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### 36-301. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrative order" means a written decision issued by an administrative law judge or quasi-judicial entity.
2. "Amend" means to make a change, other than a correction, to a registered certificate by adding, deleting or substituting information on that certificate.
3. "Birth" or "live birth" means the complete expulsion or extraction of a product of human conception from its mother, irrespective of the duration of the pregnancy, that shows evidence of life, with or without a cut umbilical cord or an attached placenta, such as breathing, heartbeat, umbilical cord pulsation or definite voluntary muscle movement after expulsion or extraction of the product of human conception.
4. "Certificate" means a record that documents a birth or death.
5. "Certified copy" means a written reproduction of a registered certificate that a local registrar, a deputy local registrar or the state registrar has authenticated as a true and exact written reproduction of a registered certificate.
6. "Correction" means a change made to a registered certificate because of a typographical error, including misspelling and missing or transposed letters or numbers.
7. "Court order" means a written decision issued by:
  - (a) The superior court, an appellate court or the supreme court or an equivalent court in another state.
  - (b) A commissioner or judicial hearing officer of the superior court.
  - (c) A judge of a tribal court in this state.
8. "Current care" means that a health care provider has examined, treated or provided care for a person for a chronic or acute condition within eighteen months preceding that person's death. Current care does not include services provided in connection with a single event of emergency or urgent care. For the purposes of this paragraph, "treated" includes prescribing medication.
9. "Custody" means legal authority to act on behalf of a child.
10. "Department" means the department of health services.
11. "Electronic" means technology that has electrical, digital, magnetic, wireless, optical or electromagnetic capabilities or technology with similar capabilities.

12. "Evidentiary document" means written information used to prove the fact for which it is presented.

13. "Family member" means:

(a) A person's spouse, natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin.

(b) The natural or adopted offspring, father, mother, grandparent, grandchild to any degree, brother, sister, aunt, uncle or first or second cousin of the person's spouse.

14. "Fetal death" means the cessation of life before the complete expulsion or extraction of a product of human conception from its mother that is evidenced by the absence of breathing, heartbeat, umbilical cord pulsation or definite voluntary muscle movement after expulsion or extraction.

15. "Final disposition" means the interment, cremation, removal from this state or other disposition of human remains.

16. "Foundling" means:

(a) A newborn infant left with a safe haven provider pursuant to section 13-3623.01.

(b) A child whose father and mother cannot be determined.

17. "Funeral establishment" has the same meaning prescribed in section 32-1301.

18. "Health care institution" has the same meaning prescribed in section 36-401.

19. "Health care provider" means:

(a) A physician licensed pursuant to title 32, chapter 13 or 17.

(b) A doctor of naturopathic medicine licensed pursuant to title 32, chapter 14.

(c) A midwife licensed pursuant to chapter 6, article 7 of this title.

(d) A nurse midwife certified pursuant to title 32, chapter 15.

(e) A nurse practitioner licensed and certified pursuant to title 32, chapter 15.

(f) A physician assistant licensed pursuant to title 32, chapter 25.

(g) A health care provider who is licensed or certified by another state or jurisdiction of the United States and who works in a federal health care facility.

20. "Human remains" means a lifeless human body or parts of a human body that permit a reasonable inference that death occurred

21. "Issue" means:

(a) To provide a copy of a registered certificate.

(b) An action taken by a court of competent jurisdiction, administrative law judge or quasi-judicial entity.

22. "Legal age" means a person who is at least eighteen years of age or who is emancipated by a court order.

23. "Medical certification of death" means the opinion of the health care provider who signs the certificate of probable or presumed cause of death that complies with rules adopted by the state registrar of vital records and that is based on any of the following that are reasonably available:

(a) Personal examination.

(b) Medical history.

(c) Medical records.

(d) Other reasonable forms of evidence.

24. "Medical examiner" means a medical examiner or alternate medical examiner as defined in section 11-591.

25. "Name" means a designation that identifies a person, including a first name, middle name, last name or suffix.

26. "Natural causes" means those causes that are due solely or nearly entirely to disease or the aging process.

27. "Presumptive death" means a determination by a court that a death has occurred or is presumed to have occurred but the human remains have not been located or recovered.

28. "Register" means to assign an official state number and to incorporate into the state registrar's official records.

29. "Responsible person" means a person listed in section 36-831.

30. "Seal" means to bar from access.

31. "Submit" means to present, physically or electronically, a certificate, evidentiary document or form provided for in this chapter to a local registrar, a deputy local registrar or the state registrar.

32. "System of public health statistics" means the processes and procedures for:

(a) Tabulating, analyzing and publishing public health information derived from vital records data and other sources authorized pursuant to section 36-125.05 or section 36-132, subsection A, paragraph 3.

(b) Performing other activities related to public health information.

33. "System of vital records" means the statewide processes and procedures for:

- (a) Electronically or physically collecting, creating, registering, maintaining, copying and preserving vital records.
- (b) Preparing and issuing certified and noncertified copies of vital records.
- (c) Performing other activities related to vital records.

34. "Vital record" means a registered birth certificate or a registered death certificate.

36-302. System of vital records; powers and duties of the state registrar

A. The director of the department is the state registrar of vital records.

B. The state registrar of vital records shall:

1. Adopt rules to implement a statewide system of vital records pursuant to this chapter using the recommendations of the federal agency responsible for national vital statistics as guidelines subject to modification by the state registrar.
2. Administer and enforce this chapter and the rules adopted pursuant to this chapter and provide for the efficient administration of a statewide system of vital records.
3. Organize, operate and maintain the only system of vital records in this state.
4. Direct and supervise the creation and registration of vital records, electronically and physically, and be the custodian of vital records.
5. Establish registration districts throughout this state.
6. Appoint, direct and remove local registrars.
7. Prescribe and distribute forms required pursuant to this chapter and rules adopted pursuant to this chapter.
8. Prepare and issue copies of vital records.
9. Provide a means for the public to request a copy of a vital record and grant or deny the request according to criteria prescribed by rules adopted pursuant to this chapter. These rules shall include eligibility criteria, proof of identity requirements and payment requirements to obtain the requested vital record.
10. Pursuant to section 16-165, transmit each month to the county recorder a record of the death of each resident of the county recorder's county who is at least sixteen years of age.
11. Determine acceptability and completeness of a certificate, evidentiary document or form submitted to the state registrar.

- 12. Investigate violations of this chapter and rules adopted pursuant to this chapter.
- 13. Report violations of this chapter and rules adopted pursuant to this chapter to the county attorney in the registration district in which the violation occurs or to the attorney general.

C. The state registrar may:

- 1. Appoint, in writing, one or more persons to serve as assistant state registrars with any or all powers and duties vested in the state registrar.
- 2. Appoint, direct and remove a deputy local registrar.
- 3. Inspect a registration district's certificates, evidentiary documents, forms or other information related to the system of vital records.
- 4. Establish quality control procedures that include on-site inspections and review of evidentiary documents, forms and other information used in the creation of vital records.
- 5. Consolidate or subdivide registration districts.

**36-303. System of public health statistics; powers and duties of the department**

A. The department shall:

- 1. Administer and enforce this chapter and rules adopted pursuant to this chapter.
- 2. Provide for the efficient administration of a system of public health statistics.

B. The department may adopt rules to implement a system of public health statistics pursuant to this chapter.

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Article 2	Registration Officials

**36-311. Appointment and removal of local registrars and deputy local registrars**

A. The state registrar shall appoint the county health officer of the county health department as the local registrar for a registration district. If a county health department does not have a county health officer, the state registrar shall appoint an employee of the county health department as the local registrar for a registration district.

B. With notice to the state registrar, the local registrar may appoint one or more persons to serve as deputy local registrars with any of the duties vested in the local registrar.

C. The state registrar may remove a local registrar or a deputy local registrar who does not comply with this chapter or rules adopted pursuant to this chapter or for any other reasonable cause.

D. After notice to the state registrar, the local registrar may remove a deputy local registrar who does not comply with this chapter or rules adopted pursuant to this chapter or for any other reasonable cause.

E. The state registrar may abolish the office of a local registrar if the registration district for which the local registrar is appointed is combined with another registration district.

**36-312. Local registrars and deputy local registrars; powers and duties**

A local registrar and deputy local registrar of a registration district shall:

1. Administer and enforce this chapter and rules adopted pursuant to this chapter.
2. Assist the state registrar in investigating violations of this chapter and rules adopted pursuant to this chapter.
3. Electronically or physically submit certificates, evidentiary documents and forms to the state registrar as directed by the state registrar.
4. Register certificates only as directed by the state registrar.
5. Preserve and maintain records and perform other duties required by the state registrar.
6. At the request of the state registrar, make certificates, evidentiary documents or forms related to the system of vital records available to the state registrar for inspection.
7. At the request of the state registrar, provide birth certificates and death certificates to the state registrar.
8. Prepare and issue copies of certificates according to rules adopted pursuant to this chapter.

**36-313. Deputy local registrars; compensation**

A. A deputy local registrar shall receive from the county general fund in that registration district one dollar for each birth certificate, death certificate or fetal death certificate registered by the deputy local registrar and submitted to the state registrar pursuant to this chapter and rules adopted pursuant to this chapter.

B. At least quarterly the state registrar shall provide written notification to the clerk of the board of supervisors in each registration district that specifies the number of birth certificates, death certificates and fetal death certificates registered by the deputy local registrar prescribed in subsection A and the amount of compensation the deputy local registrar is entitled to for the period pursuant to this section.

### 36-321. Information required for a certificate

- A. The state registrar shall prescribe by rule the information required to be submitted to create or amend a vital record.
- B. A person who submits a certificate for registration must make a reasonable effort to ensure that the information on the certificate is correct and accurate.
- C. A certificate registered pursuant to this chapter must include an official state number and the date of registration.

### 36-322. Sealing a certificate

- A. The state registrar shall seal a certificate and evidentiary documents when the state registrar amends the registered certificate.
- B. Unless required by a court order, the state registrar shall not issue a copy of a certificate or other record sealed pursuant to this section.

### 36-323. Amending registered certificates: corrections

- A. The state registrar shall amend a registered certificate pursuant to this chapter and rules adopted pursuant to this chapter.
- B. The state registrar shall amend a registered birth certificate to show the new name of a person born in this state if:
  - 1. The person, the person's parent or the person's legal guardian requests the new name and the state registrar receives a court order to change the person's name on the registered birth certificate.
  - 2. A voluntary acknowledgement of paternity submitted pursuant to section 25-812 includes a request to change the person's name on the registered birth certificate.
- C. The state registrar shall adopt rules for making corrections to vital records.

### 36-324. Vital records; copies; access

- A. On written request, a local registrar, a deputy local registrar or the state registrar shall issue a certified copy of a registered certificate, except the portion of the certificate that contains medical information, to any person determined to be eligible to receive the certified copy pursuant to criteria prescribed by rules.
- B. A certified copy of a registered certificate has the same status as the registered certificate.

C. The United States public health service may receive copies, microfilm and other information from the state registrar to prepare national vital statistics subject to the following limitations:

1. The United States public health service bears the cost of preparing and transmitting the copies, microfilm and other information.
2. The copies, microfilm and other information are used for statistical purposes and the United States public health service assures a person's anonymity.

D. In child support cases under 42 United States Code sections 651 through 669, in child welfare cases under title 8 or in public benefit matters under chapter 29 of this title or title 46, the state registrar shall provide copies of or access to vital records without charge to the department of economic security or its attorneys. A vital record obtained as authorized in this section must be used only for official purposes and, if used in a public proceeding, must be sealed by the court or hearing officer.

E. The state registrar shall provide a copy of or access to a vital record to a government agency for its official purposes.

36-325. Death certificate registration; moving human remains; immunity

A. Within seven calendar days after receiving possession of human remains, a funeral establishment or responsible person who takes possession of the human remains shall:

1. Obtain and complete the information, including the social security number of the decedent, on the death certificate required pursuant to this chapter and rules adopted pursuant to this chapter.
2. Provide on the death certificate the name and address of the person completing the death certificate.
3. Submit the death certificate for registration to a local registrar, a deputy local registrar or the state registrar. The funeral establishment or responsible person may submit the death certificate by electronic means in the format prescribed by the state registrar.

B. Within seventy-two hours after receiving a death certificate pursuant to this section, a local registrar, a deputy local registrar or the state registrar shall register a death certificate if it is accurate and complete and submitted pursuant to this chapter and rules adopted pursuant to this chapter.

C. Except as provided in subsection F of this section, if a person dies under any of the circumstances described in section 11-593, subsection A, the medical examiner shall complete and sign the medical certification of death on a death certificate within seventy-two hours after the examination, excluding weekends and holidays. If the medical examiner cannot determine the cause of death within that time, the medical examiner shall enter "pending" for the cause of death and sign the medical certification of death within seventy-two hours after the examination, excluding weekends and holidays.

D. A local registrar, a deputy local registrar or the state registrar shall register a death certificate if there is a medical certification of death signed by the medical examiner with a pending cause of death.

E. Final disposition of human remains with a pending cause of death shall not occur until the medical examiner releases the human remains for final disposition.

F. When the medical examiner determines the cause of death, the medical examiner shall submit the information to the local registrar, deputy local registrar or state registrar.

G. If a person under the current care of a health care provider for an acute or chronic medical condition dies of that condition, or complications associated with that condition, the health care provider or a health care provider designated by that provider shall complete and sign the medical certification of death on a death certificate within seventy-two hours. If current care has not been provided, the medical examiner shall complete and sign the medical certification of death on a death certificate within seventy-two hours after the examination, excluding weekends and holidays.

H. If a person dies in a hospital, nursing care institution or hospice inpatient facility of natural causes, the hospital, nursing care institution or facility shall designate a health care provider to complete and sign the medical certification of death within seventy-two hours.

I. If a person dies on an Indian reservation in this state and a county medical examiner is not available, the tribal law enforcement authority, acting in an official investigative capacity, may complete and sign the medical certification of death.

J. If the place of death is unknown, the death is considered to have occurred in the place where the human remains were found.

K. If a person dies in a moving conveyance, the death is considered to have occurred in the place where the human remains were initially removed from the conveyance. In all other cases, the place where death is pronounced is considered the place where the death occurred.

L. The state registrar shall create and register a death certificate when the state registrar receives a court order of a presumptive death. The court order shall contain the following information, if known:

1. The decedent's name, social security number, date of birth, date of death, cause of death and location of death.

2. Any other information necessary to complete a death certificate for a presumptive death.

M. If a murder victim's body is not recovered, a conviction for the murder is proof of death. The court shall forward a record of the conviction to the state registrar. The state registrar shall obtain the personal data regarding the murder victim from information provided by the court, a family member of the murder victim or another reliable source and create and register the death certificate.

N. A health care provider who completes and signs a medical certification of death in good faith pursuant to this section is not subject to civil liability or professional disciplinary action.

### 36-325.01. Delayed death certificate registration

If a death occurs in this state and is not registered within one year after the date of the death, the local registrar, deputy local registrar or state registrar shall register the death certificate as a delayed death certificate.

### 36-326. Disposition-transit permits

A. A funeral establishment or responsible person who takes possession of human remains shall obtain a disposition-transit permit from a local registrar, a deputy local registrar or the state registrar before either of the following:

1. Providing final disposition of the human remains.
2. Moving the human remains out of this state.

B. Human remains moved from a hospital, nursing care institution or hospice inpatient facility must be accompanied by a form provided by the hospital, nursing care institution or hospice inpatient facility authorizing the release of the human remains. The form shall contain the information required in rules adopted pursuant to this chapter.

C. A funeral establishment or responsible person may move human remains from a hospital, nursing care institution or hospice inpatient facility where death occurred without obtaining a disposition-transit permit if the funeral establishment or responsible person does not remove the human remains from this state and provides notice to the local registrar or deputy local registrar in the registration district where the death occurred within twenty-four hours after moving the human remains.

D. A funeral establishment or responsible person may move human remains from a place other than a hospital, nursing care institution or hospice inpatient facility where death occurred without obtaining a disposition-transit permit if the funeral establishment or responsible person does not remove the human remains from this state and provides notice to the local registrar or deputy local registrar in the registration district where death occurred within seventy-two hours after moving the human remains.

E. Embalmed human remains, disinterred human remains and human remains that are not embalmed that are shipped by common carrier inside or outside of this state for the purposes of burial, cremation or funeral services shall be placed in a suitable shipping container that is designed for the transportation of human remains. Human remains that are not embalmed and that are shipped inside or outside of this state are not required to be transported within twenty-four hours after death.

F. A hospital or abortion clinic is not required to obtain a disposition-transit permit if a product of human conception is expelled or extracted at the hospital or abortion clinic and all the following apply:

1. The gestation period of the product of human conception is less than twenty weeks or, if the gestation period is unknown, the weight of the product of human conception is less than three hundred fifty grams.

2. A county medical examiner's investigation is not required.

3. The woman on whom the abortion was performed has authorized the hospital or abortion clinic to dispose of the product of human conception.

G. To obtain a disposition-transit permit, a funeral establishment or responsible person must submit the information required pursuant to this chapter and rules adopted pursuant to this chapter to the state registrar or to the local registrar or deputy local registrar of the registration district where the death occurred.

H. A local registrar, a deputy local registrar or the state registrar shall provide a disposition-transit permit to a funeral establishment or other responsible person if the information provided pursuant to subsection B complies with this chapter and rules adopted pursuant to this chapter.

I. A local registrar, a deputy local registrar or the state registrar shall provide a disposition-transit permit for interment of human remains in a cemetery only if the location of the cemetery has been recorded in the office of the county recorder in the county where the cemetery is located or the cemetery is located on federal or tribal land.

J. A local registrar, a deputy local registrar or the state registrar shall provide a disposition-transit permit issued by this state for the final disposition of human remains in this state on receipt of a disposition-transit permit from another state that accompanies the human remains from the other state.

#### 36-327. Disinterment-reinterment permit

A. Except as otherwise provided by law, a disinterment-reinterment permit is required before a person disinters human remains. The state registrar shall provide a permit to disinter human remains either by a court order issued in this state or by the written consent of the decedent's family member who has the highest priority. The order of priority is the same as provided in section 36-831.

B. A disinterment-reinterment permit is not required if disinterment and reinterment occur in the same cemetery for ordinary relocation or for reasons of internal management of the cemetery.

#### 36-328. Registration of a death certificate for a foreign presumptive death

A. The state registrar shall create and register a death certificate for a foreign presumptive death if the state registrar receives a court order issued in this state of a presumptive death of a resident of this state in a foreign country. The court order shall contain the following information, if known:

1. The decedent's name, social security number, date of birth, date of death, cause of death and location of death.

2. Any other information necessary to complete a death certificate for a foreign presumptive death.

B. A death certificate for a foreign presumptive death shall state on the death certificate the name of the foreign country where death is presumed to have occurred.

[36-329. Fetal death certificate registration](#)

A. A hospital, abortion clinic, physician or midwife shall submit a completed fetal death certificate to the state registrar for registration within seven days after the fetal death for each fetal death occurring in this state after a gestational period of twenty completed weeks or if the product of human conception weighs more than three hundred fifty grams.

B. The requirements for registering a fetal death certificate are the same as the requirements for registering a death certificate prescribed in section 36-325.

[36-329.01. Delayed fetal death certificate registration](#)

A. If a fetal death occurs in this state and is not registered within one year after the date of the fetal death, the local registrar, deputy local registrar or state registrar shall register the fetal death certificate as a delayed fetal death certificate.

B. The requirements for registering a delayed fetal death certificate are the same as the requirements for registering a delayed death certificate prescribed in section 36-325.01.

[36-330. Certificate of birth resulting in stillbirth; requirements](#)

A. In addition to the requirements of section 36-329, the state registrar shall establish a certificate of birth resulting in stillbirth on a form approved by the state registrar for each fetal death occurring in this state after a gestational period of at least twenty completed weeks. This certificate shall be offered to the parent or parents of a stillborn child.

B. A certificate of birth resulting in stillbirth shall meet all of the format and filing requirements for birth certificates prescribed in section 36-333.

C. The person who prepares a certificate pursuant to this section shall leave blank any references to the stillborn child's name if the stillborn child's parent or parents do not wish to provide a name for the stillborn child.

D. Notwithstanding subsections A and B of this section, the certificate of birth resulting in stillbirth shall be submitted to the designated registrar within seven days following the delivery and before the cremation or removal of the fetus from the registration district.

[36-330.01. Delayed registration of certificate of birth resulting in stillbirth](#)

If a birth resulting in stillbirth occurring in this state has not been registered within one year after the date of delivery, a certificate of birth resulting in stillbirth marked "delayed" may be submitted and registered pursuant to this chapter and rules adopted pursuant to this chapter and other requirements sufficient to substantiate the alleged facts of a birth resulting in stillbirth.

**36-331. Duties of persons in charge of place of disposition**

A. Except as otherwise provided by law, a person in charge of a place of disposition shall not inter, cremate or allow other disposition of human remains without receiving a disposition-transit permit with the human remains.

B. A person in charge of a place of disposition shall maintain a record of a disposition pursuant to rules adopted pursuant to this chapter.

C. A person in charge of a place of disposition shall permit the state registrar to inspect the disposition records.

**36-332. Notification of death to responsible person and release of human remains**

A health care institution shall not release human remains or allow the removal of human remains from the health care institution until the health care institution makes a diligent effort to notify the responsible person and obtain the name of the entity to whom the human remains are to be released.

**36-333. Birth certificate registration**

A. Within seven days after a child's birth in this state, a person shall submit to a local registrar, a deputy local registrar or the state registrar, a birth certificate for registration according to rules adopted pursuant to this chapter. The birth certificate shall be submitted physically or electronically through the state designated electronic registration system. A local registrar, a deputy local registrar or the state registrar may accept a certificate submitted electronically without the signatures required by rule.

B. If a birth occurs at a hospital, the chief administrative officer of the hospital or that person's designee shall:

1. Obtain the information for a birth certificate, including signatures and social security numbers required by rule.

2. Fill out the birth certificate.

3. Submit the birth certificate for registration to a local registrar, a deputy local registrar or the state registrar.

4. Maintain a copy of the evidentiary documents used to fill out the birth certificate for ten years after the date of submission.

C. If a birth does not occur at a hospital one of the following persons shall obtain the information, evidentiary documents, social security numbers and signatures required by rule for a birth certificate, fill out the birth certificate and submit the birth certificate for registration to a local registrar, a deputy local registrar or the state registrar:

1. A physician, nurse or midwife who is present at the birth and who is willing and able to do so during or immediately after the birth.

2. If a physician, nurse or midwife is not present at the birth or is not willing or able to do so, the child's mother or father or a family member of legal age who is present, willing and able to do so during or immediately after the birth.

3. If the child's father or other family member of legal age is not present or is not willing or able and the child's mother is not willing or able to supply the required information, any other person who is present during or immediately after the child's birth and who can supply the required information.

D. If a birth occurs in a moving conveyance, the birth is considered to have occurred in the place where the child is initially removed from the conveyance. If the child is initially removed from the conveyance at a hospital, the person named in subsection B shall submit the birth certificate to the state registrar or the local registrar or deputy local registrar of the registration district where the child is first removed. If the child is initially removed from the conveyance at any location other than at a hospital, the person identified in subsection C shall submit the birth certificate to the state registrar or to the local registrar or deputy local registrar of the registration district where the child is first removed.

E. A local registrar, a deputy local registrar or the state registrar shall register a birth certificate if the birth certificate is accurate and complete and submitted according to this chapter and rules adopted pursuant to this chapter.

#### 36-333.01 Late birth certificate registration

If a completed birth certificate and evidentiary documents are submitted to a local registrar, a deputy local registrar or the state registrar for registration more than seven days but less than one year after the date of birth, the local registrar, deputy local registrar or state registrar shall register the birth certificate as a late birth certificate if the information on the birth certificate and evidentiary documents are accurate and complete, support the registration of the late birth certificate and are submitted pursuant to this chapter and rules adopted pursuant to this chapter.

#### 36-333.02. Delayed birth certificate registration

A. If a birth certificate of a person who is born in this state is not registered within one year after the date of birth, a person authorized by this chapter may submit to the state registrar information and evidentiary documents that support the creation and registration of a delayed birth certificate.

B. The state registrar may waive the information and evidentiary document requirements in subsection A of this section for a birth that occurred before 1970.

C. The state registrar shall create a delayed birth certificate that includes a listing of the information and evidentiary documents submitted pursuant to subsection A of this section.

D. The state registrar shall register a delayed birth certificate if the information and evidentiary documents are accurate and complete, support the creation and registration of the delayed birth certificate and are submitted pursuant to this chapter and rules adopted pursuant to this chapter.

E. If the state registrar determines that the information and evidentiary documents are not accurate and complete or do not support the creation and registration of the delayed birth certificate, the state registrar shall not create and register the delayed birth certificate, shall notify the person requesting a delayed birth certificate of the reasons for not creating and registering the delayed birth certificate and shall advise the person requesting a delayed birth certificate of that person's right to petition for a court order pursuant to section 36-333.03.

**36-333.03. Record of birth; petition; requirements; notice; court order; definition**

A. If a delayed birth certificate for a person who is born in this state is not created and registered pursuant to section 36-333.02, that person or, if the person is under eighteen years of age, the person's parent or legal guardian may petition the court for an order to establish a record of the person's date of birth, place of birth and parentage.

B. The petition must allege:

1. That the person for whom a delayed birth certificate is requested was born in this state.
2. That the person's birth is not registered in another state or country.
3. That a record of birth for the person cannot be found in this state's vital records.
4. That despite diligent efforts the petitioner was unable to obtain the information and evidentiary documents required for the creation and registration of a delayed birth certificate.
5. That the state registrar has refused to create and register a delayed birth certificate.
6. Any other allegations the petitioner believes would be useful to the court.

B. The petitioner shall submit to the court a copy of the notification provided pursuant to section 36-333.02, subsection E and all information and evidentiary documents that were submitted to the state registrar to support the request for the registration of a delayed birth certificate.

C. The court shall set a date, time and place for a hearing on the petition and shall provide notice of the date, time and place to the state registrar and the petitioner at least twenty days before the hearing. The state registrar may appear and testify at the hearing.

D. If the court finds that the evidence presented for the petitioner supports the creation and registration of a delayed birth certificate, the court shall establish the facts of birth, including parentage and any other findings that may be required, and shall issue an order to create and register a delayed birth certificate on a form that is provided by the state registrar and that includes the facts of birth, a description of the information and evidentiary documents submitted to the court and the date of the court's action.

E. The clerk of the court shall forward an order issued pursuant to subsection D of this section to the state registrar not later than the tenth day of the calendar month following the month in which the

court issued its order. Based on the information contained in the order, the state registrar shall create and register a delayed birth certificate that includes a list of the information and evidentiary documents as stated in the order.

F. For the purposes of this section, "court" means the superior court or tribal court.

**36-334. Determining maternity and paternity for birth certificates**

A. A person completing a birth certificate shall state the name of the woman who gave birth to the child on the birth certificate as the child's mother unless otherwise provided by law or court order.

B. The state registrar shall not refuse to register a birth certificate because the birth certificate does not include the name of the father.

C. If a father's name is stated on a birth certificate, the father's name shall be stated on a birth certificate as follows:

1. Except as provided in section 25-814, if the mother is married at the time of birth or was married at any time in the ten months before the birth, the name of the mother's husband.

2. If a mother and father who are not married to each other at the time of birth and were not married to each other in the ten months before the birth voluntarily acknowledge paternity pursuant to section 25-812, the name of the father acknowledging paternity.

3. If the state registrar receives an administrative order or a court order establishing paternity, the father's name in the order.

D. If the acknowledgement of paternity is rescinded pursuant to section 25-812, the state registrar shall remove the father's name from the registered birth certificate.

**36-335. Birth registration for foundlings**

A. A person who has custody of a foundling shall submit to the state registrar or to the local registrar or a deputy local registrar of the registration district where the foundling was found the following information:

1. The date the foundling was found.

2. The location where the foundling was found.

3. The sex, approximate race and approximate age of the foundling.

4. The name and address of the person who has custody of the foundling.

5. The name given to the foundling by the person who has custody of the foundling.

6. Any other data required by rules adopted pursuant to this chapter.

B. The state registrar shall create and register a birth certificate for a foundling and enter on the birth certificate the following information:

1. The location where the foundling was found as the place of birth.
2. The date of birth based on the approximate age of the foundling.

C. A person who has custody of a foundling and determines the foundling's identity shall notify the state registrar in writing of the determination.

D. If the identity of a foundling is determined, the state registrar shall seal the foundling's registered birth certificate and provide access to the foundling's registered birth certificate only pursuant to a court order issued in this state.

### 36-336. [Adoption certificate](#)

A. For an adoption of a person born in this state, a state court shall submit to the state registrar an adoption certificate on a form approved by the state registrar or pursuant to a court order that includes:

1. Information required by rule about the adoptive father and adoptive mother.
2. Information required by rule about the child being adopted.
3. A statement by the court that the information on the adoption certificate is accurate.

B. For an adoption of a person born in this state and ordered by a court in another state, the state registrar shall accept an order for an adoption or an adoption certificate that contains the information in subsection A.

C. If a court modifies a court order for adoption, the state registrar shall follow the procedures in this chapter for amending a registered certificate.

D. By the tenth day of each month, a court in this state shall submit to the state registrar all adoption certificates, court orders for adoption and court orders for modification of adoption for the preceding month.

E. When the state registrar receives an adoption certificate, a court order for adoption, a change to a court order for adoption or an annulment of an adoption for a person born in another state, the state registrar shall send the document to the appropriate registration authority in the state where the person was born.

### 36-337. [Amending birth certificates](#)

A. The state registrar shall amend the birth certificate for a person born in this state when the state registrar receives any of the following:

1. Except as provided in subsection D of this section, an adoption certificate or a court order for adoption required pursuant to section 36-336.
  2. A voluntary acknowledgment of paternity pursuant to section 25-812.
  3. For a person who has undergone a sex change operation or has a chromosomal count that establishes the sex of the person to be different than in the registered birth certificate, both of the following:
    - (a) A written request for an amended birth certificate from the person or, if the person is a child, from a child's parent or legal guardian.
    - (b) A written statement by a physician that verifies the sex change operation or chromosomal count.
  4. A court order ordering an amendment to a birth certificate.
- B. The state registrar shall change the name of the father on a registered birth certificate if:
1. The state registrar receives an administrative order or a court order ordering the state registrar to change the father's name on the registered birth certificate.
  2. Paternity is established through a voluntary acknowledgement of paternity pursuant to section 25-812.
- C. If a registered birth certificate does not exist for a person born in this state who is requesting to amend a birth certificate the person making that request shall comply with the requirements established by rule.
- D. The state registrar shall retain the information on a person's registered birth certificate after the person's adoption if all of the following documents are submitted to the state registrar:
1. A written request to retain the information signed by the adoptive parent or a court order containing a request to retain the information on the registered birth certificate.
  2. A written statement agreeing to retain the mother's name on the person's registered birth certificate, signed by the mother, or if the mother is deceased, a certified copy of a registered death certificate for the mother.
  3. If there is a father's name stated on the registered birth certificate, a written statement agreeing to retain the father's name on the person's registered birth certificate, signed by the father, or if the father is deceased, a certified copy of a registered death certificate for the father.
- E. If the state registrar amends a registered birth certificate following adoption, the birth certificate shall state the city or county of birth stated on the existing registered birth certificate and the date of birth stated on the existing registered birth certificate. The state registrar may omit the exact location of birth on the registered birth certificate.

F. If a local registrar or deputy local registrar amends a registered birth certificate, the local registrar or deputy local registrar shall forward all evidentiary documents provided to create the new birth certificate to the state registrar.

G. If the state registrar amends a registered birth certificate, the state registrar shall seal the previously registered birth certificate and the evidentiary documents provided to amend the registered birth certificate. The state registrar shall provide access to a sealed certificate or evidentiary documents only pursuant to section 36-322, a court order issued in this state or as prescribed by rule.

H. If the state registrar receives a court order annulling an adoption, the state registrar shall unseal the sealed registered birth certificate and shall seal the new birth certificate and evidentiary documents.

**36-338. Certificates of foreign birth for adoptees**

A. The state registrar shall create and register a state of Arizona certificate of foreign birth for an adopted person who satisfies all of the following:

1. Was born in a foreign country.
2. Is not a United States citizen.
3. Has gone through a completed adoption process in a foreign country before coming to the United States.
4. Has an IR-3 stamped passport.

B. Before the state registrar creates and registers a certificate of foreign birth, either a state court, an adoptive parent or an adult adopted person must submit the following:

1. An adoption decree or other official document finalizing the adoption from the country of the adopted person's birth that has been translated into English.
2. A copy of the passport page showing the IR-3 stamp.

C. Before the state registrar creates and registers a certificate of foreign birth for a parent of an adopted child who has been issued an IR-3 visa and who has completed a readoption process in a court in this state, the parent must provide either of the following:

1. An original state of Arizona certificate of adoption issued by a court in this state.
2. A certified court order of adoption issued by a court in this state and either a birth certificate from the country of the adopted person's birth that has been translated into English or any other written documentation that establishes the date and place of the adopted person's birth and that has been translated into English.

D. If the adopted person does not have an IR-3 stamped passport, before the state registrar creates and registers a certificate pursuant to this section an adoptive parent or an adult adopted person must submit either:

1. An original state of Arizona certificate of adoption issued by a court in this state.
2. A certified court order of adoption issued by a court in this state and either a birth certificate from the country of the adopted person's birth that has been translated into English or any other written documentation that establishes the date and place of the adopted person's birth and that has been translated into English.
3. If the person was not adopted in this state, a court order issued in this state that recognizes the adoption pursuant to section 36-336.

E. The state registrar shall not create and register a state of Arizona certificate of foreign birth for an adopted person who was born in a foreign country and who was a United States citizen at the time of birth. The state registrar shall inform the adoptive parents or the adult adopted person that a birth certificate may be obtained through the United States department of state.

F. A state of Arizona certificate of foreign birth for an adopted person must show the country of birth and state that the certificate is not evidence of United States citizenship for the person for whom it is issued.

**36-339. Missing children; notification; flagging birth certificate records; definitions**

A. If a child is reported missing to a law enforcement agency in this state, that agency shall notify the state registrar in the state of the child's birth. The notification shall include the missing child's name, date of birth and county of birth.

B. If the state registrar is notified pursuant to subsection A that a child born in this state is missing, the state registrar shall flag the child's registered birth certificate. If the missing child is found, the law enforcement agency that reported the child missing shall notify the state registrar and the state registrar shall remove the flag from the child's registered birth certificate.

C. If the state registrar receives a request for a registered certificate that is flagged, the state registrar shall:

1. Make a photocopy of the photo identification of the person making the request.
2. Document the physical description of the person making the request.
3. Immediately notify a law enforcement agency in this state of the request.

D. For the purposes of this section:

1. "Flag" means to indicate on a child's registered birth certificate that the child is a missing child.

2. "Missing child" means a child whose location cannot be determined and who is reported to a law enforcement agency as abducted, lost or a runaway.

Chapter 3	VITAL RECORDS AND PUBLIC HEALTH STATISTICS
Article 4	Fees and Vital Record Information

36-341. Fees received by state and local registrars

A. The director of the department shall establish the fees to be charged for searches, copies of registered certificates, certified copies of registered certificates, amending registered certificates and correcting certificates that are processed by the department. The director may establish a surcharge to be assessed on any local registrar who obtains access to the department's vital records automation system. A local registrar may establish the local registrar's own fees to be charged for searches, copies of registered certificates, certified copies of registered certificates, amending registered certificates and correcting certificates as determined necessary by the local entity.

B. In addition to fees collected pursuant to subsection A of this section, the state registrar shall assess an additional one dollar surcharge on fees for all certified copies of registered birth certificates. The state registrar shall deposit, pursuant to sections 35-146 and 35-147, all monies received from the surcharge in the confidential intermediary and fiduciary fund established by section 8-135.

C. The state registrar shall keep a true and accurate account of all fees collected by the state registrar under this chapter and shall deposit, pursuant to sections 35-146 and 35-147:

1. Eighty-five per cent of the first four million dollars collected each fiscal year in the vital records electronic systems fund established by section 36-341.01 and the remaining fifteen per cent of the first four million dollars collected each fiscal year in the state general fund.

2. Forty per cent of the amount collected in excess of four million dollars each fiscal year in the vital records electronic systems fund established by section 36-341.01 and the remaining sixty per cent in the state general fund.

D. A local registrar shall keep a true and accurate account of all fees collected by the local registrar under this chapter and shall deposit them with the county treasurer to be credited to a special registration and statistical revenue account of the health department fund.

E. In addition to fees collected pursuant to subsection A of this section, the department shall assess an additional one dollar surcharge on fees for all certified copies of registered death certificates. The department shall deposit, pursuant to sections 35-146 and 35-147, monies received from the surcharge in the child fatality review fund established by section 36-3504.

F. The state and local registrars may exempt an agency as defined in section 41-1001 from any fee required by this section, section 8-135 or section 36-3504.

**36-341.01. Vital records electronic systems fund; purpose; nonlapsing**

A. The vital records electronic systems fund is established consisting of monies collected pursuant to section 36-341. The director shall administer the fund. The director shall use fund monies for costs associated with the vital records automation system.

B. Fund monies:

1. Do not revert to the state general fund.
2. Are subject to legislative appropriation.

C. On notice from the director, the state treasurer shall invest and divest the monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

**36-342. Disclosure of information; prohibition**

A. The state registrar may provide information contained in vital records to persons, including federal, state, local and other agencies, as required by law and for statistical or research purposes.

B. Except as authorized by law, a local registrar, a deputy local registrar or the state registrar or their employees shall not:

1. Permit inspection of a vital record or evidentiary document supporting the vital record.
2. Disclose information contained in a vital record.
3. Transcribe or issue a copy of all or part of a vital record.

**36-343. Duty to provide information to the state registrar**

A person who has knowledge of information relating to a birth, death or fetal death must provide this information to the state registrar on request.

**36-344. Violation; classification**

A. A person is guilty of a class 1 misdemeanor if the person:

1. Knowingly makes a false statement in a certificate or record required to be filed pursuant to this chapter or in an application for an amendment of a certificate or who knowingly submits false information intending that the information be used in the creation or amendment of a certificate.
2. Without lawful authority and with the intent to deceive makes, alters, amends, mutilates or removes a certificate or record required to be submitted pursuant to this chapter or a certified copy of a registered certificate.

3. Knowingly uses or furnishes for use to another for the purpose of deception a certificate or record required to be submitted pursuant to this chapter or a certified copy of a registered certificate that has been made, altered, amended or mutilated.

4. With the intent to deceive, knowingly uses a birth certificate or a certified copy of a registered birth certificate knowing that the birth certificate or certified copy of the registered birth certificate was issued on a record that is false in whole or in part or that relates to the birth of another person.

5. Knowingly furnishes a birth certificate or certified copy of a registered birth certificate with the intent that it be used by a person other than the person named on the birth certificate.

6. Knowingly fails or refuses to report a death to a peace officer or, without proper authority, takes, removes or otherwise disturbs the human remains, clothing or articles of the deceased person.

B. A person is guilty of a class 3 misdemeanor if the person:

1. Knowingly transports or accepts for transportation or disposition human remains without an accompanying disposition-transit permit as required by this chapter.

2. Refuses to provide information required by this chapter.

3. Knowingly disregards any provision of this chapter or refuses to perform any of the duties imposed by this chapter.

### 36-345. Effect of registration

A certificate registered pursuant to this chapter and rules adopted, pursuant to this chapter, is prima facie evidence of the facts stated in the certificate.

Chapter 3	VITAL RECORDS AND PUBLIC HEALTH STATISTICS
Article 5	Preserving and Archiving Vital Records

### 36-351. Duties of the director; Arizona state library, archives and public records

A. The director shall provide safe, secure and permanent preservation of vital records. The director shall comply with preservation requirements, including the resolution necessary for authentic reproduction, established by the Arizona state library, archives and public records pursuant to section 39-101.

B. The director shall submit to the Arizona state library, archives and public records for permanent preservation, a copy of a person's:

1. Registered birth certificate seventy-five years after the person's birth.

2. Registered death certificate fifty years after the person's death.

C. Pursuant to section 41-151.09, subsection D, the Arizona state library, archives and public records shall provide access to registered birth certificates and registered death certificates submitted pursuant to subsection B of this section.

D. Each calendar year, the director shall reproduce on permanent media established by the Arizona state library, archives and public records pursuant to section 39-101, vital records registered for the calendar year including an index. The director shall submit the vital records and index to the Arizona state library, archives and public records, which shall provide for the confidential safekeeping of the vital records and index.

E. The director of the Arizona state library, archives and public records is entitled to receive records, including sealed records, within one hundred and twenty days on receipt or creation by the department. These electronic records shall be used only for archival or preservation purposes and may not be released or copied for other purposes.