**Section 500.45 New Certificates of Birth**

This Section is based upon Section 17 of the Act. In the following instances, a new birth certificate shall be prepared (if requested) upon receipt of a Certificate of Adoption or a certified copy of the order of adoption and shall be filed by the State Registrar. Preparation of the new certificate is contingent upon the receipt of proper evidence. An amendment of a Certificate of Live Birth shall not be made in the following instances:

a) Legal adoption (in Illinois or elsewhere) of a person born in Illinois;

1) Upon receipt of a Certificate of Adoption or a certified copy of the order of adoption pertaining to a single parent adoption, the Certificate of Live Birth shall reflect the following:

A) Mother adopts a child or an adult. The State Registrar shall enter in the item designation for father, "Single Parent Adoption," or "Single Parent," or leave this space blank.

B) Father adopts a child or an adult. The State Registrar shall enter in the item designation for mother, "Single Parent Adoption," or "Single Parent," or leave this space blank.

2) When alterations or discrepancies appear on the Certificate of Adoption regarding the name of the child (after adoption) or the adoptive parents' names, the State Registrar may review a certified copy of the adoption decree to determine the correct names. The State Registrar may, as an alternative, be presented with an amended Certificate of Adoption certified by the clerk of the court, showing no alterations. The State Registrar may require additional information and/or documentation in order to verify other alterations and/or discrepancies found on the Certificate of Adoption.

3) Discrepancies in the date of birth between the natural birth record and the Certificate of Adoption shall be resolved by utilizing the date shown on the natural birth record, unless otherwise specified in the court decree, or other documentation. If in the judgment of the State Registrar, changing the date of birth to that of the natural birth record could reveal the adoptive status to the adoptee, the State Registrar may show the date of birth as indicated on the Certificate of Adoption.

4) In addition to the Certificate of Adoption, a certified copy of the adoption decree must be submitted to the State Registrar if it has been discovered that an adoptive parent was deceased at the time of adoption. The State Registrar will determine if there is legal authority to show that parent on the new birth record. If the certified copy of the adoption decree does not indicate the name of the deceased parent, the State Registrar shall require an amended decree of adoption.

5) In the absence of an original birth record on file, the State Registrar may prepare a birth record using the adoption decree which must establish the date of birth, place of birth, and parentage. The file date shall be shown as the date the decree was granted.

6) If the adoption decree failed to establish the date of birth, place of birth and parentage, a Delayed Record of Birth shall be filed. The file date on the new Certificate of Live Birth shall be shown as the date the decree was granted.

7) During the preparation of the new certificate, the State Registrar may verify from the adoptive parent(s), if necessary, how the informant's name is to be shown on the certificate.

8) The new birth certificate shall parallel an original certificate and by legal fiction purport in the case of an adoption, that the adoptive parents are the natural parents.

b) Intermarriage of the natural parents after the child's birth or birth registration;

1) Prior to preparing a new Certificate of Live Birth for a child whose natural parents married subsequent to his/her birth, the State Registrar shall require the following:

A) Affidavits completed by the mother and natural father, properly signed and notarized.

B) A certified copy of the marriage record.

2) When one or both of the parents are deceased, a certified copy of the death record along with a notarized statement from a member of the decedent's family, in lieu of the required affidavit, is needed. If a statement from the family is not obtainable, a copy of the deceased parent's obituary notice, insurance policy, will or letters of estate administrator may be substituted.

3) When the natural birth certificate lists a disputed father and the applicant requests the State Registrar to establish a new Certificate of Live Birth, based upon the legitimation provision of the Vital Records Act, the State Registrar shall review the divorce decree of that previously dissolved marriage. This is necessary in order to determine if there is administrative authority to remove the name of the father listed on the natural birth record. If there is sufficient evidence to remove the name of the previous husband, the State Registrar shall establish a new Certificate of Live Birth based upon affidavits of mother and natural father and their certified copy of marriage.

4) If this paternity issue cannot be established through administrative authority, the decision of paternity would first require court determination prior to establishing a new Certificate of Live Birth.

5) The State Registrar's authority to prepare birth certificates does not permit a determination of an issue or question of paternity of a child on mere affidavits.

6) During the preparation of the new certificate, the State Registrar may verify from the parents, if necessary, how the informant's name is to be shown on the certificate.

c) Determination of paternity by a court of competent jurisdiction;

 During the preparation of the new certificate, the State Registrar may verify from the parents, if necessary, how the informant's name is to be listed on the certificate. The informant's name should never be shown as a name different than the facts relevant to the preparation of the new record.

d) Change of sex designation following surgery by a physician;

1) For cases pertaining to adoption, legitimation, paternity or sex designation changes, the original birth certificate and copies of the original certificate from the local custodians' files shall be impounded and placed in a sealed file with related correspondence and documents. The new birth certificate shall be placed in the official State files, and copies of it shall be sent to the local custodians for their files. Thereafter, any certifications or certified copies issued shall be of the new certificate.

2) In the event that a new Certificate of Live Birth is established by the Department based upon legal adoption, legitimation, paternity, or sex designation changes and the Department is thereafter presented with proper evidence that the Certificate of Live Birth may have been incorrectly withdrawn from the official State files and impounded, the Department shall open the impounded file and inspect its contents. If the Department determines from the contents of the impounded file and from the evidence presented that a mistake occurred with respect to the identity of the original record, the Department may restore the Certificate of Live Birth to the official State file and return copies to the local custodians for filing. In such cases, the new Certificate of Live Birth prepared upon the basis of legal adoption, legitimation, paternity or sex designation changes shall remain in the official State file. However, the Department shall use the appropriate State file number on the new Certificate of Live Birth.

3) If a court of competent jurisdiction enters a decree or order in which it finds that it is in the best interest of a person for whom a new birth certificate has been established, that the original birth certificate be restored, the State Registrar, upon receipt of a certified copy of such order or decree, shall restore the original Certificate of Live Birth to its place in the files, and the new certificate and evidence shall not be subject to inspection or certification, except upon order of a court of competent jurisdiction.

4) The copies of the original birth certificate shall be returned by the State Registrar to the custodians of local records who shall replace them in their official files and surrender the copy of the newly prepared birth record to the State Registrar to be sealed from inspection.

(Source: Added at 15 Ill. Reg. 11706, effective August 1, 1991)