registrar, no deputy district registrar and no person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Act, or allow any person not entitled thereto to inspect or have access to any records containing information obtained under this Act.

(2) Nothing in subsection (1) prohibits

(a) the compilation, furnishing or publishing of statistical data that does not disclose specific information with respect to any particular person, or

(b) a person having access to records relating to his family members for the purposes of genealogical research.

(3) A person who contravenes this section is guilty of an offence and liable to a fine not exceeding \$200.

11 Section 43(1) presently reads:

43(1) A person who fails to give any notice, or to furnish any statement, certificate or particulars required pursuant to this Act, within the time limited by this Act, is guilty of an offence and liable to a fine not exceeding \$50.

12 Section 44(2) presently reads:

(2) A district registrar accepting any fee, other than those provided by this Act or the regulations, is guilty of an offence and liable to a fine of not more than \$50.

13 Section 45 presently reads:

45 A person who wilfully removes, defaces or destroys a public notice relating to the registration of births, stillbirths, marriages or deaths is guilty of an offence and liable to a fine not exceeding \$10.

14 Section 46(1) presently reads:

46(1) Subject to subsection (2) and any other Act, a common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of a deceased person without the prescribed burial permit issued under this Act, is guilty of an offence and liable to a fine not exceeding \$200.

15 Section 47 presently reads:

47 A person who contravenes any provision of this Act or the regulations, for which contravention no penalty is otherwise provided, is guilty of an offence and liable to a fine not exceeding \$100.

16 Section 49(e), (f), (g), (h) presently read:

49 The Lieutenant Governor in Council may make regulations

(e) designating the persons who may have access to or may be given copies of or information from the records in the office of the Director, or of a district registrar, and prescribing an oath of secrecy to be taken by those persons;

(f) prescribing the manner in which medical certificates and interim medical certificates are to be provided to funeral directors;

(g) for the registration of births, marriages, deaths, stillbirths, adoptions or changes of name in cases not otherwise provided for in this Act;

(h.1) providing for the exemption from or waiver of payment of any fees imposed under this Act or the regulations;

(h.2) respecting the completion, distribution and retention of medical certificates and interim medical certificates;

(d) *by adding the following after clause (m):*

(m.1) respecting forms for the purposes of this Act and the regulations;

17 *Section 50 is repealed and the following is substituted:*

50 The Lieutenant Governor in Council may make regulations

(a) subject to section 10(3), respecting the persons to whom access to or copies of information from records in the office of the Director or of a district registrar may be given, and prescribing an oath of secrecy to be taken by those persons;

(b) respecting the registration of births, marriages, deaths, stillbirths, adoptions or changes of name in cases not otherwise provided for in this Act.

18 *Section 2 comes into force on September 1, 1985.*

In accordance with section 4(1) of the Interpretation Act, this Bill, except section 2, comes into force on the date it receives Royal Assent.

(h) prescribing the fees to be paid for searches, certificates, and anything done or permitted to be done under this Act and providing for the waiver of payment of any fees in favour of any person or class of persons, and providing that any one or more services are to be rendered without payment of any fee in those cases, or to those government departments, public officers, courts, societies, organizations or persons specified in the regulations;

17 Section 50 presently reads:

50 The Minister may prescribe the forms to be used in carrying out this Act or the regulations.