

HB 4565 S

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4565

(By Delegates Beane, Ennis, Talbott and G. White)



Passed March 11, 2006

In Effect Ninety Days from Passage

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FOR

H. B. 4565

(BY DELEGATES BEANE, ENNIS, TALBOTT AND G. WHITE)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to repeal §16-5-12a, §16-5-12b, §16-5-18a and §16-5-18b of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-1, §16-5-2, §16-5-3, §16-5-4, §16-5-5, §16-5-6, §16-5-7, §16-5-8, §16-5-9, §16-5-10, §16-5-11, §16-5-12, §16-5-13, §16-5-14, §16-5-15, §16-5-§16, §16-5-17, §16-5-18, §16-5-19, §16-5-20, §16-5-21, §16-5-22, §16-5-23, §16-5-24, §16-5-25, §16-5-26, §16-5-27, §16-5-28, §16-5-29, §16-5-30, §16-5-31, §16-5-32, §16-5-33, §16-5-34, §16-5-35 and §16-5-36 of said article; and to amend said article by adding thereto two new sections, designated §16-5-37 and §16-5-38, all relating to vital statistics; defining terms; establishing section of vital statistics in Bureau for Public Health; authorizing the Department of Health and Human Resources to propose legislative rules; authorizing the appointment of a State Registrar; delineating duties and powers of State Registrar; authorizing registration districts; authorizing appointment and removal of local registrars and deputy local

registrars; delineating duties of local registrars and deputy local registrars; authorizing State Registrar to approve document forms; requiring the filing of certificates of birth; establishing criteria for paternity to be indicated on birth certificate; allowing for amendment of birth records; requiring the reporting of specified birth defects; requiring notations of missing children on birth records; requiring reporting of infants of unknown parentage; providing for delayed registration of births; providing for establishment of facts of birth through judicial procedure; requiring courts to report adoptions, annulments of adoptions or amendments of orders of adoptions; requiring courts to report paternity determinations; providing for new birth certificates following adoption, legitimation, or paternity acknowledgment or determination; requiring reporting of death, fetal death and induced termination of pregnancy; providing for delayed registration of death; authorizing disposition, disinterment and reinterment permits; authorizing corrections and amendments to vital records; authorizing reproduction and disposal of vital records; providing for disclosure of information for research purposes; providing for issuance of certified copies of vital records; authorizing fees for copies and record searches; setting forth duties to keep records and furnish vital information; authorizing registrar to match birth and death records; limiting use of social security numbers; authorizing the establishment of system of registering records of marriage, divorce and annulment; requiring reporting of marriages, divorces and annulments; and providing criminal penalties for violations.

Be it enacted by the Legislature of West Virginia:

That §16-5-12a, §16-5-12b, §16-5-18a and §16-5-18b of the Code of West Virginia, 1931, as amended, be repealed; that §16-5-1, §16-5-2, §16-5-3, §16-5-4, §16-5-5, §16-5-6, §16-5-7, §16-5-8, §16-5-9, §16-5-10, §16-5-11, §16-5-12, §16-5-13, §16-5-14, §16-5-15, §16-5-16, §16-5-17, §16-5-18, §16-5-19, §16-5-20, §16-5-21, §16-5-22, §16-5-23, §16-5-24, §16-5-25, §16-5-26, §16-5-27, §16-5-28, §16-5-29, §16-5-30, §16-5-31, §16-5-32, §16-5-33, §16-5-34,

§16-5-35 and § 16-5-36 of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §16-5-37 and §16-5-38, all to read as follows:

ARTICLE 5. VITAL STATISTICS.

§16-5-1. Definitions.

1 As used in this article, unless the context otherwise
2 requires, the following terms have the following meanings:

3 (1) "Bureau" means the Bureau for Public Health within the
4 Department of Health and Human Resources.

5 (2) "Commissioner" means the Commissioner of the
6 Bureau for Public Health within the Department of Health and
7 Human Resources.

8 (3) "Date of filing" means the date a vital record is accepted
9 for registration by the section of vital statistics of the state
10 Bureau for Public Health.

11 (4) "Dead body" means a human body or parts of a human
12 body or bones from the condition of which it reasonably may be
13 concluded that death occurred.

14 (5) "Department" means the Department of Health and
15 Human Resources.

16 (6) "Deputy local registrar" means a person appointed by
17 and working under the supervision of a local registrar in the
18 discharge of the vital statistics functions specified to be
19 performed in and for the county or other district of the local
20 registrar.

21 (7) "Fetal death" means death prior to the complete
22 expulsion or extraction from its mother of a product of human
23 conception, irrespective of the duration of pregnancy and which

24 is not an induced termination of pregnancy, such death being
25 indicated by the fact that after such expulsion or extraction the
26 fetus does not breathe or show any other evidence of life such
27 as beating of the heart, pulsation of the umbilical cord or
28 definite movement of voluntary muscles.

29 (8) "Filing" means the presentation and acceptance of a
30 vital record or report provided in this article for registration by
31 the section of vital statistics of the state Bureau for Public
32 Health.

33 (9) "Final disposition" means the burial, interment, crema-
34 tion, removal from the state, or other authorized disposition of
35 a dead body or fetus.

36 (10) "Induced termination of pregnancy" means the
37 purposeful interruption of an intrauterine pregnancy with the
38 intention other than to produce a live-born infant, and which
39 does not result in live birth. The definition excludes manage-
40 ment of prolonged retention of products of conception follow-
41 ing fetal death.

42 (11) "Institution" means any establishment, public or
43 private, which provides inpatient or outpatient medical,
44 surgical, or diagnostic care or treatment, or nursing, custodial
45 or domiciliary care to two or more unrelated individuals or to
46 which persons are committed by law.

47 (12) "Licensed health professional" means an individual
48 who is licensed by the State of West Virginia to practice a
49 health profession.

50 (13) "Live birth" means the complete expulsion or extrac-
51 tion from its mother of a product of human conception, irre-
52 spective of the duration of pregnancy, which, after such
53 expulsion or extraction, breathes or shows any other evidence
54 of life such as beating of the heart, pulsation of the umbilical

55 cord or definite movement of voluntary muscles, whether or not
56 the umbilical cord has been cut or the placenta is attached.

57 (14) "Local registrar" means the person appointed by the
58 State Registrar of Vital Statistics for a county or other district
59 to perform the vital statistics functions specified to be per-
60 formed in and for the county or other district.

61 (15) "Physician" means a person licensed to practice
62 medicine or osteopathy pursuant to the laws of this state.

63 (16) "Registration" means the process by which vital
64 records are completed, filed and incorporated into the official
65 records of the section of vital statistics.

66 (17) "Research" means a systematic investigation designed
67 primarily to develop or contribute to general knowledge.

68 (18) "System of vital statistics" means the registration,
69 collection, preservation, amendment, certification of vital
70 records, the collection of other reports required by this article,
71 and related activities, including, but not limited to, the tabula-
72 tion, analysis, publication and dissemination of vital statistics.

73 (19) "Vital records" means certificates or reports and data
74 related to birth, death, and marriage, including divorce, dissolu-
75 tion of marriage, and annulment.

76 (20) "Vital reports" means reports and related data desig-
77 nated in this article and in rules.

78 (21) "Vital statistics" means the data derived from certifi-
79 cates and reports of birth, death, fetal death, marriage, divorce,
80 annulment and related records and reports.

**§16-5-2. Establishment of section of vital statistics in Bureau for
Public Health.**

1 (a) There is established in the state Bureau for Public
2 Health a section of vital statistics which shall install, maintain
3 and operate the only system of vital statistics throughout this
4 state.

5 (b) The section of vital statistics shall be provided with
6 sufficient staff, suitable offices with a fire-proof vault and a
7 nonliquid fire suppression system for the protection of paper
8 records and magnetic media and other resources for the proper
9 administration of the system of vital statistics and for the
10 preservation and security of its official records.

**§16-5-3. Department of Health and Human Resources to propose
legislative rules.**

1 (a) The Department of Health and Human Resources shall
2 propose rules for legislative approval in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code to
4 provide for:

5 (1) Adequate standards of security and confidentiality of
6 vital records;

7 (2) Requirements for individuals in the state who may be
8 designated by the State Registrar to aid in the administration of
9 the system of vital statistics;

10 (3) Criteria for registration districts throughout the state;

11 (4) Requirements for the completion, filing, correction and
12 amendment of certificates, reports and other documents
13 required by this article;

14 (5) Requirements for registering a delayed certificate of
15 birth, including provisions for dismissing an application which
16 is not actively pursued;

17 (6) Inspection of evidence of adoption, annulment of
18 adoption, legitimation or court determination of paternity;

19 (7) Completion of the medical certification of the cause of
20 death;

21 (8) Record keeping requirements for receipt, removal,
22 delivery, burial, cremation or other final disposition of a dead
23 body or a fetus;

24 (9) Authorization for the disinterment and reinterment of a
25 dead body or a fetus;

26 (10) Extension of prescribed time periods for the filing of
27 certificates of death, reports of fetal death and authorizations
28 for disposition and disinterment and reinterment, including
29 authorization for disposition prior to filing a certificate of
30 death;

31 (11) Disposal of original records from which permanent
32 reproductions have been made;

33 (12) Disclosure of confidential information for administra-
34 tive, statistical or research purposes;

35 (13) Release of records of birth, death, fetal death, mar-
36 riage, divorce or annulment, subject to the provisions of section
37 twenty-seven of this article;

38 (14) Authorization for preparing, issuing or obtaining
39 copies of vital records;

40 (15) Requirements for matching and marking certificates of
41 birth and death for the purpose of preventing the fraudulent use
42 of birth certificates;

43 (16) Utilization of social security numbers to meet require-
44 ments of federal law;

45 (17) Requirements for a statewide system of registering,
46 indexing and preserving records of marriage, divorce and
47 annulment of marriage; and

48 (18) Any other purpose to carry out the requirements of this
49 article.

50 (b) Any rules in effect as of the passage of this article will
51 remain in effect until amended, modified, repealed or replaced,
52 except that references to provisions of former enactments of
53 this article are interpreted to mean provisions of this article.

§16-5-4. Appointment of State Registrar of Vital Statistics.

1 The Commissioner of the Bureau for Public Health shall
2 appoint the State Registrar of Vital Statistics, hereinafter
3 referred to as the "State Registrar."

§16-5-5. Powers and duties of State Registrar.

1 (a) The State Registrar shall:

2 (1) Administer and enforce the provisions of this article and
3 the rules promulgated pursuant to this article, and issue
4 instructions for the efficient administration of the system of
5 vital statistics;

6 (2) Direct and supervise the system of vital statistics and
7 the operation of the section of vital statistics, and act as
8 custodian of its records;

9 (3) Direct, supervise, and control all activities pertaining to
10 the operation of the system of vital statistics;

11 (4) Conduct training programs to promote uniformity of
12 policy and procedures throughout the state in matters pertaining
13 to the system of vital statistics;

14 (5) Prescribe, furnish, and distribute forms required by this
15 article and the rules promulgated pursuant to this article, and
16 prescribe means for transmission of data to accomplish the
17 purpose of complete and accurate reporting and registration;

18 (6) Prepare and publish annual reports of vital statistics of
19 this state, and other reports required by the commissioner;

20 (7) Provide to local health agencies copies of or data
21 derived from certificates and reports required under this article
22 as the State Registrar may determine are necessary for local
23 health planning and program activities: *Provided*, That the
24 copies and data remain the property of the section of vital
25 statistics, and the uses that may be made of them are governed
26 by the State Registrar; and

27 (8) Offer voluntary paternity establishment services in
28 accordance with federal regulations set forth in 45 CFR
29 303.5(g).

30 (b) The State Registrar may:

31 (1) Designate individuals in the state as meet the require-
32 ments provided by rule to aid in the efficient administration of
33 the system of vital statistics;

34 (2) Delegate functions and duties to employees of the
35 section of vital statistics and to individuals designated under
36 subdivision (1) of this subsection;

37 (3) Investigate, personally or by a duly delegated represen-
38 tative, cases of irregularity or violation of law arising under the
39 provisions of this article;

40 (4) Report cases of violation of any of the provisions of this
41 article to the prosecuting attorney of the county, with a state-
42 ment of the facts and circumstances. The prosecuting attorney

43 may prosecute the person or corporation responsible for the
44 alleged violation of law. Upon request of the State Registrar,
45 the Attorney General shall assist in the enforcement of the
46 provisions of this article.

§16-5-6. Registration districts.

1 Subject to the rules promulgated by the department, the
2 commissioner may establish, eliminate, consolidate, subdivide
3 or alter the boundaries of, registration districts throughout the
4 state.

**§16-5-7. Appointment and removal of local registrars and deputy
local registrars.**

1 (a) The State Registrar may appoint one or more local
2 registrars and deputy local registrars, and may assign them to
3 one or more registration districts.

4 (b) The State Registrar may remove a local registrar or a
5 deputy local registrar for reasonable cause.

§16-5-8. Duties of local registrars and deputy local registrars.

1 (a) A local registrar shall:

2 (1) Administer and enforce the provisions of this article and
3 the rules promulgated pursuant to this article, according to the
4 instructions of the State Registrar;

5 (2) Require that certificates be completed and filed in
6 accordance with provisions of this article and the rules promul-
7 gated pursuant to this article;

8 (3) Transmit, by mail or an approved electronic process, all
9 certificates, reports or other returns to the State Registrar on a
10 schedule to be determined by the State Registrar;

11 (4) Maintain records, make reports and perform other duties
12 as required by the State Registrar.

13 (b) A deputy local registrar shall perform the duties of the
14 local registrar in the absence or incapacity of the local registrar,
15 and shall perform other duties as prescribed by the State
16 Registrar.

§16-5-9. Content of certificates and reports.

1 (a) To promote uniformity in the system of vital statistics,
2 in addition to the items required by state law, the forms of
3 certificates, reports and other returns required by this article or
4 by rules promulgated pursuant to this article shall include the
5 items recommended by the federal agency responsible for
6 national vital statistics, subject to the commissioner's approval
7 or modification.

8 (b) The State Registrar shall approve the form and format
9 for each certificate, report, and other documents required by
10 this article.

11 (c) All vital records shall contain the date of filing.

12 (d) Information required in certificates, forms, records, or
13 reports authorized by this article may be filed, verified, regis-
14 tered and stored by photographic, electronic, or other means as
15 prescribed by the State Registrar.

**§16-5-10. Birth registration acknowledgment and rescission of
paternity.**

1 (a) A certificate of birth for each live birth which occurs in
2 this state shall be filed with the section of vital statistics, or as
3 otherwise directed by the State Registrar, within seven days
4 after the birth and shall be registered if it has been completed
5 and filed in accordance with this section.

6 (b) When a birth occurs in transit to or in an institution, the
7 person in charge of the institution or his or her authorized
8 designee shall obtain all data required by the certificate, prepare
9 the certificate, certify either by signature or by an approved
10 electronic process that the child was born alive at the place and
11 time and on the date stated, and file the certificate as directed
12 in subsection (a) of this section. The physician or other person
13 in attendance, or any person providing prenatal care shall
14 provide the medical information required by the certificate
15 within seventy-two hours after the birth.

16 (c) When a birth occurs other than in transit to or in an
17 institution, the certificate shall be prepared and filed by one of
18 the following persons in the indicated order of priority in
19 accordance with legislative rule:

20 (1) The physician in attendance at or immediately after the
21 birth;

22 (2) Any other person in attendance at or immediately after
23 the birth;

24 (3) The father or the mother, or, in the absence of the father
25 and the inability of the mother, the person in charge of the
26 premises where the birth occurred; or

27 (4) Any other person qualified by the department by rule to
28 establish the facts of birth.

29 (d) When a birth occurs on a moving conveyance within the
30 United States and the child is first removed from the convey-
31 ance in this state, the birth shall be registered in this state, and
32 the place where it is first removed shall be considered the place
33 of birth. When a birth occurs on a moving conveyance while in
34 international waters or air space or in a foreign country or its air
35 space and the child is first removed from the conveyance in this
36 state, the birth shall be registered in this state, but the certificate

37 shall show the actual place of birth insofar as can be deter-
38 mined.

39 (e) For the purposes of birth registration, the woman who
40 gives birth to the child is presumed to be the mother, unless
41 otherwise specifically provided by state law or determined by
42 a court of competent jurisdiction prior to the filing of the
43 certificate of birth.

44 (f) If the mother was married at the time of either concep-
45 tion or birth, or between conception and birth, the name of the
46 most recent husband shall be entered on the certificate as the
47 father of the child, unless:

48 (1) Paternity has been determined otherwise by a court of
49 competent jurisdiction pursuant to the provisions of article
50 twenty-four, chapter forty-eight of this code or other applicable
51 law, in which case the name of the father as determined by the
52 court shall be entered on the certificate; or

53 (2) Genetic testing shows that the alleged father is the
54 biological father of the child pursuant to the following guide-
55 lines:

56 (A) The tests show that the inherited characteristics
57 including, but not limited to, blood types, have been determined
58 by appropriate testing procedures at a hospital, independent
59 medical institution or independent medical laboratory duly
60 licensed under the laws of this state, or any other state, and an
61 expert qualified as an examiner of genetic markers has ana-
62 lyzed, interpreted and reported on the results; and

63 (B) The blood or tissue or other genetic test results show a
64 statistical probability of paternity of more than ninety-eight
65 percent; or

66 (3) The mother, her husband, and an alleged father ac-
67 knowledge that the husband is not the biological father and that
68 the alleged father is the true biological father: *Provided*, That
69 the conditions set forth in paragraphs (A) through (D) are met:

70 (A) The mother executes an affidavit of nonpaternity
71 attesting that her husband is not the biological father of the
72 child and that another man is the biological father; and

73 (B) The man named as the alleged biological father
74 executes an affidavit of paternity attesting that he is the
75 biological father; and

76 (C) The husband executes an affidavit of nonpaternity
77 attesting that he is not the biological father; and

78 (D) Affidavits executed pursuant to the provisions of this
79 subdivision may be joint or individual or a combination thereof,
80 and each signature shall be individually notarized. If one of the
81 parties is an unemancipated minor, his or her parent or legal
82 guardian must also sign the respective affidavit.

83 (4) If the affidavits are executed as specified in subdivision
84 (3) of this section, or genetic tests as specified in subdivision
85 (2) of this section verify that the alleged father is the biological
86 father, the alleged father shall be shown as the father on the
87 certificate of live birth. Paternity established pursuant to
88 subdivision (2) or (3) of this section establishes the father for all
89 legal purposes including, but not limited to, the establishment
90 and enforcement of child support orders, and may be rescinded
91 only by court order upon a showing of fraud, duress or material
92 mistake of fact.

93 (5) Paternity may be established pursuant to subdivision (2)
94 or (3) of this section only when the husband's name does not
95 appear as the father of a child on a registered and filed certifi-
96 cate of live birth and the affidavits or genetic tests are com-

97 pleted and submitted to the section of vital statistics within one
98 year of the date of birth of the child.

99 (g) If the mother was not married at the time of either
100 conception or birth, or between conception and birth, the name
101 of the father shall not be entered on the certificate of birth
102 without an affidavit of paternity signed by the mother and the
103 person to be named as the father. The affidavit may be joint or
104 individual and each signature shall be individually notarized.

105 (h) A notarized affidavit of paternity, signed by the mother
106 and the man to be named as the father, acknowledging that the
107 man is the father of the child, legally establishes the man as the
108 father of the child for all purposes, and child support may be
109 established pursuant to the provisions of chapter forty-eight of
110 this code.

111 (1) The notarized affidavit of paternity shall include filing
112 instructions, the parties' social security number and addresses
113 and a statement that parties were given notice of the alternatives
114 to, the legal consequences of, and the rights and obligations of
115 acknowledging paternity, including, but not limited to, the duty
116 to support a child. If either of the parents is a minor, the
117 statement shall include an explanation of any rights that may be
118 afforded due to the minority status.

119 (2) The failure or refusal to include all information required
120 by subdivision (1) of this subsection shall not affect the validity
121 of the affidavit of paternity, in the absence of a finding by a
122 court of competent jurisdiction that it was obtained by fraud,
123 duress or material mistake of fact, as provided in subdivision
124 (4) of this subsection.

125 (3) The original notarized affidavit of paternity shall be
126 filed with the State Registrar. If a certificate of birth for the
127 child has been previously issued which is incorrect or incom-

128 plete, a new certificate of birth will be created and placed on
129 file. The new certificate of birth will not be marked
130 "Amended".

131 (4) Upon receipt of any notarized affidavit of paternity
132 executed pursuant to this section, the State Registrar shall
133 forward a copy to the Bureau for Child Support Enforcement.

134 (5) An acknowledgment executed under the provisions of
135 this subsection may be rescinded as follows:

136 (A) The parent wishing to rescind the acknowledgment
137 shall file with the clerk of the circuit court of the county in
138 which the child resides a verified complaint stating the name of
139 the child, the name of the other parent, the date of the birth of
140 the child, the date of the signing of the affidavit of paternity,
141 and a statement that he or she wishes to rescind the acknowl-
142 edgment of the paternity. If the complaint is filed more than
143 sixty days from the date of execution of the affidavit of
144 paternity or the date of an administrative or judicial proceeding
145 relating to the child in which the signatory of the affidavit of
146 paternity is a party, the complaint shall include specific
147 allegations concerning the elements of fraud, duress or material
148 mistake of fact.

149 (B) The complaint shall be served upon the other parent as
150 provided in Rule 4 of the West Virginia Rules of Civil Proce-
151 dure.

152 (C) The family court judge shall hold a hearing within sixty
153 days of the service of process upon the other parent.

154 (D) If the complaint was filed within sixty days of the date
155 the affidavit of paternity was executed, the court shall order the
156 acknowledgment to be rescinded without any requirement of a
157 showing of fraud, duress, or material mistake of fact.

158 (E) If the complaint was filed more than sixty days from the
159 date of execution of the affidavit of paternity or the date of an
160 administrative or judicial proceeding relating to the child in
161 which the signatory of the affidavit of paternity is a party, the
162 court may set aside the acknowledgment only upon a finding,
163 by clear and convincing evidence, that the affidavit of paternity
164 was executed under circumstances of fraud, duress or material
165 mistake of fact.

166 (F) The circuit clerk shall forward a copy of any order
167 entered pursuant to this proceeding to the State Registrar by
168 certified mail. The order shall state all changes to be made, if
169 any, to the certificate of birth. The certificate of birth may not
170 be marked "Amended."

171 (i) In any case in which paternity of a child is determined
172 by a court of competent jurisdiction pursuant to the provisions
173 of article twenty-four, chapter forty-eight of this code or other
174 applicable law, the name of the father and surname of the child
175 shall be entered on the certificate of birth in accordance with
176 the finding and order of the court.

177 (j) If the father is not named on the certificate of birth, no
178 other information about the father may be entered on the
179 certificate.

180 (k) In order to permit the filing of the certificate of birth
181 within the seven days prescribed in subsection (a) of this
182 section, one of the parents of the child must verify the accuracy
183 of the personal data to be entered on the certificate. Certificates
184 of birth filed after seven days, but within one year from the date
185 of birth, will be registered on the standard form of the certifi-
186 cate of birth and will not be marked "Delayed." The State
187 Registrar may require additional evidence in support of the
188 facts of birth for certificates filed after seven days from the date
189 of birth.

190 (l) In addition to the personal data furnished for the
191 certificate of birth issued for a live birth in accordance with the
192 provisions of this section, a person whose name is to appear on
193 the certificate of birth as a parent shall contemporaneously
194 furnish to the person preparing and filing the certificate of birth
195 the social security number or numbers issued to the parent. A
196 record of the social security number or numbers shall be filed
197 with the local registrar of the district in which the birth occurs
198 within seven days after the birth, and the local registrar shall
199 transmit the number or numbers to the State Registrar in the
200 same manner as other personal data is transmitted to the State
201 Registrar.

202 (m) The local registrar shall transmit by mail or an ap-
203 proved electronic process each month to the county clerk of
204 each county the copies of the certificates of all births occurring
205 in the county or the data extracted therefrom, from which
206 copies the clerk shall compile records of the births and shall
207 create an index to the birth records that shall be a matter of
208 public record. The State Registrar shall prescribe the form of
209 the index of births.

**§16-5-11. Registration of infants and minors born with specified
birth defects.**

1 (a) When a live birth occurs, the physician or midwife in
2 attendance at, or present immediately after, the birth shall
3 examine the infant for any of the following birth defects:

4 (1) Anencephaly;

5 (2) Spina bifida;

6 (3) Hydrocephaly;

7 (4) Cleft palate;

- 8 (5) Total cleft lip;
- 9 (6) Esophageal atresia and atenosis;
- 10 (7) Rectal and anal atresia;
- 11 (8) Hypospadias;
- 12 (9) Reduction and deformity - upper limb;
- 13 (10) Reduction and deformity - lower limb;
- 14 (11) Congenital dislocation of the hip;
- 15 (12) Down's syndrome;
- 16 (13) Visual impairments;
- 17 (14) Sickle cell anemia; and
- 18 (15) Others as may be requested by the commissioner.

19 (b) If any such impairment is found in an infant, or in any
20 subsequent examination of any minor which has not been
21 previously diagnosed, the examining physician, midwife or
22 other health care provider licensed under chapter thirty of the
23 code shall within thirty days of the examination make a report
24 of the diagnosis to the State Registrar or other agency within
25 the bureau as designated by the commissioner on forms
26 provided by the bureau. The report shall include the name of the
27 child, the name or names of the parents or parent or guardian,
28 a description of the impairment and other related information
29 as specified by the commissioner.

30 (c) The information received by the State Registrar or other
31 agency within the bureau as designated by the commissioner
32 pursuant to this section pertaining to the identity of the persons
33 named shall be kept confidential: *Provided*, That if consent of

34 a parent, or of the guardian is obtained, the State Registrar or
35 other agency within the bureau as designated by the commis-
36 sioner may provide the information to federal, state, and local
37 government agencies so that the information can be utilized to
38 provide assistance or services for the benefit of the child.

§16-5-12. Notation on birth records of missing children.

1 (a) Upon receiving a report of the disappearance of any
2 child born in this state, the State Registrar shall indicate in a
3 clear and conspicuous manner in the child's birth record or by
4 an electronic process that the child has been reported as
5 missing, including the title and location of the law-enforcement
6 agency providing the report.

7 (b) Upon receiving a request for any birth records contain-
8 ing a report of the disappearance of any child, the State Regis-
9 trar shall immediately notify the local law-enforcement agency
10 which provided the missing child report. The State Registrar
11 shall transmit any relevant information concerning the appli-
12 cant's identity, address and other pertinent data immediately to
13 the relevant local law-enforcement agency.

14 (c) The State Registrar shall retain the original written
15 request, or the details in an electronic format, until notified of
16 the missing child's recovery or the child attains the age of
17 eighteen.

18 (d) Upon notification that any missing child has been
19 recovered, the State Registrar shall remove the report of the
20 disappearance from the child's birth record.

§16-5-13. Registration of infants of unknown parentage.

1 (a) Whoever assumes the custody of a live-born infant of
2 unknown parentage shall report, to the State Registrar, on a

3 form and in a manner prescribed by the State Registrar, the
4 following information:

5 (1) The date and city or county, or both, of finding;

6 (2) Sex and approximate birth date of child;

7 (3) Name and address of the person with whom or the
8 institution with which the child has been placed for care;

9 (4) Name given to the child by the custodian of the child;
10 and

11 (5) Other data required by the State Registrar.

12 (b) The place where the child was found shall be entered as
13 the place of birth.

14 (c) A report registered under this section shall constitute the
15 certificate of birth for the child.

16 (d) If the child is identified and a certificate of birth is
17 found or obtained, the report registered under this section shall
18 be placed in a special file and may not be subject to inspection
19 except upon order of a court of competent jurisdiction or as
20 provided by rule.

§16-5-14. Delayed registration of births.

1 (a) The State Registrar may register a delayed certificate of
2 birth in accordance with a legislative rule to be promulgated by
3 the department, which rule will provide for qualifications for
4 applicants and the evidentiary documentation required. The rule
5 may provide for the dismissal of an application which is not
6 actively pursued.

7 (b) When a certificate of birth of a person born in West
8 Virginia has not been filed within one year, a delayed certificate
9 of birth may be filed in accordance with the legislative rule.

10 (c) A certificate of birth registered one year or more after
11 the date of birth shall be registered on a delayed certificate of
12 birth form. The delayed certificate of birth will show on its face
13 the date of registration and will contain a summary statement of
14 the evidentiary documentation submitted in support of the
15 delayed registration.

16 (d) A delayed certificate of birth may not be registered for
17 a deceased person.

18 (e) If the evidentiary documentation required is not filed
19 with the application for a delayed registration of birth or the
20 State Registrar has cause to question the validity or adequacy
21 of the evidentiary documentation, the State Registrar may not
22 register the delayed certificate of birth and shall advise the
23 applicant of his or her right to seek an order from a court of
24 competent jurisdiction.

25 (f) In addition to the required documentation and other data
26 furnished in an application for a delayed registration of birth in
27 accordance with the provisions of this section, a person whose
28 name is to appear on the certificate of birth as a parent shall
29 contemporaneously furnish with the application the social
30 security number or numbers issued to the parent.

§16-5-15. Judicial procedure to establish facts of birth.

1 (a) If the State Registrar refuses to file a certificate of birth
2 under the provisions of section ten or section fourteen of this
3 article, a petition signed and sworn to by the petitioner may be
4 filed in the circuit court of the county in which the petitioner
5 resides or in the circuit court of Kanawha County for an order

6 establishing a record of the date and place of the birth and the
7 parentage of the person whose birth is to be registered.

8 (b) The petition may be made on a form prescribed and
9 furnished or approved by the State Registrar, and must allege:

10 (1) That the person for whom a certificate of birth is sought
11 was born in this state;

12 (2) That no certificate of birth can be found in the section
13 of vital statistics or the office of any local custodian of certifi-
14 cates of birth;

15 (3) That diligent efforts by the petitioner have failed to
16 obtain the evidence required in accordance with section ten or
17 section fourteen of this article and of any rules promulgated
18 pursuant to this article;

19 (4) That the State Registrar has refused to register a
20 certificate of birth; and

21 (5) Such other allegations as may be required.

22 (c) The petition must be accompanied by a copy of the
23 statement of the State Registrar made in accordance with
24 section ten or section fourteen of this article and by copies of all
25 evidentiary documentation which was submitted to the State
26 Registrar in support of the registration.

27 (d) The court shall fix a time and place for hearing the
28 petition and shall give the State Registrar not less than twenty
29 days' notice of the hearing. The State Registrar, or his or her
30 authorized representative, may appear and testify in the
31 proceeding.

32 (e) If the court finds from the evidence presented that the
33 person for whom a certificate of birth is sought was born in this

34 state, it shall make findings as to the place and date of birth,
35 parentage, and other findings as may be required and shall issue
36 an order, on a form prescribed and furnished or approved by the
37 State Registrar, to establish a record of birth. This order shall
38 include the birth data to be registered, a description of the
39 evidence presented, and the date of the court's action.

40 (f) The clerk of the court shall forward each order establish-
41 ing a record of birth to the State Registrar not later than the
42 tenth day of the calendar month following the month in which
43 it was entered. The State Registrar shall register the order,
44 which shall constitute the court order certificate of birth.

45 (g) Any order is final unless reversed, vacated or modified
46 on appeal, and any appeal must be sought in the manner and
47 within the time provided by law for appeals in other civil cases.

48 (h) In addition to the evidence presented to establish a court
49 order certificate of birth in accordance with the provisions of
50 this section, a person whose name is to appear on the court
51 order certificate of birth as a parent shall furnish to the clerk of
52 the circuit court the social security number or numbers issued
53 to the parent. A record of the social security number or numbers
54 shall be forwarded to the State Registrar along with the order
55 establishing a court order certificate of birth.

§16-5-16. Certificate of adoption.

1 (a) When a court of competent jurisdiction has entered an
2 order of adoption in this state, it shall require the preparation of
3 a certificate of adoption on a form prescribed and furnished by
4 the State Registrar. The certificate of adoption shall be certified
5 by the clerk of the court and shall provide:

6 (1) Facts necessary to locate and identify the certificate of
7 birth of the person adopted or, in the case of a person who was

8 born in a foreign country, evidence from sources determined to
9 be reliable by the court as to the date and place of birth;

10 (2) Information necessary to establish a new certificate of
11 birth of the person adopted; and

12 (3) Information sufficient to identify the order of adoption.

13 (b) Each petitioner shall furnish the information necessary
14 to prepare the certificate of adoption. The court may require any
15 social service or welfare agency or any person having knowl-
16 edge of the facts to provide the additional information as may
17 be necessary to complete the certificate of adoption.

18 (c) Whenever an order of adoption is amended, vacated or
19 annulled, the clerk of the court shall prepare a report, which
20 shall include the facts necessary to identify the original certifi-
21 cate of adoption and the facts in the new order necessary to
22 amend the birth record.

23 (d) Not later than the tenth day of each calendar month, the
24 clerk of the court shall forward to the State Registrar certifi-
25 cates of adoption and reports of annulments or amendments
26 entered in the preceding month, together with the related reports
27 as the State Registrar shall require.

28 (e) When the State Registrar receives a certificate of
29 adoption, report of annulment of adoption, or amendment of an
30 order of adoption for a person born in a state other than West
31 Virginia, he or she shall forward the certificate or report to the
32 State Registrar in the state of birth.

33 (f) When the State Registrar receives a certificate of
34 adoption, report of annulment of adoption, or amendment of an
35 order of adoption for a person born in a foreign country, and the
36 person was not a citizen of the United States at the time of birth,
37 the State Registrar shall prepare a "Certificate of Foreign Birth"

38 as provided by subsection (h), section eighteen of this article.
39 If the person was born in Canada, the State Registrar shall send
40 a copy of the certificate of adoption, report of annulment of
41 adoption, or amendment of an order of adoption to the registra-
42 tion authority in Canada.

43 (g) When the State Registrar receives a certificate of
44 adoption, report of annulment of adoption, or amendment of
45 order of adoption for a person born in a foreign country who
46 was a citizen of the United States at the time of birth, the State
47 Registrar may not prepare a "Certificate of Foreign Birth" but
48 shall notify the adoptive parents or the registrant of the proce-
49 dures for obtaining a revised certificate of birth through the
50 United States Department of State.

51 (h) In addition to the information furnished in accordance
52 with subsection (b) of this section, each person whose name is
53 to appear on the certificate of adoption as a parent, whether as
54 an adoptive parent or as a natural parent who joins in the
55 adoption without relinquishing parental rights, shall furnish to
56 the clerk of the circuit court the social security number or
57 numbers issued to the parent. A record of the social security
58 number or numbers shall be forwarded to the State Registrar
59 along with the certificate of adoption, as provided in subsection
60 (d) of this section.

§16-5-17. Court reports of determination of paternity.

1 (a) When a court of competent jurisdiction has entered an
2 order of paternity, the petitioner shall provide the information
3 necessary for the clerk of the court to complete and certify a
4 certificate of paternity on a form prescribed and furnished by
5 the State Registrar. The certificate of paternity shall provide:

6 (1) Facts necessary to locate and identify the certificate of
7 birth of the person whose paternity is determined;

8 (2) Information necessary to establish a new certificate of
9 birth of the person whose paternity is determined; and

10 (3) Information sufficient to identify the order of paternity.

11 (b) Not later than the tenth day of each calendar month, the
12 clerk of the court shall forward to the State Registrar certifi-
13 cates of paternity entered in the preceding month, together with
14 related reports as the State Registrar shall require.

15 (c) In addition to providing the information necessary to
16 establish a new certificate of birth of the person whose paternity
17 has been determined, a person whose name is to appear on the
18 certificate of paternity as a parent shall furnish to the clerk of
19 the circuit court the social security number or numbers issued
20 to the parent. A record of the social security number or numbers
21 shall be forwarded to the State Registrar along with the certifi-
22 cate of paternity, as provided in subsection (b) of this section.

**§16-5-18. Certificates of birth following adoption, legitimation,
paternity acknowledgment and court determination
of paternity.**

1 (a) The State Registrar shall establish a new certificate of
2 birth for a person born in West Virginia when he or she receives
3 the following:

4 (1) A certificate of adoption as provided in section sixteen
5 of this article or a certificate of adoption prepared and filed in
6 accordance with the laws of another state, or a certified copy of
7 the order of adoption, together with the information necessary
8 to identify the original certificate of birth and to establish a new
9 certificate of birth; or

10 (2) A request that a new certificate be established as
11 prescribed by legislative rule, based upon evidence that:

12 (A) The person for whom the certificate is sought has been
13 legitimated;

14 (B) A court of competent jurisdiction has determined the
15 paternity of the person; or

16 (C) Both parents have acknowledged the paternity of the
17 person.

18 (b) A new certificate of birth shall show the actual city,
19 county and date of birth, if known, and shall be substituted for
20 the original certificate of birth on file. The original certificate
21 of birth and the evidence of adoption, legitimation, court
22 determination of paternity, or affidavit of paternity may not be
23 inspected except for the administration of the system of vital
24 statistics or the Bureau for Child Support Enforcement, or upon
25 order of a court of competent jurisdiction, or, in the case of an
26 affidavit of paternity, the signatories to the affidavit or the adult
27 subject of the affidavit, or as provided by legislative rule or as
28 otherwise provided by state law.

29 (c) Upon receipt of a report of an amended order of
30 adoption, the State Registrar shall amend the certificate of birth
31 as provided by legislative rule.

32 (d) Upon receipt of a report or order of annulment of
33 adoption, the State Registrar shall restore the original certificate
34 of birth to its place in the files and the new certificate and
35 evidence may not be inspected except for the administration of
36 the system of vital statistics or Bureau for Child Support
37 Enforcement, or upon order of a court of competent jurisdic-
38 tion, or as provided by legislative rule or as otherwise provided
39 by state law.

40 (e) Upon receipt of a written request and a sworn affidavit
41 of paternity signed by both parents of a child born out of
42 wedlock, the State Registrar shall place the name of the father

43 on the certificate of birth and, if the child is under the age of
44 eighteen and at the request of the parents, change the surname
45 of the child in the manner prescribed by legislative rule.

46 (f) If no certificate of birth is on file for the person for
47 whom a new certificate of birth is to be established under this
48 section, a delayed certificate of birth must be filed with the
49 State Registrar as provided in section fourteen or fifteen of this
50 article before a new certificate of birth is established, except
51 that when the date and place of birth and parentage have been
52 established by a court of competent jurisdiction, a delayed
53 certificate is not required.

54 (g) When a new certificate of birth is established by the
55 State Registrar, all copies of the original certificate of birth in
56 the custody of any other custodian of vital records in this state
57 shall be sealed from inspection or forwarded to the State
58 Registrar, as he or she shall direct.

59 (h) Upon receipt of the documentation set forth in subdivi-
60 sion (1) of this subsection, the State Registrar shall prepare and
61 register a certificate in this state for a person born in a foreign
62 country who is not a citizen of the United States and who was
63 adopted through a court of competent jurisdiction in this state.

64 (1) The State Registrar shall establish the certificate upon
65 receipt of:

66 (A) A certificate of adoption from the court ordering the
67 adoption;

68 (B) Proof of the date and place of the child's birth; and

69 (C) A request that the certificate be prepared, from the
70 court, the adopting parents, or the adopted person if he or she
71 has attained the age of eighteen years.

72 (2) The certificate shall be labeled "Certificate of Foreign
73 Birth" and shall show the actual country of birth. The certificate
74 shall include a statement that it is not evidence of United States
75 citizenship for the person for whom it is issued.

76 (3) After registration of the certificate of birth in the new
77 name of the adopted person, the State Registrar shall seal and
78 file the certificate of adoption, which may not be inspected
79 except for the administration of the system of vital statistics, or
80 upon order of a court of competent jurisdiction, or as provided
81 by legislative rule or as otherwise provided by state law.

§16-5-19. Death registration.

1 (a) A certificate of death for each death which occurs in this
2 state shall be filed with the section of vital statistics, or as
3 otherwise directed by the State Registrar, within five days after
4 death, and prior to final disposition, and shall be registered if it
5 has been completed and filed in accordance with this section.

6 (1) If the place of death is unknown, but the dead body is
7 found in this state, the place where the body was found shall be
8 shown as the place of death.

9 (2) If the date of death is unknown, it shall be approxi-
10 mated. If the date cannot be approximated, the date found shall
11 be shown as the date of death.

12 (3) If death occurs in a moving conveyance in the United
13 States and the body is first removed from the conveyance in this
14 state, the death shall be registered in this state and the place
15 where it is first removed shall be considered the place of death.

16 (4) If death occurs in a moving conveyance while in
17 international waters or air space or in a foreign country or its air
18 space and the body is first removed from the conveyance in this
19 state, the death shall be registered in this state but the certificate

20 shall show the actual place of death insofar as can be deter-
21 mined.

22 (5) In all other cases, the place where death is pronounced
23 shall be considered the place where death occurred.

24 (b) The funeral director or other person who assumes
25 custody of the dead body shall: (1) Obtain the personal data
26 from the next of kin or the best qualified person or source
27 available including the deceased person's social security
28 number or numbers, which shall be placed in the records
29 relating to the death and recorded on the certificate of death;

30 (2) Within forty-eight hours after death, provide the
31 certificate of death containing sufficient information to identify
32 the decedent to the physician responsible for completing the
33 medical certification as provided in subsection (c) of this
34 section; and

35 (3) Upon receipt of the medical certification, file the
36 certificate of death: *Provided*, That for implementation of
37 electronic filing of death certificates, the person who certifies
38 to cause of death will be responsible for filing the electronic
39 certification of cause of death as directed by the State Registrar
40 and in accordance with legislative rule.

41 (c) The medical certification shall be completed and signed
42 within twenty-four hours after receipt of the certificate of death
43 by the physician in charge of the patient's care for the illness or
44 condition which resulted in death except when inquiry is
45 required pursuant to chapter sixty-one, article twelve or other
46 applicable provisions of this code.

47 (1) In the absence of the physician or with his or her
48 approval, the certificate may be completed by his or her
49 associate physician, any physician who has been placed in a
50 position of responsibility for any medical coverage of the

51 decedent, the chief medical officer of the institution in which
52 death occurred, or the physician who performed an autopsy
53 upon the decedent, provided inquiry is not required pursuant to
54 chapter sixty-one, article twelve of this code.

55 (2) The person completing the cause of death shall attest to
56 its accuracy either by signature or by an approved electronic
57 process.

58 (d) When inquiry is required pursuant to article twelve,
59 chapter sixty one, or other applicable provisions of this code,
60 the State Medical Examiner or designee or county medical
61 examiner or county coroner in the jurisdiction where the death
62 occurred or where the body was found shall determine the cause
63 of death and shall complete the medical certification within
64 forty-eight hours after taking charge of the case.

65 (1) If the cause of death cannot be determined within forty-
66 eight hours after taking charge of the case, the medical exam-
67 iner shall complete the medical certification with a "Pending"
68 cause of death to be amended upon completion of medical
69 investigation.

70 (2) After investigation of a report of death for which
71 inquiry is required, if the State Medical Examiner or designee
72 or county medical examiner or county coroner decline jurisdic-
73 tion, the State Medical Examiner or designee or county medical
74 examiner or county coroner may direct the decedent's family
75 physician or the physician who pronounces death to complete
76 the certification of death: *Provided*, That the physician is not
77 civilly liable for inaccuracy or other incorrect statement of
78 death unless the physician willfully and knowingly provides
79 information he or she knows to be false.

80 (e) When death occurs in an institution and the person
81 responsible for the completion of the medical certification is not

82 available to pronounce death, another physician may pronounce
83 death. If there is no physician available to pronounce death,
84 then a designated licensed health professional who views the
85 body may pronounce death, attest to the pronouncement by
86 signature or an approved electronic process, and, with the
87 permission of the person responsible for the medical certifica-
88 tion, release the body to the funeral director or other person for
89 final disposition: *Provided*, That if the death occurs in an
90 institution during court-ordered hospitalization, in a correc-
91 tional facility or under custody of law-enforcement authorities,
92 the death shall be reported directly to a medical examiner or
93 coroner for investigation, pronouncement and certification.

94 (f) If the cause of death cannot be determined within the
95 time prescribed, the medical certification shall be completed as
96 provided by legislative rule. The attending physician or medical
97 examiner, upon request, shall give the funeral director or other
98 person assuming custody of the body notice of the reason for
99 the delay, and final disposition of the body may not be made
100 until authorized by the attending physician, medical examiner
101 or other persons authorized by this article to certify the cause of
102 death.

103 (g) Upon receipt of autopsy results, additional scientific
104 study, or where further inquiry or investigation provides
105 additional information that would change the information on the
106 certificate of death from that originally reported, the certifier,
107 or any State Medical Examiner who provides such inquiry
108 under authority of article twelve, chapter sixty-one of this code
109 shall immediately file a supplemental report of cause of death
110 or other information with the section of vital statistics to amend
111 the record, but only for purposes of accuracy.

112 (h) When death is presumed to have occurred within this
113 state but the body cannot be located, a certificate of death may
114 be prepared by the State Registrar only upon receipt of an order

115 of a court of competent jurisdiction which shall include the
116 finding of facts required to complete the certificate of death.
117 The certificate of death will be marked "Presumptive" and will
118 show on its face the date of death as determined by the court
119 and the date of registration, and shall identify the court and the
120 date of the order.

121 (i) The local registrar shall transmit each month to the
122 county clerk of his or her county a copy of the certificates of all
123 deaths occurring in the county, and if any person dies in a
124 county other than the county within the state in which the
125 person last resided prior to death, then the State Registrar shall
126 furnish a copy of the death certificate to the clerk of the county
127 commission of the county where the person last resided, from
128 which copies the clerk shall compile a register of deaths, in a
129 form prescribed by the State Registrar. The register shall be a
130 public record.

§16-5-20. Delayed registration of death.

1 (a) When a death occurring in this state has not been
2 registered within the time period described by section nineteen
3 of this article, a certificate of death may be filed subject to
4 evidentiary documentation and other requirements as prescribed
5 by legislative rule.

6 (b) If the required evidentiary documentation is not filed
7 with the application for a delayed registration of death or the
8 State Registrar has cause to question the validity or adequacy
9 of the evidentiary documentation, the State Registrar may not
10 register the delayed certificate of death and shall advise the
11 applicant of his or her right to seek an order from a court of
12 competent jurisdiction.

13 (c) A certificate of death registered one year or more after
14 the date of death shall be marked "Delayed" and shall show on
15 its face the date of the delayed registration.

§16-5-21. Reports of fetal death.

1 (a) Each fetal death of three hundred fifty grams or more,
2 and if weight is unknown, of twenty completed weeks of
3 gestation or more, calculated from the date the last normal
4 menstrual period began to the date of delivery, which occurs in
5 this state, shall be reported within five days after delivery to the
6 section of vital statistics or as otherwise directed by the State
7 Registrar.

8 (1) When a fetal death occurs, the person in charge of the
9 institution or his or her designated representative shall prepare
10 and file the report. In obtaining the information required by the
11 report, all institutions shall use information gathering proce-
12 dures, including worksheets, provided or approved by the State
13 Registrar.

14 (2) When a fetal death occurs, the physician in attendance
15 at or immediately after delivery shall prepare and file the report.

16 (3) When inquiry is required pursuant to article twelve,
17 chapter sixty-one, or other applicable provisions of this code,
18 the State Medical Examiner or designee or county medical
19 examiner or county coroner shall investigate the cause of fetal
20 death and shall prepare and file the report within five days. If
21 after investigation, the State Medical Examiner or designee or
22 county medical examiner or county coroner decline jurisdiction,
23 the person declining jurisdiction may direct the local health
24 officer to investigate the cause of fetal death and prepare and
25 file the report.

26 (4) When a fetal death occurs in a moving conveyance and
27 the fetus is first removed from the conveyance in this state, the

28 place where the fetus was first removed from the conveyance
29 will be considered the place of fetal death.

30 (b) When a fetus is found in this state and the place of death
31 is unknown, the fetal death shall be recorded in this state, and
32 the place where the fetus was found will be considered the place
33 of fetal death.

§16-5-22. Reports of induced termination of pregnancy.

1 (a) Each induced termination of pregnancy which occurs in
2 this state, regardless of the length of gestation, shall be reported
3 to the section of vital statistics no later than the tenth day of the
4 month following the month the procedure was performed by the
5 person in charge of the institution in which the induced termina-
6 tion of pregnancy was performed. If the induced termination of
7 pregnancy was performed outside an institution, it shall be
8 reported by the attending physician. The State Registrar shall
9 prepare a form or provide a suitable electronic process for the
10 transmission of the reports from the institution or physician to
11 the section of vital statistics. Information to be collected shall
12 include:

13 (1) The gestational age of the fetus;

14 (2) The state and county of residence of the woman;

15 (3) The age of the woman;

16 (4) The type of medical or surgical procedure performed;

17 (5) The method of payment for the procedure;

18 (6) Whether birth defects were known, and if so, what birth
19 defects; and

20 (7) Related information as required by the commissioner,
21 other applicable sections of this code, or by the legislative rule:
22 *Provided, That:*

23 (A) No personal identifiers, including but not limited to
24 name, street address, city, zip code, or social security number,
25 will be collected; and

26 (B) Individual records may only be released for research
27 purposes as approved by the State Registrar and may be
28 released in a format designed to further protect the confidential-
29 ity of the woman as the State Registrar deems necessary.

30 (b) An analysis of the compiled information relating to
31 induced terminations of pregnancy shall be included in the
32 annual report of vital statistics.

**§16-5-23. Authorization for disposition and disinterment and
reinterment permits.**

1 (a) The funeral director or other person who assumes
2 custody of a dead body shall obtain authorization prior to final
3 disposition of the body.

4 (1) The physician or State Medical Examiner, county
5 medical examiner or designee shall authorize final disposition
6 of the body on a form or in a format prescribed by the State
7 Registrar.

8 (2) If the body is to be cremated, authorization for crema-
9 tion must be obtained from the State Medical Examiner, county
10 medical examiner or county coroner on a form or in a format
11 prescribed by the State Medical Examiner's office.

12 (b) Prior to final disposition of a fetus, irrespective of the
13 duration of pregnancy, the funeral director, the person in charge
14 of the institution, or other person assuming responsibility for

15 final disposition of the fetus shall obtain from a parent authori-
16 zation for final disposition on a form or in a format prescribed
17 by the State Registrar.

18 (c) With the consent of the physician or State Medical
19 Examiner or county medical examiner or designee who is to
20 certify the cause of death, a dead body may be moved from the
21 place of death for the purpose of being prepared for final
22 disposition.

23 (d) An authorization for disposition issued under the law of
24 another state which accompanies a dead body or fetus brought
25 into this state shall be authority for final disposition of the body
26 or fetus in this state.

27 (e) No sexton or other person in charge of any place in
28 which interment or other disposition of dead bodies is made
29 may inter or allow interment or other disposition of a dead body
30 or fetus unless it is accompanied by authorization for final
31 disposition.

32 (f) Each person in charge of any place for final disposition
33 shall return all authorizations to the funeral director or person
34 acting as such within ten days after the date of disposition and
35 shall indicate the date of disposition on the authorization.

36 (g) Each person in charge of any place for final disposition
37 shall keep a record of all bodies interred or otherwise disposed
38 of on the premises under his or her charge. The record must
39 contain the name of the deceased person, place of death, date of
40 burial or disposal, name and address of the funeral director or
41 person acting for him or her, and other information as may be
42 required by legislative rule. The record shall at all times be
43 open to official inspection.

44 (h) When there is no person in charge of the place for final
45 disposition, the funeral director or person acting as such shall

46 complete the authorization and write across the face of the
47 authorization "No person in charge."

48 (i) Not later than the tenth day of each month, the funeral
49 director or person acting as such shall transmit to the State
50 Registrar, in the state where the death occurred, all authoriza-
51 tions received during the month.

52 (j) Authorization for disinterment and reinterment is
53 required prior to disinterment of a dead body or fetus, except as
54 authorized by legislative rule or otherwise provided by law or
55 by order of a court of competent jurisdiction. The authorization
56 must be issued by the local registrar to a licensed funeral
57 director, embalmer, or other persons acting on their behalf,
58 upon proper application.

**§16-5-24. Extension of time for filing certificates, reports and
authorizations.**

1 (a) The department shall, by legislative rule, provide for the
2 extension of the time periods prescribed in sections nineteen,
3 twenty-one, twenty-two and twenty-three of this article for the
4 filing of certificates of death, reports of fetal death, reports of
5 induced termination of pregnancy, medical certifications of the
6 cause of death, and for obtaining authorization for disposition,
7 in cases in which compliance with the applicable prescribed
8 period would result in undue hardship.

9 (b) The legislative rules shall provide for the authorization
10 for disposition under section twenty-three of this article prior to
11 the filing of a certificate of death in circumstances in which
12 compliance with the requirement that the certificate be filed
13 prior to the issuance of the permit would result in undue
14 hardship.

§16-5-25. Correction and amendment of vital records.

1 (a) In order to protect the integrity and accuracy of vital
2 records, a certificate or report registered under this article may

3 be amended only in accordance with the provisions of this
4 article or legislative rule.

5 (b) A certificate or report that is amended under this section
6 must indicate that it has been amended, except as otherwise
7 provided in this section or by legislative rule: *Provided*, That
8 the department shall prescribe by legislative rule the conditions
9 under which additions or corrections of minor deficiencies,
10 including, but not limited to, the omission or misspelling of a
11 first name, may be made to certificates or records within one
12 year of the event without the certificate indicating that it has
13 been amended.

14 (c) The State Registrar shall maintain a record which
15 identifies the evidence upon which the amendment was based,
16 the date of amendment, and the identity of the person making
17 the amendment.

18 (d) Upon receipt of a certified copy of a court order of a
19 court of competent jurisdiction changing the name of a person
20 born in this state, and upon request of the person whose name
21 is to be changed or his or her parent, guardian or legal represen-
22 tative, the State Registrar shall amend the certificate of birth to
23 reflect the new name.

24 (e) If the required evidentiary documentation is not filed
25 with the application for amending a vital record or the State
26 Registrar has cause to question the validity or adequacy of the
27 evidentiary documentation, the State Registrar may not amend
28 the vital record and shall advise the applicant of his or her right
29 to seek an order from a court of competent jurisdiction.

30 (f) When the State Registrar amends a certificate or report,
31 he or she shall report the amendment to any other custodian of
32 the vital record.

33 (g) When an amendment is made to a certificate of mar-
34 riage or record of divorce or annulment, the local official
35 issuing the marriage license or the court ordering the divorce or
36 annulment shall forward copies of the amendment to the State
37 Registrar.

38 (h) In addition to providing the information necessary to
39 amend a certificate or record, a person whose name is to appear
40 on the amended certificate as a parent shall furnish the social
41 security number or numbers, issued to the parent, which must
42 be forwarded to the State Registrar along with the information
43 required for the amended certificate.

§16-5-26. Reproduction and preservation of records.

1 To preserve vital records and other original documents, the
2 State Registrar is authorized to prepare typewritten, photo-
3 graphic, electronic, or other reproductions of certificates or
4 reports and files in the section of vital statistics. When verified
5 and approved by the State Registrar, the reproductions shall be
6 accepted as the original records, and the documents from which
7 permanent reproductions have been made may be disposed of
8 as provided by legislative rule or other provisions of state law.

§16-5-27. Disclosure of information from vital records or vital reports.

1 In accordance with section twenty-six of this article and the
2 legislative rules promulgated thereunder:

3 (a) The department shall, by legislative rule, provide for the
4 disclosure of confidential information contained in vital records
5 and reports for statistical research purposes. The legislative rule
6 must require the submission of written requests for information
7 and the execution of research agreements between the re-
8 searcher and the State Registrar or local custodian of vital
9 records and reports, which prohibit the release by the researcher

10 of any information that may identify any person except as
11 provided in the agreement.

12 (b) To protect the integrity and to ensure the proper use of
13 vital records or reports, and to ensure the efficient and proper
14 operation of the system of vital statistics, it shall be unlawful
15 for any person to permit inspection of, or to disclose, confiden-
16 tial information contained in vital records or reports, or to copy
17 or issue a copy of all or part of any vital record or report unless
18 authorized by this article, by legislative rule or by order of a
19 court of competent jurisdiction: *Provided*, That nothing in this
20 article prohibits the release of information or data that would
21 not identify any person named in a vital record or report.

22 (c) Appeals from decisions of the custodians of permanent
23 local records refusing to disclose confidential information, or
24 to permit inspection of or copying of confidential information
25 under the authority of this section and legislative rules shall be
26 made to the State Registrar, whose decisions shall be binding
27 upon the local custodians of permanent local records.

28 (d) When one hundred years have elapsed after the date of
29 birth, or fifty years have elapsed after the date of death, fetal
30 death, marriage, or divorce or annulment, the records of these
31 events in the custody of the State Registrar and local custodians
32 shall, become available to the public without restriction unless
33 otherwise prohibited or restricted by law, except for the release
34 of social security numbers recorded on certificates or reports of
35 birth, marriage, fetal death, or divorce, in accordance with
36 legislative rule: *Provided*, That confidential information
37 contained in the "Information for Medical and Health Use
38 Only" section of the certificate of birth or report of fetal death
39 shall never become available to the public.

40 (e) The federal agency responsible for national vital
41 statistics may be furnished copies of records, reports, or data

42 from the system of vital statistics as it may require for national
43 statistics. The department shall enter into an agreement with the
44 federal agency indicating the statistical or research purposes for
45 which records, reports, or data may be used, and setting forth
46 the support to be provided by the federal agency for the
47 collection, processing and transmission of the records, reports
48 or data. Upon written request, the State Registrar may approve,
49 in writing, additional statistical or research uses of the records,
50 reports or data supplied under the agreement.

51 (f) The State Registrar may furnish copies of records or
52 data from the system of vital statistics to federal, state and local
53 governmental agencies, provided that the copies or data are
54 used solely in the conduct of their official duties.

55 (g) The State Registrar may, by agreement, transmit copies
56 of records and other reports required by this article to offices of
57 vital statistics outside this state when the records or other
58 reports relate to residents of those jurisdictions or persons born
59 in those jurisdictions. The agreement must specify the statistical
60 and administrative purposes for which the records may be used
61 and must provide instructions for the proper retention and
62 disposition of the copies. Copies received by the section of vital
63 statistics from offices of vital statistics in other states must be
64 handled in the same manner as prescribed in this section.

§16-5-28. Copies from the system of vital statistics.

1 In accordance with section twenty-seven of this article and
2 the legislative rules promulgated thereunder:

3 (a) The State Registrar and other custodians of vital records
4 authorized to issue certified copies shall upon receipt of an
5 application, issue a certified copy of a vital record in his or her
6 custody to the registrant, his or her parents, spouse, adult
7 children, grandchildren or great-grandchildren, legal guardian,
8 or their respective authorized representative. Others may be

9 authorized to obtain certified copies when they demonstrate that
10 the record is needed for the determination or protection of his
11 or her personal or property right. The department may promul-
12 gate rules to further define others who may obtain copies of
13 vital records filed under this article.

14 (b) All forms and procedures used in the issuance of
15 certified copies of vital records in the state shall be approved by
16 the State Registrar. All certified copies of certificates of birth
17 issued shall have security features that deter the document from
18 being altered, counterfeited, duplicated or simulated without
19 ready detection in compliance with regulations issued by the
20 federal government.

21 (c) Each copy or abstract issued shall show the date of
22 registration, and copies or abstracts issued from records marked
23 "Amended" shall be similarly marked and, when possible, show
24 the effective date of the amendment. Copies issued from
25 records marked "Delayed" shall be similarly marked and shall
26 include the date of registration and a description of the evidence
27 used to establish the delayed certificate. Any copy issued of a
28 "Certificate of Foreign Birth" shall indicate the foreign birth
29 and show the actual place of birth and the statement that the
30 certificate is not proof of United States citizenship for the
31 person for whom it is issued.

32 (d) A certified copy of a vital record issued in accordance
33 with this section shall be considered for all purposes the same
34 as the original, and shall be prima facie evidence of the facts
35 stated in the record: *Provided*, That the evidentiary value of a
36 certificate or record filed more than one year after the event, or
37 a record which has been amended, or a certificate of foreign
38 birth, shall be determined by the judicial or administrative body
39 or official before whom the certificate is offered as evidence.

40 (e) Nothing in this section shall be construed to permit
41 disclosure of information contained in the "Information for
42 Medical and Health Use Only" section of the certificate of birth
43 or the "Information for Statistical Purposes Only" section of the
44 certificate of marriage or certificate of divorce or annulment
45 unless specifically authorized by the State Registrar for
46 statistical or research purposes. This information is not subject
47 to subpoena or court order and is not admissible before any
48 court, tribunal, or judicial body. Information collected for
49 administrative use may not be included on certified copies of
50 records, and may be disclosed only for administrative, statisti-
51 cal, or research purposes authorized by state or federal law and
52 legislative rule.

53 (f) When the State Registrar receives information that a
54 certificate may have been registered through fraud or misrepre-
55 sentation, he or she may withhold issuance of any copy of that
56 certificate.

57 (1) The State Registrar shall inform the registrant or the
58 registrant's authorized representative of the right to request a
59 hearing by the commissioner.

60 (2) The secretary of the department may authorize the State
61 Registrar or another person to hold an investigation or hearing
62 to determine if fraud or misrepresentation has occurred.

63 (3) If upon conclusion of a hearing or investigation no fraud
64 or misrepresentation is found, copies may be issued.

65 (4) If fraud or misrepresentation is found by a preponder-
66 ance of the evidence, the State Registrar shall remove the
67 certificate from the file. The certificate and evidence will be
68 retained but will not be subject to inspection or copying except
69 upon order of a court of competent jurisdiction or by the State
70 Registrar for purposes of prosecution or administration of the
71 system of vital statistics.

72 (g) No person may prepare or issue any certificate which
73 purports to be an original, certified copy, or copy of a vital
74 record, except as authorized by this article, or by legislative
75 rule.

§16-5-29. Fees for copies and searches.

1 (a) The commissioner shall prescribe the fees to be charged
2 and collected by the State Registrar for certified copies of
3 certificates or records, not to exceed ten dollars per copy, or for
4 a search of the files or records when no copy is made: *Provided*,
5 That the fee may be increased to a maximum of twelve dollars
6 per copy, at the discretion of the commissioner, after the first
7 day of July, two thousand eight.

8 (b) The commissioner may prescribe additional fees for the
9 priority production or express delivery of certified copies.

10 (c) The State Registrar may furnish certified copies of birth
11 and death records to state agencies and to organized charities
12 free of charge when the certificates are needed in presenting
13 claims to the federal government or to a state for public
14 assistance. The State Registrar will keep a record of all certifi-
15 cates furnished pursuant to this subsection.

16 (d) Subject to the provisions set forth in section two, article
17 two, chapter twelve of this code, there is hereby continued in
18 the State Treasury a separate account which shall be designated
19 "the vital statistics account."

20 (e) After the first day of July, two thousand six, and subject
21 to the provisions set forth in section two, article two, chapter
22 twelve of this code, there is established in the State Treasury a
23 separate account which shall be designated "the vital statistics
24 improvement fund." Funds deposited in this account will be
25 used to modernize and automate the system of vital statistics in
26 this state and may not be used to supplant existing funding

27 necessary for the daily operation of the system of vital statistics.
28 Funds in this account will be retained in a nonlapsing fund for
29 the improvement of the system of vital statistics.

30 (f) The commissioner shall deposit one dollar received
31 under the provisions of this section for each certified copy to
32 the "vital statistics improvement fund" and shall deposit four
33 dollars received under the provisions of this section for each
34 certified copy to the general revenue fund account. The
35 commissioner shall deposit the remainder of all fees received
36 under the provisions of this section for certified copies and for
37 priority production and express delivery to the vital statistics
38 account.

39 (g) The commissioner is authorized to expend the moneys
40 deposited in the vital statistics account in accordance with the
41 laws of this state as necessary to implement this article. The
42 Legislature shall appropriate all moneys in the vital statistics
43 account as part of the annual state budget.

44 (h) The commissioner shall make an annual report to the
45 Legislature on the vital statistics account, including the previ-
46 ous fiscal year's expenditures and projected expenditures for
47 the next fiscal year.

§16-5-30. Persons required to keep records.

1 (a) Every person in charge of an institution as defined in
2 this article shall keep a record of personal data concerning each
3 person admitted or confined to the institution. The record must
4 include information required for the certificates of birth and
5 death and the reports of fetal death required by this article. The
6 record shall be made at the time of admission from information
7 provided by the person being admitted or confined, but when it
8 cannot be so obtained, the information will be obtained from
9 relatives or other persons acquainted with the facts. The name

10 and address of the person providing the information will be
11 included in the record.

12 (b) When a dead body or fetus is released or disposed of by
13 an institution, the person in charge of the institution shall keep
14 a record showing the name of the decedent, date of death, name
15 and address of the person to whom the body or fetus is released,
16 and date of removal from the institution. If final disposition is
17 made by the institution, the date, place and manner of disposi-
18 tion will be recorded.

19 (c) A funeral director, embalmer, sexton or other person
20 who removes from the place of death or transports or makes
21 final disposition of a dead body or fetus, in addition to filing
22 any certificate or other report required by this article or
23 legislative rule, shall keep a record which identifies the body,
24 and information as required by legislative rule pertaining to the
25 receipt, removal, delivery, and burial or cremation of the body.

26 (d) Records maintained under this section must be retained
27 for at least three years and must be made available for inspec-
28 tion by the State Registrar or his or her representative upon
29 request.

§16-5-31. Duty to furnish information relative to vital events.

1 (a) Any person or institution required under this article to
2 collect and maintain information regarding any birth, death,
3 fetal death, marriage, or divorce or annulment, shall furnish the
4 information to the State Registrar upon request.

5 (b) Any person or institution that in good faith provides
6 information required by this article or legislative rules shall not
7 be subject to criminal prosecution or any action for damages.

8 (c) Not later than the tenth day of the month following the
9 month of occurrence, the administrator of each institution shall

10 send to the section of vital statistics a list showing all births,
11 deaths and fetal deaths occurring in that institution during the
12 preceding month, on forms provided or approved by the State
13 Registrar.

14 (d) Not later than the tenth day of the month following the
15 month of occurrence, each funeral director shall send to the
16 section of vital statistics a list showing all dead bodies em-
17 balmed or otherwise prepared for final disposition, or dead
18 bodies finally disposed of, by the funeral director during the
19 preceding month, on forms provided or approved by the State
20 Registrar.

§16-5-32. Matching of birth and death certificates.

1 To protect the integrity of vital records and to prevent the
2 fraudulent use of certificates of birth of deceased persons, the
3 State Registrar is authorized to match certificates of birth and
4 death, in accordance with legislative rule which requires that
5 the fact of death and the matching identities be determined with
6 reasonable certainty and to post the fact of death to the appro-
7 priate birth certificate. Copies issued from certificates of birth
8 marked deceased shall be similarly marked.

§16-5-33. Limitation on use of social security numbers.

1 (a) A social security number obtained in the filing of a
2 certificate of live birth, an application for a delayed registration
3 of birth, a judicial order establishing a record of birth, an order
4 of adoption, an affidavit of paternity or a judicial order estab-
5 lishing paternity, or any other record may not be transmitted to
6 the clerk of the county commission.

7 (b) No social security number may appear upon the public
8 record of the index of births or upon any certificate of birth
9 registration issued by the State Registrar, local registrar, county
10 clerk or any other issuing authority.

11 (c) The State Registrar may make social security numbers
12 available to the Bureau for Child Support Enforcement upon its
13 request, to be used solely in connection with the enforcement of
14 child support orders.

15 (d) The section of vital statistics may utilize social security
16 numbers in accordance with legislative rules of the department,
17 as allowed by or to meet the requirements of federal regula-
18 tions.

**§16-5-34. Uniform system of registration of marriage, divorce
and annulment of marriage.**

1 (a) To encourage an efficient and uniform system of
2 registration of marriage, divorce and annulment of marriage
3 may be established in this state, the State Registrar shall
4 provide for the registration of each marriage, divorce and
5 annulment of marriage which occurs in this state.

6 (b) The commissioner may, subject to legislative rule:

7 (1) Install a statewide system of registering, indexing, and
8 preserving records of marriage, divorce and annulment of
9 marriage;

10 (2) Give instructions, and prescribe and furnish forms, for
11 collecting, transcribing, compiling and preserving records and
12 statistics of marriage, divorce and annulment of marriage; and

13 (3) Make and publish a statistical report of marriage,
14 divorce and annulment of marriage in this state.

§16-5-35. Registration of marriages.

1 (a) On or before the tenth day of each month, the county
2 clerk of each county shall forward to the State Registrar a report

3 of all marriage records made by him or her during the previous
4 month, on a form prescribed or furnished by the State Registrar.

5 (b) The State Registrar shall preserve and index all records
6 received under the provisions of this section and shall upon
7 request issue a certified copy of the records, which shall be
8 prima facie evidence of the facts stated in the certified copies
9 in all courts in this state.

§16-5-36. Registration of divorces and annulments of marriages.

1 (a) On and after the first day of July, 2006, a record of each
2 divorce or annulment ordered by any court of competent
3 jurisdiction in this state shall be filed by the clerk of the court
4 with the section of vital statistics, and shall be registered if it
5 has been completed and filed in accordance with this section.
6 The record shall be prepared by the petitioner or his or her legal
7 representative in the form prescribed or furnished by the State
8 Registrar and shall be presented to the clerk of the court with
9 the petition.

10 (b) The clerk of the court shall complete and certify each
11 record. On or before the tenth day of each calendar month, the
12 clerk shall forward to the section of vital statistics the records
13 of each divorce or annulment order entered during the preced-
14 ing calendar month.

15 (c) Failure of the clerk of the court to comply with the
16 provisions of this section does not affect the validity of any
17 order of divorce or annulment of marriage.

18 (d) The State Registrar shall preserve and index all records
19 received under provisions of this section and shall upon request
20 issue certified copies of the records, which shall be prima facie
21 evidence of the facts stated in the certified copies in all courts
22 in this state.

§16-5-37. Applicability to previously received certificates and reports.

1 The provisions of this article apply to all certificates of
2 birth, death, marriage and divorce or annulment, reports of fetal
3 death and induced terminations of pregnancy previously
4 received by the section of vital statistics and in the custody of
5 the State Registrar or any other custodian of vital records.

§16-5-38. Penalties.

1 (a) For acts which occur on or after the effective date of this
2 section, a person shall be guilty of a felony and, upon conviction
3 thereof, shall be fined not more than ten thousand dollars
4 or imprisoned in a state correctional facility not more than five
5 years, or both fined and imprisoned, if he or she:

6 (1) Willfully and knowingly makes any false statement in
7 a report, record or certificate required to be filed under this
8 article, or in an application for an amendment thereof, or
9 willfully and knowingly supplies false information intending
10 that the information be used in the preparation of any report,
11 record or certificate, or amendment thereof, or in an application
12 for a certified copy of a vital record required by this article; or

13 (2) Without lawful authority and with the intent to deceive,
14 makes, counterfeits, alters, amends or mutilates any record,
15 report, or certificate required by this article, or any certified
16 copy of the record, report or certificate; or

17 (3) Willfully and knowingly obtains, possesses, uses, sells,
18 furnishes or attempts to obtain, possess, use, sell or furnish to
19 another, for any purpose of deception, any certificate, record,
20 report, or certified copy required by this article, which was
21 made, counterfeited, altered, amended, or mutilated, or that is
22 false, in whole or in part, or that relates to the birth of another
23 person, whether living or deceased; or

24 (4) Is an employee of the section of vital statistics or of any
25 office of any custodian of vital records, and willfully and
26 knowingly furnishes or processes a certificate of birth, or
27 certified copy of a certificate of birth, with the knowledge or
28 intention that it be used for the purposes of deception; or

29 (5) Without lawful authority, possesses any certificate,
30 record or report required by this article or a copy or a certified
31 copy of the certificate, record or report knowing it to have been
32 stolen or otherwise unlawfully obtained.

33 (b) A person shall be guilty of a misdemeanor and, upon
34 conviction thereof, shall be fined not more than one thousand
35 dollars, or confined in jail not more than one year, or both fined
36 and confined, if he or she:

37 (1) Willfully and knowingly transports or accepts for
38 transportation, interment or other disposition a dead body
39 without an accompanying permit as provided in this article;

40 (2) Willfully and knowingly refuses to provide information
41 required by this article or legislative rules adopted pursuant to
42 this article; or

43 (3) Willfully and knowingly violates any of the provisions
44 of this article or refuses to perform any of the duties imposed
45 upon him or her by this article.

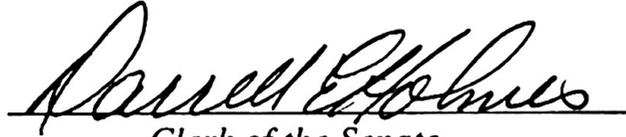
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

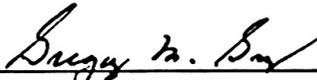

Chairman Senate Committee

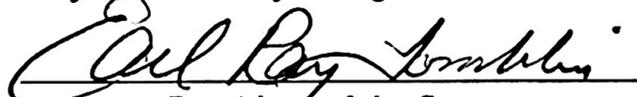

Chairman House Committee

Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 3d
day of April, 2006.


Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time 4:05 pm