

2016 Regular Session

HOUSE BILL NO. 449

BY REPRESENTATIVE GREGORY MILLER

(On Recommendation of the Louisiana State Law Institute)

VITAL STATISTICS: Provides for the completion of a birth certificate

1 AN ACT

2 To amend and reenact Children's Code Articles 1122(F)(2) and (G)(2) and 1142(B) and R.S.
3 40:34, 46, 46.1, 46.2, and 75(A), to enact R.S. 9:410, R.S. 40:34.1 through 34.13,
4 and 46.3 through 46.13, and to repeal Children's Code Article 1142(C), relative to
5 vital statistics; to provide for the completion of a birth certificate; to provide for the
6 amendment of a birth certificate; to reorganize and recodify laws relative to birth
7 certificates, death certificates, and paternity establishment; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Children's Code Articles 1122(F)(2) and (G)(2) and 1142(B) are hereby
11 amended and reenacted to read as follows:

12 Art. 1122. Contents of surrender; form

13 * * *

14 F. The Act of Surrender for a surrendering mother shall contain the
15 requirements in substantially the following form:

16 "VOLUNTARY ACT OF SURRENDER FOR ADOPTION

17 (FOR A SURRENDERING MOTHER OF A CHILD)

18 STATE OF LOUISIANA

19 PARISH OF (NAME OF PARISH)

20 BEFORE ME, the undersigned notary public, and in the presence of
21 the two undersigned competent witnesses who are over the age of eighteen,
22 personally came and appeared:

1 (NAME OF SURRENDERING MOTHER)
2 a female of the age of (AGE), who is (MARITAL STATUS), and domiciled in the
3 Parish of (NAME OF PARISH), who being first duly sworn, did depose and state:

4 * * *

5 (2) She was married at the birth or conception of the child, or has married
6 subsequent to the child's birth and her husband has acknowledged his paternity of the
7 child. The husband's name is (HUSBAND'S NAME) and his last known address
8 was (ADDRESS OR UNKNOWN).

9 OR

10 She was not married at the birth or conception of the child, nor has she, subsequent
11 to the child's birth, married any man who has acknowledged his paternity of the
12 child. To the best of her knowledge, the alleged father has/has not executed a
13 ~~notarial an~~ act of acknowledgment/~~a notarial act of legitimation~~/a registration with
14 the putative father registry ~~which~~ that admitted his paternity of this child. He has/has
15 not informally acknowledged his paternity of this child. His paternity of this child
16 has/has not been established by court judgment.

17 * * *

18 G. The Act of Surrender for a surrendering father shall contain the
19 requirements in substantially the following form:

20 "VOLUNTARY ACT OF SURRENDER FOR ADOPTION
21 (FOR A SURRENDERING FATHER OF A CHILD)

22 STATE OF LOUISIANA
23 PARISH OF (NAME OF PARISH)

24 BEFORE ME, the undersigned notary public, and in the presence of the two
25 undersigned competent witnesses who are over the age of eighteen, personally came
26 and appeared:

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (NAME OF SURRENDERING FATHER)

2 a male of the age of (AGE), who is (MARITAL STATUS), and domiciled in the
3 Parish of (NAME OF PARISH), who being first duly sworn, did depose and state:

4 * * *

5 (2) He was not married to the child's mother at the time of the child's birth
6 or conception nor has he subsequently married this child's mother and acknowledged
7 his paternity of the child.

8 OR

9 He was married to the child's mother at the time of the child's birth or conception.

10 OR

11 He has married this child's mother subsequent to the child's birth and has
12 acknowledged his paternity of the child.

13 OR

14 He was not married to and has not married the mother of this child/expected child.

15 He has/has not executed ~~a notarial act of acknowledgement/a notarial act of~~
16 ~~legitimation/~~an act of formal acknowledgment/a registration with the putative father
17 registry ~~which~~ that admitted his paternity of this child/expected child. He has/has
18 not informally acknowledged his paternity of this child/expected child. His paternity
19 of this child/expected child has/has not been established by court judgment.

20 * * *

21 Art. 1142. Order declaring parental rights terminated; motion; certificates

22 * * *

23 B. The motion shall be accompanied by a certified copy of the child's birth
24 certificate, a certificate from the putative father registry indicating whether any act
25 of acknowledgment by authentic act has been recorded, and a certificate from the
26 clerk of court in and for the parish in which the child was born indicating whether
27 any acknowledgment by authentic act, ~~legitimation by authentic act~~, or judgment of
28 filiation has been recorded relative to this child.

29 * * *

1 Section 2. R.S. 9:410 is hereby enacted to read as follows:

2 §410. Filiation judgment; notice

3 A. Before rendition of any filiation judgment, including a judgment of
4 disavowal of paternity, contestation and establishment of paternity, filiation, or
5 paternity, that includes an order to amend a birth certificate, the mover shall send a
6 copy of the pleadings, if any, and the proposed judgment to the state registrar by
7 United States mail or electronic means. If the state registrar is of the opinion that the
8 proposed order to amend the birth certificate is not in conformity with law, he may
9 object to the order on that basis, provided he does so within thirty days of receipt of
10 the pleadings and proposed judgment, after which the court shall rule on the merits
11 of the objection. In the absence of any objection by the state registrar, the court shall
12 grant the order if the mover is so entitled.

13 B. Nothing in this Section shall prohibit the state registrar from complying
14 with a judgment ordering the amendment of a birth certificate when the order meets
15 all legal requirements except the notification required by Subsection A of this
16 Section.

17 Section 3. R.S. 40:34, 46, 46.1, 46.2, and 75(A) are hereby amended and reenacted
18 and R.S. 40:34.1 through 34.13 and 46.3 through 46.13 are hereby enacted to read as
19 follows:

20 §34. Vital records forms

21 A.(1) The certificate forms prescribed by the state registrar shall include, as
22 a minimum, ~~the items listed below~~ birth certificates, death certificates, paternity
23 acknowledgment affidavits, and any ~~others~~ other forms recommended by the national
24 office in charge of gathering vital statistics. Only these forms shall be used in
25 registering, recording, and preserving the vital information required by this Chapter.
26 These forms shall be typewritten in black type or written in jet black ink or
27 transferred by electronic means. Additionally each certificate of a birth occurring
28 in a licensed hospital shall be typewritten in black type or computer generated.
29 Whenever a form is changed, the new form shall be furnished to the person charged

1 with preparing it not less than thirty days prior to the date upon which the form shall
2 be required to be used.

3 (2) The Department of Health and Hospitals shall promulgate rules and
4 regulations in accordance with the Administrative Procedure Act to allow electronic
5 registration in lieu of typewritten or written birth, death, fetal death, marriage, and
6 divorce certificates.

7 B. The forms shall be printed and supplied or provided by electronic means
8 by the state registrar, ~~and the required contents are:~~

9 ~~(1) Contents of birth certificate. The certificate of birth shall contain, as a~~
10 ~~minimum, the following items:~~

11 ~~(a) Full name of child:~~

12 ~~(i) If the child dies without a first name before the certificate is filed, enter~~
13 ~~the words "died unnamed" in this blank.~~

14 ~~(ii) If the living child has not yet been given a first name at the date of filing~~
15 ~~of the certificate, leave blank the space for the first name of the child and supply the~~
16 ~~name later by affidavit.~~

17 ~~(iii) Except as otherwise provided in Items (vi) and (vii) of this~~
18 ~~Subparagraph, the surname of the child shall be the surname of the husband of the~~
19 ~~mother if he was married to the mother of the child at the time of conception and~~
20 ~~birth of the child or had not been legally divorced from the mother of the child for~~
21 ~~more than three hundred days prior to the birth of the child, or, if both the husband~~
22 ~~and the mother agree, the surname of the child may be the maiden name of the~~
23 ~~mother or a combination of the surname of the husband and the maiden name of the~~
24 ~~mother.~~

25 ~~(iv) If the child is born outside of marriage, the surname of the child shall be~~
26 ~~the mother's maiden name. If the father is known and if both the mother and the~~
27 ~~father agree, the surname of the child may be that of the father or a combination of~~
28 ~~the surname of the father and the maiden name of the mother. For purposes of this~~

1 Item, "father" means ~~a father who has acknowledged his child or who has been~~
2 judicially declared the father in a filiation or paternity proceeding.

3 (v) ~~Any change in the surname of a child from that required herein or to that~~
4 ~~allowed herein shall be by court order as provided for in R.S. 13:4751 through 4755~~
5 ~~or as otherwise provided in this Chapter or by rules promulgated thereunder.~~

6 (vi) ~~Notwithstanding the provisions of Item (B)(1)(a)(iii), and except as~~
7 ~~otherwise provided in Item (B)(1)(a)(vii), if the father of the child is not the husband~~
8 ~~of the mother, the surname of the child may be the maiden name of the mother, or,~~
9 ~~if the mother, husband, and father agree, the surname of the child may be that of the~~
10 ~~father or a combination of the surname of the father and the maiden name of the~~
11 ~~mother. The Department of Health and Hospitals, office of public health, shall~~
12 ~~develop a form for the purposes of implementing this Item. However, the provisions~~
13 ~~of this Item shall be limited to cases wherein the husband and mother have lived~~
14 ~~separate and apart continuously for a minimum of one hundred eighty days prior to~~
15 ~~the time of conception of the child and have not reconciled since the beginning of the~~
16 ~~one hundred eighty-day period, as evidenced by an affidavit of the parties submitted~~
17 ~~to the registrar.~~

18 (vii) ~~In the case of a child born of the marriage, which includes cases where~~
19 ~~both a person, presumed to be the father pursuant to the Civil Code, and a biological~~
20 ~~father exist, the surname of the child's biological father who has been judicially~~
21 ~~declared to be the father of the child in a filiation or paternity proceeding, either prior~~
22 ~~or subsequent to the birth of the child, shall be the surname of the child, if the~~
23 ~~biological father has sole or joint custody of the child and the presumed father, if~~
24 ~~any, is no longer married to the mother. If the biological father and the mother~~
25 ~~agree, the surname of the child shall be the maiden name of the mother or a~~
26 ~~combination of the surname of the biological father and the maiden name of the~~
27 ~~mother. The child's mother, the husband of the mother, and the biological father~~
28 ~~shall be indispensable parties in a filiation or paternity proceeding brought under this~~
29 ~~Item, except when parental rights have been terminated or the person is deceased.~~

1 ~~(viii) In the case of a child born of a surrogate birth parent who is related by~~
2 ~~blood or affinity to a biological parent, the surname of the child's biological parents~~
3 ~~shall be the surname of the child.~~

4 ~~(b) Sex.~~

5 ~~(c) Time of birth.~~

6 ~~(d) Date of birth, including the year, the month, and the day.~~

7 ~~(e) Place of birth, including the street, and house number; if in a hospital or~~
8 ~~other institution, its name, instead of the street and house number.~~

9 ~~(f) Whether a plural birth. A separate certificate is required for each child~~
10 ~~in a plural birth.~~

11 ~~(g) If a plural birth, the number of each child in order of birth.~~

12 ~~(h)(i) Full name of father if the father was the husband of the mother of the~~
13 ~~child at the time of conception and or birth of the child or had not been legally~~
14 ~~divorced from the mother of the child for more than three hundred days prior to the~~
15 ~~birth of the child. If the husband of the mother was not the biological father of the~~
16 ~~child, the full name of the biological father may be recorded in accordance with the~~
17 ~~provisions of Item (vi) or (vii) of Subparagraph (a). A subsequent successful~~
18 ~~disavowal action by the husband of the mother or his heirs or a subsequent successful~~
19 ~~contestation action by the mother may later affect this entry and the child's surname.~~
20 ~~Otherwise, the full name of the father may be recorded as provided by Item (iv) of~~
21 ~~Subparagraph (a).~~

22 ~~(ii) If a child is born outside of marriage, the full name of the father shall be~~
23 ~~included on the record of birth of the child only if the father and mother have signed~~
24 ~~a voluntary acknowledgment of paternity or a court of competent jurisdiction has~~
25 ~~issued an adjudication of paternity.~~

26 ~~(iii) In all other cases, the name of the father and other information~~
27 ~~pertaining to the father shall not appear on the birth certificate and the surname of~~
28 ~~the child shall be recorded as the maiden name of the mother.~~

1 ~~(iv) Nothing in this Subparagraph shall preclude the Department of Children~~
2 ~~and Family Services, office of children and family services, child support~~
3 ~~enforcement section from obtaining an admission of paternity from the biological~~
4 ~~father for submission in a judicial proceeding, or prohibit the issuance of an order in~~
5 ~~a judicial proceeding which bases a legal finding of paternity on an admission of~~
6 ~~paternity by the biological father and any other additional showing required by state~~
7 ~~law.~~

8 ~~(v) In the case of a child born of a surrogate birth parent who is related by~~
9 ~~blood or affinity to a biological parent, the full name of the biological parent who is~~
10 ~~proven to be the father by DNA testing shall be listed as the father.~~

11 ~~(i) Maiden name of mother; however, if the child was born of a surrogate~~
12 ~~birth parent who is related by blood or affinity to a biological parent, the maiden~~
13 ~~name of the biological parent who is proven to be the mother by DNA testing shall~~
14 ~~be listed as the mother and the name of the surrogate birth parent is not required.~~

15 ~~(j) In the case of a child born of a surrogate birth parent who is related by~~
16 ~~blood or affinity to a biological parent, the biological parents proven to be the mother~~
17 ~~and father by DNA testing shall be considered the parents of the child.~~

18 ~~(k) Respective age of parents on their last birthday, in years.~~

19 ~~(l) Race or races of parents as reported by the parents.~~

20 ~~(m) Residence of father and of mother.~~

21 ~~(n) Birthplace of parents; at least the state or foreign country, if known.~~

22 ~~(o) Number of children born to this mother, including present birth.~~

23 ~~(p) Number of children born to this mother living.~~

24 ~~(q) The certification of the attending physician, midwife, or other person in~~
25 ~~attendance, including a statement of the year, month, day, and hour of birth and~~
26 ~~whether the child was born alive or stillborn. This certification shall be signed by~~
27 ~~the physician, or midwife, or other person in attendance with the address and date of~~
28 ~~signature.~~

1 ~~(r) The exact date of filing in the office of the local registrar, attested by his~~
2 ~~official signature.~~

3 ~~(s) The social security account numbers issued to the mother and the father,~~
4 ~~if obtainable; however, these numbers shall not be printed on the child's birth~~
5 ~~certificate, but only as a part of vital records.~~

6 ~~(2) Contents of death certificate. The certificate of death shall contain, as~~
7 ~~a minimum, the following items:~~

8 ~~(a)(i) Full name of the decedent.~~

9 ~~(ii) The social security number issued to the decedent, unless a social~~
10 ~~security number cannot be obtained.~~

11 ~~(b) Sex.~~

12 ~~(c) Race.~~

13 ~~(d) Conjugal status; single, married, widowed, or divorced. If married, name~~
14 ~~of husband or wife.~~

15 ~~(e) Age, in years, months, and days. If less than one day, in hours or~~
16 ~~minutes.~~

17 ~~(f) Occupation, including any remunerative employment; the trade,~~
18 ~~profession, or particular kind of work; the general nature of the industry, business,~~
19 ~~or establishment in which employed.~~

20 ~~(g) Residence number.~~

21 ~~(h) Place of residence, including city or town and state; if of foreign birth,~~
22 ~~how long in the United States.~~

23 ~~(i) Date of birth, including year, month, and day.~~

24 ~~(j) Place of birth.~~

25 ~~(k) Name and birthplace of father.~~

26 ~~(l) Maiden name and birthplace of mother.~~

27 ~~(m) Place of death, including street and house number; if in an industrial~~
28 ~~camp, its name.~~

1 ~~(n) Name and address of the informant of the above items. The informant~~
2 ~~may be any competent person acquainted with the facts, attesting to the accuracy of~~
3 ~~the above items.~~

4 ~~(o) Official signature of the local registrar, with the date when the certificate~~
5 ~~containing the above items was filed and the registered number of the certificate.~~

6 ~~(p) Date and place of burial, cremation, or removal.~~

7 ~~(q) Signature and address of undertaker, or person acting as such, on the~~
8 ~~statement of facts called for in Subparagraph (p).~~

9 ~~(r) The medical certification of the physician, if any, last attending to the~~
10 ~~deceased, which certificate shall be made and signed by the physician within twenty-~~
11 ~~four hours of death with his name and address. In the absence of a physician, the~~
12 ~~parish coroner shall sign the certificate. In either event, the certification shall contain~~
13 ~~the following items:~~

14 ~~(i) The fact and date of death, including year, month, day, and the time of the~~
15 ~~day.~~

16 ~~(ii) Time in attendance.~~

17 ~~(iii) Time he last saw the deceased alive.~~

18 ~~(iv) Cause of death, showing the course of the disease or the sequence of~~
19 ~~causes resulting in the death; and contributory or secondary causes, the duration of~~
20 ~~each, and whether any primary or secondary causes of death are attributed to~~
21 ~~dangerous or insanitary conditions of employment. If the cause of death was violent,~~
22 ~~the certificate shall show the coroner's determination as to whether the death was~~
23 ~~probably accidental, suicidal, or homicidal.~~

24 ~~(3) Contents of paternity acknowledgment affidavit. The state registrar shall~~
25 ~~develop an affidavit for the voluntary acknowledgment of paternity which includes~~
26 ~~the minimum requirements of the affidavit specified by the secretary of the~~
27 ~~Department of Health and Human Services under 42 U.S.C. 652(a)(7).~~

1 C. Upon request, the state registrar shall provide the information required in
2 R.S. 40:34(B)(1)(r) and (2)(a) to the agency charged with implementing a program
3 of family support in accordance with R.S. 46:236.1.1 et seq.

4 D. ~~The state registrar of vital records is hereby authorized to amend an~~
5 ~~original birth certificate in accordance with Louisiana laws or a final court order~~
6 ~~which specifically orders the amendments, provided the court's order complies with~~
7 ~~existing Louisiana laws.~~

8 E.(1) ~~If the child is a child born outside of marriage and the father is known~~
9 ~~to the mother, she shall complete and sign a paternity information form issued by the~~
10 ~~Vital Records Registry which shall include the name and date of birth of the child,~~
11 ~~full name of the father, his mailing address, his street address or the location where~~
12 ~~he can be found, his date of birth, and the name of his parent or guardian if he is a~~
13 ~~minor, his state and city of birth, his social security number, and his place of~~
14 ~~employment, if known. Within fifteen days after the date of admission, the hospital~~
15 ~~or birthing facility shall forward the form to the child support enforcement section,~~
16 ~~office of children and family services, Department of Children and Family Services,~~
17 ~~with such information as the mother has provided. If the birth occurred at a location~~
18 ~~other than a licensed hospital or birthing facility, the form shall be completed at the~~
19 ~~time the home birth is recorded by the Vital Records Registry and submitted to~~
20 ~~support enforcement services within fifteen days thereafter. If the natural father has~~
21 ~~not executed an acknowledgment of paternity, the mother shall sign as the informant~~
22 ~~unless she is medically unable or mentally incompetent in which case her guardian~~
23 ~~or legal representative shall sign.~~

24 (2) ~~The department shall serve notice on the alleged father that he has been~~
25 ~~named as the father of the child. If the alleged father is a minor, service shall be~~
26 ~~made upon his parent or guardian. The notice shall be served by certified mail,~~
27 ~~return receipt requested. The notice shall include the name of the child and the name~~
28 ~~of the mother of the child and shall advise the alleged father how the allegation of~~
29 ~~paternity can be contested. The notice shall also advise the alleged father that he can~~

1 ~~request that blood tests be conducted, and that the alleged father can sign an~~
2 ~~acknowledgment of paternity.~~

3 ~~(3) Upon receiving the notice, the alleged father shall have ninety days to~~
4 ~~contest the allegation that he is the father. He shall do so by advising the department~~
5 ~~in writing that he is not the father. If the alleged father fails to contest the allegation~~
6 ~~in writing within ninety days, he shall be presumed to be the father of the child, for~~
7 ~~support purposes only, and the agency or the custodial parent can use this~~
8 ~~presumption in an action to seek a support order.~~

9 ~~(4) If the alleged father contests paternity at the hearing for support, the court~~
10 ~~may order blood tests.~~

11 ~~(5) If the results of the blood test indicate by a probability of 99.9% or higher~~
12 ~~that the alleged father is in fact the father of the child, or if the alleged parent fails~~
13 ~~to appear for the court-ordered blood tests, the court shall rule that he is the father~~
14 ~~of the child, for purposes of support only, and shall issue an order for support in~~
15 ~~accordance with state law.~~

16 ~~(6) Nothing in this Subsection shall be deemed, construed, or interpreted to~~
17 ~~create any presumption of legal paternity for any purpose other than support as set~~
18 ~~forth in this Subsection.~~

19 ~~(7) In the event the alleged father is found not to be the father, all costs of~~
20 ~~the hearing, medical costs, expert witnesses costs, and costs incurred by the alleged~~
21 ~~father defending himself shall be paid by the party who made the allegations against~~
22 ~~the alleged father.~~

23 ~~F. All acknowledgments of paternity properly executed in Louisiana and~~
24 ~~adjudications of paternity adjudged in Louisiana shall be filed with the state registrar,~~
25 ~~office of vital records, in a central repository pursuant to 42 U.S.C. 666(a)(5)(M).~~

26 §34.1. Original birth certificate; required contents

27 An original birth certificate shall contain, as a minimum, the items provided
28 in R.S. 40:34.2 through 34.9.

1 §34.2. Original birth certificate; required contents; name of child

2 The name of the child shall be entered on the original birth certificate in
3 accordance with the following provisions:

4 (1) First name.

5 (a) If the child dies without a first name before the certificate is filed, enter
6 the words "died unnamed" in this blank.

7 (b) If the living child has not yet been given a first name at the date of filing
8 of the certificate, leave blank the space for the first name of the child and enter the
9 name later when supplied by affidavit.

10 (2) Surname.

11 (a) Except as otherwise provided in Subparagraph (c) of this Paragraph, if
12 the child is born to a mother who either is married or was married within three
13 hundred days prior to the birth of the child, the surname of the child shall be
14 recorded in accordance with the following requirements:

15 (i) If the mother is married at the time of the birth of the child, and if the
16 mother was not married to another man within three hundred days prior to the birth
17 of the child, the surname of the child shall be the surname of the current husband of
18 the mother.

19 (ii) If the mother, though married to one man at the time of the birth of the
20 child, was married to another man within three hundred days prior to the birth of the
21 child, the surname of the child shall be the surname of the former husband of the
22 mother.

23 (iii) If the mother, though unmarried at the time of the birth of the child, was
24 married to a man within three hundred days prior to the birth of the child, the
25 surname of the child shall be the surname of the former husband of the mother.

26 (iv) In any of these cases, if both the man whose surname should be given
27 to the child and the mother agree, the surname of the child may be the maiden name
28 or surname of the mother or a combination of the surname of the man and the maiden
29 name or surname of the mother.

1 (b) If the child is born to a mother who neither is married nor was married
2 within three hundred days prior to the birth of the child, the surname of the child
3 shall be the maiden name or surname of the mother, at her discretion. If the father
4 has acknowledged his child by authentic act and if both the mother and the father
5 agree, the surname of the child may be the maiden name or surname of the mother,
6 the surname of the father, or a combination of the surname of the father and the
7 maiden name or surname of the mother.

8 (c) In the case of a child born to a mother who either is married or was
9 married within three hundred days prior to the birth of the child, including cases in
10 which both a person presumed to be the father pursuant to the Civil Code and a
11 biological father exist, the surname of the biological father who has been judicially
12 declared to be the father of the child in a filiation or paternity proceeding shall be the
13 surname of the child. If the biological father and the mother agree, the surname of
14 the child shall be the maiden name or surname of the mother or a combination of the
15 surname of the biological father and the maiden name or surname of the mother.

16 §34.3. Original birth certificate; required contents; sex of child

17 The sex of the child shall be entered on the original birth certificate.

18 §34.4. Original birth certificate; required contents; circumstances of birth

19 The circumstances of the birth of the child shall be entered on the original
20 birth certificate. These circumstances shall include all of the following:

21 (1) Time of birth.

22 (2) Date of birth, including the year, the month, and the day.

23 (3) Place of birth, address, including city or town and state; if in a hospital
24 or other institution, its name.

25 (4) Whether a plural birth. A separate certificate is required for each child
26 in a plural birth.

27 (5) If a plural birth, the number of each child in order of birth.

1 §34.5. Original birth certificate; required contents; name of father

2 A. If the child is born to a mother who either is married or was married
3 within three hundred days prior to the birth of the child, the full name of the father
4 shall be recorded in the same manner provided for the recordation of the surname of
5 the child in R.S. 40:34.2(2)(a) and (c).

6 B. If the child is born to a mother who neither is married nor was married
7 within three hundred days prior to the birth of the child, the full name of the father
8 who has acknowledged his child by authentic act shall be included on the birth
9 record of the child, but only if the father and mother agree.

10 C. In all other cases, the name of the father and other information pertaining
11 to the father shall not appear on the birth certificate and the surname of the child
12 shall be recorded as the maiden name or surname of the mother, at her discretion.

13 D. Nothing in this Section shall preclude the Department of Children and
14 Family Services, office of children and family services, child support enforcement
15 section from obtaining an admission of paternity from the biological father for
16 submission in a judicial proceeding, or prohibit the issuance of an order in a judicial
17 proceeding which bases a legal finding of paternity on an admission of paternity by
18 the biological father and on any other additional showing required by state law.

19 §34.6. Original birth certificate; required contents; name of mother

20 The full name of the mother of the child, including her maiden name and
21 current surname, shall be entered on the original birth certificate.

22 §34.7. Original birth certificate; required contents; other information regarding the
23 parents

24 The following information regarding the parents shall also be entered on the
25 original birth certificate:

26 (1) Respective ages of parents on their last birthday, in years.

27 (2) Races of parents as reported by the parents.

28 (3) Ethnicities of parents as reported by the parents.

29 (4) Residences of parents.

1 (5) Birthplaces of parents, at least the state or foreign country, if known.

2 (6) Number of children born to this mother.

3 (7) Number of children born to this mother living.

4 (8) Social security account numbers issued to the parents, if obtainable;

5 however, these numbers shall not be printed on the birth certificate of the child, but

6 shall be entered only as a part of vital records.

7 §34.8. Original birth certificate; required contents; certification of attendant

8 The certification of the attending physician, midwife, or other person in

9 attendance, including a statement of the year, month, day, and hour of birth, shall be

10 entered on the original birth certificate. This certification shall be signed by the

11 physician, midwife, or other person in attendance, with the address and date of

12 signature.

13 §34.9. Original birth certificate; required contents; attestation of local filing

14 The exact date of filing in the office of the local registrar, attested by his

15 official signature, shall be entered on the original birth certificate.

16 §34.10. Death certificate; required contents

17 The certificate of death shall contain, as a minimum, the following items:

18 (1) Full name of the decedent.

19 (2) The social security number issued to the decedent, unless a social

20 security number cannot be obtained.

21 (3) Sex.

22 (4) Race.

23 (5) Ethnicity.

24 (6) Conjugal status; single, married, widowed, or divorced. If married, name

25 of spouse.

26 (7) Age, in years, months, and days. If less than one day, in hours or

27 minutes.

1 (8) Occupation, including any remunerative employment; the trade,
2 profession, or particular kind of work; the general nature of the industry, business,
3 or establishment in which employed.

4 (9) Place of residence, address, including city or town and state.

5 (10) Date of birth, including year, month, and day.

6 (11) Place of birth; if of foreign birth, how long in the United States.

7 (12) Name and birthplace of father.

8 (13) Maiden name and birthplace of mother.

9 (14) Place of death, address, including city or town and state.

10 (15) Name and address of the informant of the above items. The informant
11 may be any competent person acquainted with the facts, attesting to the accuracy of
12 the above information.

13 (16) Official signature of the local registrar, with the date when the
14 certificate containing the above items was filed and the registered number of the
15 certificate.

16 (17) Date and place of burial, cremation, or removal.

17 (18) Signature and address of undertaker, or person acting as such, on the
18 statement of facts required in Paragraph (17) of this Section.

19 (19) The medical certification of the physician, if any, last attending to the
20 deceased, which certificate shall be made and signed by the physician within
21 twenty-four hours after death with his name and address. In the absence of a
22 physician, the parish coroner shall sign the certificate. In either event, the
23 certification shall contain the following items:

24 (a) The fact and date of death, including year, month, day, and the time of
25 the day.

26 (b) Time in attendance.

27 (c) Time he last saw the deceased alive.

28 (d) Cause of death, showing the course of the disease or the sequence of
29 causes resulting in the death; and contributory or secondary causes, the duration of

1 each, and whether any primary or secondary causes of death are attributed to
2 dangerous or insanitary conditions of employment. If the cause of death was violent,
3 the certificate shall show the determination of the coroner as to whether the death
4 was probably accidental, suicidal, or homicidal.

5 §34.11. Paternity acknowledgement affidavit; required contents

6 The state registrar shall develop an affidavit for the voluntary
7 acknowledgment of paternity which includes the minimum requirements of the
8 affidavit specified by the secretary of the United States Department of Health and
9 Human Services under 42 U.S.C. 652(a)(7).

10 §34.12. Provision of information to aid implementation of program of family
11 support

12 Upon request, the state registrar shall provide the information required in R.S.
13 40:34.9 and 34.10(1) and (2) to the agency charged with implementing a program of
14 family support in accordance with R.S. 46:236.1.1 et seq.

15 §34.13. Registration of acknowledgements and adjudications of paternity

16 All acknowledgments of paternity properly executed in accordance with
17 Louisiana law and adjudications of paternity by a Louisiana court shall be filed with
18 the state registrar, office of vital records, in a central repository pursuant to 42 U.S.C.
19 666(a)(5)(M).

20 Revision Comment - 2016

21 The filing of an acknowledgment or adjudication of paternity in accordance
22 with this Section shall be in conformity with Children's Code Article 1106.

23 * * *

24 §46. New Amendments to certificate of birth when judgment of filiation is obtained

25 A. ~~Upon request of a child who has obtained a judgment of filiation pursuant~~
26 ~~to Civil Code Article 197, the state registrar, upon receipt of a copy of the judgment,~~
27 ~~shall prepare a new certificate of birth in the new name of the child wherein the~~
28 ~~child's surname shall be that of the father recognized in the judgment or a~~
29 ~~combination of the surname of the father recognized in the judgment and the maiden~~

1 ~~name of the mother.~~ The state registrar of vital records is authorized to amend an
2 original birth certificate in accordance with Louisiana law.

3 B. ~~If at the time of legitimation the child shall have reached the age of~~
4 ~~majority, the state registrar shall require an affidavit to be obtained from the district~~
5 ~~attorney of the place of residence and domicile of the said major child, wherein the~~
6 ~~district attorney shall state any objections, if any exist, to the name change aspects,~~
7 ~~prior to the preparation of a new certificate of birth. If there be no objection by the~~
8 ~~district attorney, the state registrar shall issue a new certificate to the major child.~~
9 ~~If there be an objection, the state registrar may not proceed to prepare a new~~
10 ~~certificate until the district attorney's objection, if any, has been resolved. Any~~
11 change in the surname of a child from that required or allowed in R.S. 40:34.2 shall
12 be made by court order as provided in R.S. 13:4751 through 4755 or as otherwise
13 provided in this Chapter or by rules promulgated thereunder.

14 C. ~~The new certificate of birth shall be signed by the child's father prior to~~
15 ~~its recordation in the vital records registry and only after such signing and~~
16 ~~recordation may certified copies or short form birth certification cards be issued as~~
17 ~~in the case of all other birth records.~~

18 D. ~~The child's original birth certificate and the evidence upon which the new~~
19 ~~certificate was made shall be sealed in a package or envelope and filed in the~~
20 ~~archives of the vital records registry of the division of vital records. This sealed~~
21 ~~package or envelope may be opened only pursuant to an order of the civil district~~
22 ~~court for good cause.~~

23 E. ~~Upon presentation of any other form of legitimation or acknowledgment~~
24 ~~permitted by the laws of this state, together with a request for an alteration of an~~
25 ~~original certificate of birth, the matter will be processed in accordance with rules and~~
26 ~~regulations of the vital records registry promulgated pursuant to R.S. 40:33(C).~~

1 §46.1. Amended birth certificates; change of biological filiation; general principle

2 If the biological filiation of a child changes after a birth certificate has been

3 prepared for the child, the state registrar shall amend the birth certificate to reflect

4 this change, in accordance with R.S. 40:46.2 through 46.11.

5 Revision Comments - 2016

6 (a) This Section and those that follow are new. They are intended to provide
7 a comprehensive framework for executing amendments to a birth certificate that are
8 made necessary by changes in the filiative situation of the child. The foundational
9 principle underlying all of the Sections is that once the filiative situation of the child
10 has changed, his birth certificate should be modified to reflect the new situation. To
11 that end, these Sections call for the "strikethrough" (by means of lining out) of old
12 information that, in light of the new situation, is no longer accurate and the
13 "addition" (by writing above) of new information that reflects the new situation. The
14 birth certificate, as amended, should read precisely as it would have read had the new
15 filiative situation been known at the start.

16 (b) This Section and those that follow constitute a mixture of old and new.
17 Some of the Sections merely reproduce comparable provisions of former R.S. 40:34
18 or of the administrative regulations of the Office of Vital Statistics. Other Sections,
19 by contrast, are entirely new and, in fact, are designed to fill lacunae that existed in
20 the rather incomplete framework that previously existed for amending birth
21 certificates in light of changes in filiation.

22 §46.2. Change of maternal filiation; child with unidentified mother

23 A. Following a final and definitive judgment of maternal filiation, rendered
24 pursuant to Civil Code Article 184, the effect of which is to recognize maternal
25 filiation between a woman and a child whose birth certificate did not identify the
26 mother of the child, the state registrar, upon receipt of a certified copy of that
27 judgment, shall amend the birth certificate as follows:

28 (1) For the surname of the child:

29 (a) If the adjudged mother was married to a man at the time of the birth of
30 the child, but was not married to another man within three hundred days prior to the
31 birth of the child, enter the surname of her husband.

32 (b) If the adjudged mother was not married to a man at the time of the birth
33 of the child, but was married to a man within three hundred days prior to the birth of
34 the child, enter the surname of her former husband.

1 (c) If the adjudged mother was married to one man at the time of the birth
2 of the child, but was married to another man within three hundred days prior to the
3 birth of the child, enter the surname of the latter.

4 (d) If the adjudged mother was married neither at nor within three hundred
5 days prior to the birth of the child, enter her maiden name or surname, at her
6 discretion.

7 (2) For the name of the mother of the child, her date of birth, race, ethnicity,
8 residence, birthplace, and social security number, the number of children born to her,
9 and the number of children born to her living, enter those of the adjudged mother.

10 (3) For the name of the father of the child, his age, race, ethnicity, and
11 residence, birthplace, and social security number:

12 (a) If the adjudged mother was married to a man at the time of the birth of
13 the child, but was not married to another man within three hundred days prior to the
14 birth of the child, enter those of her husband.

15 (b) If the adjudged mother, though unmarried at the time of the birth of the
16 child, was married to a man within three hundred days prior to the birth of the child,
17 enter those of her former husband.

18 (c) If the adjudged mother was married to one man at the time of the birth
19 of the child, but was married to another man within three hundred days prior to the
20 birth of the child, enter those of the latter.

21 B. In any case to which the provisions of Paragraph (A)(1) of this Section
22 apply, if the man whose surname should be given to the child and the adjudged
23 mother agree that the surname of the child should be either the maiden name or
24 surname of the mother or a combination of his surname and her maiden name or
25 surname, the state registrar shall enter the surname upon which they have agreed.

26 C. Upon the petition of the mother of the child, a court may, for good cause
27 shown, order the state registrar to enter, as the surname of the child, the maiden name
28 or surname of the mother or a combination of the surname of the man whose
29 surname should otherwise be given to the child under Paragraph (A)(1) of this

1 Section and the maiden name or surname of the mother, whichever she may choose,
 2 even if that man does not concur.

3 Revision Comment - 2016

4 (a) The term "latter", as used in Subparagraphs (A)(1)(c) and (3)(c) of this
 5 Section, is to be taken in the grammatical, as opposed to the temporal, sense of that
 6 word. Thus, it refers to the second of the two men mentioned therein in the order in
 7 which they are mentioned, namely, the man who was married to the mother of the
 8 child at the time the child was conceived. The objective of this provision is the same
 9 as that of all of the other provisions of this revision that pertain to the identification
 10 of the "father of the child" on the child's birth certificate, namely, that the man listed
 11 as the father be the man to whom the child is filiated by law.

12 (b) Under Subsection B of this Section, the mother of the child may not,
 13 without the concurrence of the man whose surname should be given to the child
 14 under Paragraph 1 of Subsection A, compel the state registrar to enter any other
 15 name than his surname as the surname of the child. Subsection C of this Section
 16 carves out an exception to this general rule. On the petition of the mother, a court
 17 may dispense with this man's concurrence if she can show good cause for doing so.
 18 An example of a case in which there may be good cause is that in which the father,
 19 as of the time of the petition by the mother, is by his own choice not involved in the
 20 child's life, that is, is not contributing to the child's support and is not regularly
 21 visiting with or at least communicating with the child, and has no intention of
 22 becoming so involved.

23 (c) The action provided in Subsection C of this Section is not a filiation
 24 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
 25 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
 26 the surname of the child should be recorded on the child's birth certificate and has
 27 no impact on the filiation of the child.

28 §46.3. Change of maternal filiation; child with identified mother

29 A. Following a final and definitive judgment of maternal filiation, rendered
 30 pursuant to Civil Code Article 184, the effect of which is to recognize maternal
 31 filiation between a child and a woman other than the woman identified in the birth
 32 certificate as the mother of the child, the state registrar, upon receipt of a certified
 33 copy of that judgment, shall amend the birth certificate as follows:

34 (1) Strikethroughs:

35 (a) Strike through the surname of the child, the name of the mother of the
 36 child, and all other information pertaining to the mother, in particular, her date of
 37 birth, race, ethnicity, residence, birthplace, and social security number, the number
 38 of children born to her, and the number of children born to her living.

39 (b) If the name of the father of the child or other information pertaining to
 40 him, in particular, his age, race, ethnicity, residence, birthplace, and social security

1 number, as it was previously entered on the birth certificate, was that of the man
2 who, by virtue of his marriage to the woman previously identified in the birth
3 certificate as the mother of the child, was presumed to be the father of the child
4 under Civil Code Article 185 or 186, the state registrar shall strike through his name
5 and his other information.

6 (2) Additions:

7 (a) For the surname of the child:

8 (i) If the adjudged mother was married to a man at the time of the birth of
9 the child, but was not married to another man within three hundred days prior to the
10 birth of the child, enter the surname of her husband.

11 (ii) If the adjudged mother, though unmarried at the time of the birth of the
12 child, was married to a man within three hundred days prior to the birth of the child,
13 enter the surname of her former husband.

14 (iii) If the adjudged mother was married to one man at the time of the birth
15 of the child, but was married to another man within three hundred days prior to the
16 birth of the child, enter the surname of the latter.

17 (iv) If the adjudged mother was married neither at nor within three hundred
18 days prior to the birth of the child, enter her maiden name or surname, at her
19 discretion.

20 (b) For the name of the mother of the child, her date of birth, race, ethnicity,
21 residence, birthplace, and social security number, the number of children born to her,
22 and the number of children born to her living, enter those of the adjudged mother.

23 (c) For the name of the father of the child, his age, race, ethnicity, residence,
24 birthplace, and social security number:

25 (i) If the adjudged mother was married to a man at the time of the birth of
26 the child, but was not married to another man within three hundred days prior to the
27 birth of the child, enter those of her husband.

1 (ii) If the adjudged mother, though unmarried at the time of the birth of the
 2 child, was married to a man within three hundred days prior to the birth of the child,
 3 enter those of her former husband.

4 (iii) If the adjudged mother was married to one man at the time of the birth
 5 of the child, but was married to another man within three hundred days prior to the
 6 birth of the child, enter those of the latter.

7 B. In any case to which the provisions of Paragraph (A)(2) of this Section
 8 apply, if the man whose surname should be given to the child and the adjudged
 9 mother agree that the surname of the child should be either the maiden name or
 10 surname of the mother, the surname of the man, or a combination of his surname and
 11 her maiden name or surname, the state registrar shall enter the surname upon which
 12 they have agreed.

13 C. Upon the petition of the mother of the child, a court may, for good cause
 14 shown, order the state registrar to enter, as the surname of the child, the maiden name
 15 or surname of the mother or a combination of the surname of the man whose
 16 surname should otherwise be given to the child under Paragraph (A)(2) of this
 17 Section and the maiden name or surname of the mother, whichever she may choose,
 18 even if that man does not concur.

19 Revision Comments - 2016

20 (a) This Section provides that information pertaining to the father of the
 21 child shall, under some circumstances, be deleted from the birth certificate following
 22 a final and definitive judgment of maternity the effect of which is to recognize
 23 maternal filiation between a child and woman other than the woman previously
 24 identified in the birth certificate as the mother. These circumstances include those
 25 in which the name of and other information pertaining to the father, as originally
 26 entered on the birth certificate, was that of a man who, by virtue of this relationship
 27 to the woman who was originally identified as the mother, was presumed to be the
 28 father under Civil Code Article 185 or 186.

29 (b) Several of the provisions of this Section permit the surname of the child,
 30 as listed in the birth certificate, to be changed, but only on the condition that the
 31 "new" mother and father or the "old" mother and the "new" father, as the case may
 32 be, agree. These provisions draw no distinction between a case in which, at the time
 33 of the proposed change, the child is still a minor and a case in which, at the time of
 34 the proposed change, the child has become a major. As applied to a minor child, this
 35 "parental consent" requirement could not possibly give rise to any objection. But as
 36 applied to a major child, it might. Still, following the foundational principle of the
 37 entirety of the Section - that the birth certificate should be modified to conform to

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 how it would have appeared had the new filiative situation been known from the start
2 - the parental consent requirement applies even to cases involving major children.
3 If the major child does not approve of the change, he is entirely free to initiate a
4 "change of name" petition, pursuant to R.S. 13:4751, to alter his surname, yet again,
5 as he may deem appropriate.

6 (c) The term "latter", as used in Items (A)(2)(a)(iii) and (c)(iii) of this
7 Section, is to be taken in the grammatical, as opposed to the temporal, sense of that
8 word. Thus, it refers to the second of the two men mentioned therein in the order in
9 which they are mentioned, namely, the man who was married to the mother of the
10 child at the time the child was conceived. The objective of this provision is the same
11 as that of all of the other provisions of this revision that pertain to the identification
12 of the "father of the child" on the child's birth certificate, namely, that the man listed
13 as the father be the man to whom the child is filiated by law.

14 (d) Under Subsection B of this Section, the mother of the child may not,
15 without the concurrence of the man whose surname should be given to the child
16 under Subsection (A)(2), compel the state registrar to enter any other name than his
17 surname as the surname of the child. Subsection C of this Section carves out an
18 exception to this general rule. See the Official Revision Comments to R.S. 40:46.2.

19 (e) The action provided in Subsection C of this Section is not a filiation
20 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
21 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
22 the surname of the child should be recorded on the child's birth certificate and has
23 no impact on the filiation of the child.

24 §46.4. Change of paternal filiation; disavowal of paternity

25 A. If the surname of the child, the name of the father of the child, or other
26 information pertaining to the father as it was entered on the birth certificate was that
27 of the man who was presumed to be the father of the child under Civil Code Article
28 185, 186, or 195 and if the man or his successor, after the birth certificate was
29 prepared, obtains a final and definitive judgment disavowing paternity of the child,
30 the state registrar, upon receipt of a certified copy of that judgment, shall amend the
31 birth certificate as follows:

32 (1) Strikethroughs: Strike through the surname of the child, the name of the
33 father of the child, and all other information pertaining to him, in particular, his age,
34 race, ethnicity, residence, birthplace, and social security number.

35 (2) Additions:

36 (a) If the judgment of disavowal does not trigger the presumption of
37 paternity established in the first sentence of the second paragraph of Civil Code
38 Article 186, the state registrar shall amend the birth certificate as follows: for the

1 surname of the child, enter the maiden name or surname of the mother of the child,
2 at her discretion.

3 (b) If the disavowal action triggers the presumption of paternity established
4 in the first sentence of the second paragraph of Civil Code Article 186, the state
5 registrar shall amend the birth certificate as follows:

6 (i) For the surname of the child, enter either that of the second husband of
7 the mother of the child or, if both he and the mother agree, her maiden name or
8 surname or a combination of his surname and her maiden name or surname.

9 (ii) For the name of the father of the child, his age, race, ethnicity, residence,
10 birthplace, and social security number, enter those of the second husband of the
11 mother.

12 B. Upon the petition of the mother of the child, a court may, for good cause
13 shown, order the state registrar to enter, as the surname of the child, the maiden name
14 or surname of the mother or a combination of the surname of the man whose
15 surname should otherwise be given to the child under Subparagraph (A)(2)(b) of this
16 Section and the maiden name or surname of the mother, whichever she may choose,
17 even if that man does not concur.

18 Revision Comment - 2016

19 (a) Under Subparagraph (A)(2)(b) of this Section, the mother of the child
20 may not, without the concurrence of the man whose surname should be given to the
21 child, compel the state registrar to enter any other name than his surname as the
22 surname of the child. Subsection B of this Section carves out an exception to this
23 general rule. See the Official Revision Comments to R.S. 40:46.2.

24 (b) The action provided in Subsection B of this Section is not a filiation
25 action, that is, is not the kind of action provided for in Civil Code Articles 187, 191,
26 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how
27 the surname of the child should be recorded on the child's birth certificate and has
28 no impact on the filiation of the child.

29 §46.5. Change of paternal filiation; contestation and establishment of paternity

30 If the surname of the child, the name of the father of the child, or other
31 information pertaining to the father as it was entered on the birth certificate was that
32 of the man who was presumed to be the father of the child under Civil Code Article
33 185 or 186 and if the mother of the child, after the birth certificate was prepared,

1 obtains a final and definitive judgment contesting and establishing paternity of the
2 child, the state registrar, upon receipt of a certified copy of that final and definitive
3 judgment, shall amend the birth certificate as follows:

4 (1) Strikethroughs: Strike through the surname of the child, the name of the
5 father of the child, and the other information pertaining to the father, in particular,
6 his age, race, ethnicity, residence, birthplace, and social security number.

7 (2) Additions:

8 (a) For the surname of the child, enter either that of the present husband of
9 the mother or, if both agree, her maiden name or surname or a combination of his
10 surname and her maiden name or surname.

11 (b) For the name of the father and his age, race, ethnicity, residence,
12 birthplace, and social security number, enter those of the present husband of the
13 mother.

14 (c) Upon the petition of the mother of the child, a court may, for good cause
15 shown, order the state registrar to enter, as the surname of the child, the maiden name
16 or surname of the mother or a combination of the surname of the man whose
17 surname should otherwise be given to the child under Subparagraph (a) of this
18 Paragraph and the maiden name or surname of the mother, whichever she may
19 choose, even if that man does not concur.

20 Revision Comment - 2016

21 Under Subparagraph (2)(a) of this Section, the mother of the child may not,
22 without the concurrence of the man whose surname should be given to the child
23 under that Subparagraph, compel the state registrar to enter any other name than his
24 surname as the surname of the child. Subparagraph (2)(c) of this Section carves out
25 an exception to this general rule. See the Official Revision Comments to R.S.
26 40:46.2.

27 §46.6. Change of paternal filiation; marriage and formal acknowledgment

28 Following the birth of a child, if Civil Code Article 195 applies, the state
29 registrar, upon receipt of (i) a certified copy of the certificate of the marriage of the
30 mother of the child, (ii) a certified copy of the act in which her husband formally
31 acknowledged the child, and (iii) if the mother did not sign the act of

1 acknowledgment, her affidavit that she concurs in this formal acknowledgment, shall
2 amend the birth certificate as follows:

3 (1) Strikethroughs: If the mother and her husband have agreed that the
4 surname of the child should be changed and, in addition, have agreed that the new
5 surname should be either the maiden name or surname of the mother, the surname
6 of her husband, or a combination of his surname and her maiden name or surname,
7 strike through the surname of the child.

8 (2) Additions:

9 (a) If the mother and her husband have agreed that the surname of the child
10 should be changed and, in addition, have agreed that the new surname should be
11 either the maiden name or surname of the mother, the surname of her husband, or a
12 combination of his surname and her maiden name or surname, enter the surname
13 upon which they have agreed.

14 (b) For the name of the father, his age, race, ethnicity, residence, birthplace,
15 and social security number, enter those of the husband of the mother.

16 §46.7. Change of paternal filiation; formal acknowledgment alone

17 A. In a case to which Civil Code Article 196 applies, the state registrar, upon
18 receipt of (i) a certified copy of the act of formal acknowledgment and (ii) if the
19 mother did not sign the act of acknowledgment, her affidavit that she concurs in this
20 formal acknowledgment, shall amend the birth certificate as follows:

21 (1) Strikethroughs: If the mother and the man who made the
22 acknowledgment have agreed that the surname of the child should be changed and,
23 in addition, have agreed that the new surname should be either the maiden name or
24 surname of the mother, the surname of the man who made the acknowledgment, or
25 a combination of his surname and her maiden name or surname, strike through the
26 surname of the child.

27 (2) Additions:

28 (a) If the mother and the man who made the acknowledgment have agreed
29 that the surname of the child should be changed and, in addition, have agreed that the

1 new surname should be either the maiden name or surname of the mother, the
2 surname of the man who made the acknowledgment, or a combination of his
3 surname and her maiden name or surname, enter the surname upon which they have
4 agreed.

5 (b) For the name of the father and his age, race, ethnicity, residence,
6 birthplace, and social security number, enter those of the man who made the
7 acknowledgment.

8 B. If, after a birth certificate has been amended pursuant to Subsection A of
9 this Section, the man who made the formal acknowledgment should revoke or annul
10 it, the state registrar, upon receipt of the form described in R.S. 9:406(A)(1)(a) or a
11 final and definitive judgment recognizing that a revocation or annulment has been
12 accomplished, shall amend the birth certificate as follows: strike through any
13 information that was added to the birth certificate and restore any information that
14 was struck through when it was amended.

15 §46.8. Change of paternal filiation; judgment of paternity

16 A. Following a final and definitive judgment of paternal filiation, rendered
17 pursuant to Civil Code Article 197 or 198, the effect of which is to establish paternal
18 filiation between a man and a child whose birth certificate did not identify the father
19 of the child, the state registrar, upon receipt of a certified copy of that judgment,
20 shall amend the birth certificate as follows:

21 (1) Strikethroughs: If the mother of the child and the adjudged father have
22 agreed that the surname of the child should be changed and, in addition, have agreed
23 that the new surname should be either the maiden name or surname of the mother,
24 the surname of the adjudged father, or a combination of his surname and her maiden
25 name or surname, strike through the surname of the child.

26 (2) Additions:

27 (a) If the mother of the child and the adjudged father have agreed that the
28 surname of the child should be changed and, in addition, have agreed that the new
29 surname should be either the maiden name or surname of the mother, the surname

1 of the adjudged father, or a combination of his surname and her maiden name or
2 surname, enter the surname upon which they have agreed.

3 (b) For the name of the father and his age, race, ethnicity, residence,
4 birthplace, and social security number, enter those of the adjudged father.

5 B. Following a final and definitive judgment of paternal filiation, rendered
6 pursuant to Civil Code Article 197 or 198, the effect of which is to establish paternal
7 filiation between a child and a man other than the man identified in the birth
8 certificate as the father of the child, the state registrar, upon receipt of a certified
9 copy of the judgment, shall amend the birth certificate as follows:

10 (1) Strikethroughs: If the mother of the child and the adjudged father have
11 agreed that the surname of the child should be changed and, in addition, have agreed
12 that the new surname should be either the maiden name or surname of the mother,
13 the surname of the adjudged father, or a combination of his surname and her maiden
14 name or surname, and if the man whom the birth certificate identified as the father
15 of the child does not object, strike through the surname of the child.

16 (2) Additions:

17 (a) If the mother of the child and the adjudged father have agreed that the
18 surname of the child should be changed and, in addition, have agreed that the new
19 surname should be either the maiden name or surname of the mother, the surname
20 of the adjudged father, or a combination of his surname and her maiden name or
21 surname, and if the man whom the birth certificate identified as the father of the
22 child does not object, enter the surname upon which they have agreed.

23 (b) For the name of the father and his age, race, ethnicity, residence,
24 birthplace, and social security number, enter above the existing entries those of the
25 adjudged father.

26 (3) Upon the petition of the mother or the adjudged father of the child, a
27 court may, for good cause shown, order that the surname of the child as it appears
28 on the birth certificate be changed in conformity with this Section despite the
29 objection of the man whom the birth certificate identified as the father of the child.

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Revision Comment - 2016

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(a) Under Subsection B of this Section, which addresses cases in which a judgment of paternal filiation under Civil Code Article 197 or 198 results in dual paternity, the surname of the child as it appears on the birth certificate ordinarily cannot be changed without the concurrence of "the man whom the birth certificate identified as the father", in other words, the child's "first" father (the presumed father). Nevertheless, there may be rare instances in which permitting the first father to "veto" a change of the child's surname to which the mother and the "second" father (the adjudged father) have agreed would be unjust. Subsection (B)(3) addresses this unusual contingency. A court may, in effect, dispense with the first father's concurrence if the mother and the second father can show good cause for doing so. One instance of good cause is that in which the first father, as of the time of the petition by the mother and the second father, is by his own choice no longer involved in the child's life, that is, is not contributing to the child's support and is not regularly visiting with or at least communicating with the child.

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(b) The action provided in Subsection (B)(3) of this Section is not a filiation action, that is, is not the kind of action provided for in Civil Code Articles 187, 191, 197, and 198 and in R.S. 9:401 et seq. This action concerns only the question of how the surname of the child should be recorded on the child's birth certificate and has no impact on the filiation of the child.

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§46.9. Married mother physically separated from husband prior to and at time of

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birth

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A. If, following the birth of a child to a married woman, a birth certificate

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was prepared for the child in accordance with R.S. 40:34.2(B), if the husband and the

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mother of the child lived separate and apart continuously for one hundred eighty

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days prior to the time of conception of the child and did not reconcile since the

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beginning of the one hundred eighty-day period, and if the biological father of the

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child is a man other than the husband of the mother, then the birth certificate of the

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child may be amended so that the surname of the child is the maiden name of the

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mother, or, if the mother, her husband, and the biological father of the child agree,

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the surname of the child may be that of the biological father or a combination of the

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surname of the biological father and the maiden name of the mother. The

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Department of Health and Hospitals, office of public health, shall develop a form for

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the purposes of implementing this Section.

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B. Upon the petition of the mother of the child, a court may, for good cause

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shown, order the state registrar to enter, as the surname of the child, the maiden name

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or surname of the mother or a combination of the surname of the biological father

1 and the maiden name or surname of the mother, whichever she may choose, even if
2 that man does not concur.

3 Revision Comment - 2016

4 Under Subsection A of this Section, the mother of the child may not, without
5 the concurrence of the man whose surname should be given to the child, compel the
6 state registrar to enter any other name than his surname as the surname of the child.
7 Subsection B of this Section carves out an exception to this general rule. On the
8 petition of the mother, a court may effectively dispense with this man's concurrence
9 if she can show good cause for doing so. An example of a case in which there may
10 be good cause is that in which the father, as of the time of the petition by the mother,
11 is by his own choice not involved in the child's life, that is, is not contributing to the
12 child's support and is not regularly visiting with or at least communicating with the
13 child, and has no intention of becoming so involved.

14 §46.10. Child born as a result of a surrogacy agreement

15 A. In the case of a child born of a surrogate birth parent who is related by
16 blood or affinity to a biological parent, the biological parents, proven to be so by
17 DNA testing, shall be considered the parents of the child.

18 B. In the case of a child born of a surrogate birth parent who is related by
19 blood or affinity to a biological parent, the surname of the biological parents of the
20 child shall be the surname of the child.

21 C. In the case of a child born of a surrogate birth parent who is related by
22 blood or affinity to a biological parent, the birth certificate of the child shall be
23 amended so that the full name of the biological parent who is proven to be the father
24 by DNA testing shall be listed as the father.

25 D. In the case of a child born of a surrogate birth parent who is related by
26 blood or affinity to a biological parent, the birth certificate of the child shall be
27 amended so that the full name, including the maiden name and other surname, of the
28 biological parent who is proved to be the mother by DNA testing shall be listed as
29 the mother, and the name of the surrogate birth parent shall be struck through.

1 §46.11. Review by district attorney

2 At the time at which the child requests the amendment of the existing birth
3 certificate under R.S. 40:46 et seq., the state registrar shall require an affidavit to be
4 obtained from the district attorney of the parish in which the child resides or is
5 domiciled stating any objection to the name change. If the district attorney does not
6 object, the state registrar shall prepare a new birth certificate for the major child. If
7 there is an objection, the state registrar may not proceed to prepare a new birth
8 certificate until the district attorney's objection has been resolved.

9 §46.12. Hospital-based paternity program

10 A. Any hospital in the state which provides birthing services shall have a
11 program that allows for the voluntary acknowledgment of paternity during the period
12 immediately before or after the birth of a child.

13 B. During the period immediately before or after the birth of a child to an
14 unmarried woman, a hospital-based program established in accordance with this
15 Section shall, at a minimum:

16 (1) Provide to both the mother and alleged father, if he is present in the
17 hospital:

18 (a) Written materials about paternity establishment.

19 (b) The forms necessary to voluntarily acknowledge paternity.

20 (c) A written description of the rights, responsibilities, and alternatives as
21 provided in R.S. 9:392(A) which are involved in acknowledging paternity.

22 (d) The opportunity to speak with hospital personnel, either by telephone or
23 in person, who are trained to clarify information and answer questions about
24 paternity establishment.

25 (2) Provide the mother and alleged father, if he is present, the opportunity
26 to voluntarily acknowledge paternity in the hospital in accordance with the Civil
27 Code and R.S. 9:392.

28 (3) Afford due process safeguards.

29 (4) Forward completed acknowledgments to the state registrar.

1 C. Hospital support personnel that provide birthing services shall possess
2 notarial powers to administer oaths to and authenticate signatures of any persons in
3 connection with execution of a formal acknowledgment of paternity in accordance
4 with this Section. Any oaths administered or signatures authenticated pursuant to
5 this Section shall have the same force and effect as if taken or signed before a duly
6 commissioned notary public.

7 D. Hospital personnel shall forward an acknowledgment of paternity to the
8 state registrar who shall forward copies of same to the Department of Children and
9 Family Services, office of children and family services, child support enforcement
10 section. A statewide database shall be maintained by the Department of Children
11 and Family Services in accordance with federal regulations.

12 E. A voluntary acknowledgment executed in accordance with this Section
13 shall be signed by both parents and the parents' signatures shall be authenticated by
14 a person possessing notarial powers in accordance with state laws.

15 F. The Department of Children and Family Services, office of children and
16 family services, child support enforcement section shall provide to all birthing
17 hospitals in the state:

18 (1) Written materials about paternity establishment.

19 (2) Forms necessary to voluntarily acknowledge paternity.

20 (3) Copies of a written description of the rights, responsibilities, and
21 alternatives as provided in R.S. 9:392(A) which are involved in acknowledging
22 paternity.

23 (4) Training, guidance, and written instructions relative to voluntary
24 acknowledgment of paternity, as necessary to operate the hospital-based program.

25 (5) An assessment of each birthing hospital's program on at least an annual
26 basis.

27 G. Except in the case of intentional misconduct, no hospital or any agent or
28 employee thereof shall be held civilly or criminally liable for any action or omission

1 arising out of the performance of, attempted performance of, or failure or inability
2 to perform the duties imposed herein.

3 ~~§46.2.~~ §46.13. Paternity establishment services

4 The state registrar shall provide voluntary paternity establishment services
5 in accordance with regulations prescribed by the secretary of the United States
6 Department of Health and Human Services. The state registrar may designate
7 specific employees in the offices of the vital records registry who shall possess
8 notarial powers to administer an oath to any person in connection with any document
9 required in the course of establishing paternity.

10 * * *

11 ~~§75. Notarial acts of~~ Adult adoption; name changes

12 A. ~~Adoptions effected by notarial acts pursuant to R.S. 9:461~~ Adult
13 adoptions and name changes resulting from the adoptions pursuant to ~~R.S. 9:462~~
14 R.S. 9:465 shall have no effect on ~~original~~ birth certificates maintained by the Vital
15 Records Registry, except that when a name change is effected pursuant to ~~R.S. 9:462~~
16 R.S. 9:465 and an affidavit is presented from the district attorney of the parish or
17 place of residence of the requesting party indicating that there is no objection of the
18 district attorney to the adoptee's name change along with a certified copy of the
19 notarial act of adoption and the appropriate fee, the registrar of vital records shall
20 ~~issue~~ prepare a new birth certificate to reflect the new name. If there is an objection
21 from the district attorney, the registrar of vital records shall not seal the adopted
22 person's ~~original~~ birth certificate nor ~~issue~~ a new certificate ~~in the new name~~ until the
23 grounds for the objection have been removed and confirmed by a supplemental
24 affidavit from the district attorney.

25 * * *

26 Section 4. Children's Code Article 1142(C) is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 449 Reengrossed

2016 Regular Session

Gregory Miller

Abstract: Pursuant to HCR No. 189 of the 2010 Regular Session, resolves conflicts between laws relative to birth certificates and laws relative to filiation.

Present law (Ch.C. Art. 1122) provides the form for the surrendering of parental rights. Proposed law deletes the outdated reference to a notarial act of legitimation; otherwise, retains present law.

Present law (Ch.C. Art. 1142) provides for the order declaring parental rights terminated. Proposed law deletes the outdated reference to a notarial act of legitimation; otherwise, retains present law.

Proposed law (R.S. 9:410) requires that notice and an opportunity to object be given to the state registrar of vital records prior to the signing of a judgment of filiation which amends a birth certificate.

Present law (R.S. 40:34) provides for the vital records forms to be completed upon the birth and death of a person. Proposed law reorganizes present law and resolves the conflicts between the laws relative to birth certificates and the laws relative to filiation.

Proposed law (R.S. 40:34.1-34.9) provides for the contents of a birth certificate.

Proposed law (40:34.3, 34.4, and 34.6-34.9) retains present law requiring that the following information be listed on a birth certificate: sex of the child; time, date, and place of birth; name of the mother; age, race, birthplace, and residence of parents; certification of the attending physician, midwife, or other person in attendance at the birth; exact date of filing with the local registrar.

Proposed law (R.S. 40:34.10) retains present law regarding the contents of a death certificate and modernizes the language therein.

Proposed law (R.S. 40:34.11-34.13) retains present law requiring the state registrar to develop an affidavit for the voluntary acknowledgment of paternity and to provide certain information to the Dept. of Children and Family Services. Also retains present law requiring all acknowledgments of paternity to be filed with the state registrar in a central repository.

Present law (R.S. 40:46) provides for the issuance of a new birth certificate when a judgment of filiation is obtained. Proposed law reorganizes present law and resolves the conflicts between the laws relative to amending a birth certificate and the laws relative to filiation.

Proposed law (R.S. 40:46.1) provides that if the filiation of a child changes after the issuance of an original birth certificate, the state registrar shall amend the birth certificate in accordance with proposed law.

Proposed law (R.S. 40:46.2) provides for the amendment of an original birth certificate upon a judgment of maternal filiation pursuant to present law (C.C. Art.184) when no mother had been identified originally.

Proposed law (R.S. 40:46.3) provides for the amendment of an original birth certificate upon a judgment of maternal filiation pursuant to present law (C.C. Art.184) when a different mother had been identified originally.

Proposed law (R.S. 40:46.4) provides for the amendment of an original birth certificate upon a change in paternal filiation due to the disavowal of paternity in accordance with present law (C.C. Art. 185, 186, or 195).

Proposed law (R.S. 40:46.5) provides for the amendment of an original birth certificate when there has been a change in paternal filiation due to a contestation and establishment of paternity in accordance with present law (C.C. Art. 185 or 186).

Proposed law (R.S. 40:46.6) provides for the amendment of an original birth certificate when there has been a change in paternal filiation due to marriage and formal acknowledgment of paternity in accordance with present law (C.C. Art. 195).

Proposed law (R.S. 40:46.7) provides for the amendment of an original birth certificate when there has been a change in paternal filiation due to a formal acknowledgement of paternity in accordance with present law (C.C. Art. 196).

Proposed law (R.S. 40:46.8) provides for the amendment of an original birth certificate when there has been a change in paternal filiation due to a judgment of paternity in accordance with present law (C.C. Art. 197 or 198).

Present law and proposed law (R.S. 40:46.9) provide relative to birth certificates in circumstances in which the mother of the child and her husband have lived separate and apart for 180 days prior to the conception of the child and the biological father of the child is a man other than the husband of the mother. Proposed law provides for the amendment of the birth certificate of such cases, and retains present law requiring the Dept. of Health and Hospitals to develop a form to facilitate implementation of this law.

Proposed law (R.S. 40:46.9) provides an exception to the laws governing the surname of the child when the mother shows good cause. Provides that good cause may include the fact that the father is no longer involved in the child's life, does not pay support, or does not communicate with the child.

Proposed law (R.S. 40:46.10-46.13) retains present law relative to the following: Birth certificates for children born as a result of a surrogacy agreement; authorization for the district attorney to review a child's request to change his birth certificate; hospital-based paternity program; paternity establishment services.

Present law (R.S. 40:75) provides for notarial acts of adoption and resulting name changes. Proposed law deletes outdated references and corrects cross references to adult adoptions; otherwise, retains present law.

Present law (Ch.C. Art. 1142(C)) provides relative to a legitimation by authentic act. Proposed law repeals present law.

(Amends Ch.C. Arts. 1122(F)(2) and (G)(2) and 1142(B) and R.S. 40:34, 46, 46.1, 46.2, and 75(A); Adds R.S. 9:410, R.S. 40:34.1-34.13, and 46.3-46.13; Repeals Ch.C. Art. 1142(C))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Clarifies that in order for the state registrar to amend a birth certificate pursuant to either Civil Code Articles 195 or 196, the mother must provide an affidavit

concurring in the formal acknowledgment only if the mother did not sign the act of acknowledgement.

2. Eliminates the requirement that on a birth certificate prepared in accordance with present law (R.S. 40:34.2(B)), information about the biological father such as age, race, ethnicity, residence, birthplace, and social security number be included.
3. Amends the proposed law provisions relative to the state registrar's authority to object to a filiation judgment.