

APA-1
4/18

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Alabama Department of Public Health

Rule Number 420-7-1-.16

Rule Title Amendment or Correction of Birth Certificates

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of Certifying Officer

DR. Intible

Date

8/16/22

REC'D & FILED

AUG 18 2022

LEGISLATIVE SVC AGENCY

**FORM APA2
10/17**

**STATE BOARD OF HEALTH
NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-7-1-.16, Amendment or Correction of Birth Certificates

INTENDED ACTION: To amend the current rule.

SUBSTANCE OF PROPOSED ACTION: To document the requirement for identification from an applicant requesting to amend information on a birth certificate, clarify the prohibition of changing a parent's name on his/her child's birth certificate after its filing, and remove ambiguous text.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on September 15, 2022, at 9:00 a.m., at the RSA Tower, Suite 1540, 201 Monroe Street, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on October 5, 2022. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Nicole H. Rushing, Center for Health Statistics, Alabama Department of Public Health, P.O. Box 5625, Montgomery, Alabama 36103-5625, Telephone Number: (334) 206-2679.



P. Brian Hale, Agency Secretary

420-7-1-.16 Amendment or Correction of Birth
Certificates

(1) Birth certificates are presumed to contain accurate information on the facts of birth when they are filed with the Center for Health Statistics. Except to reflect changes in the registrant's name and/or sex as provided by Code of Alabama 1975, § 22-9A-19(c) and § 22-9A-19(d), birth certificates will be amended or corrected only to rectify errors in the facts of birth.

(2) A delayed certificate of birth placed on file with supporting documentation or by judicial procedure shall not be amended except to reflect changes in the registrant's name and/or sex as provided by Code of Alabama 1975, § 22-9A-19(c) and § 22-9A-19(d).

(3) Only the following persons may apply to have the facts of birth amended or corrected:

(a) If the registrant is 19 years of age or older or otherwise became emancipated by operation of law, application to amend a birth certificate must be made by the registrant. In the event of a registrant who is incapacitated and unable to make application, the legal guardian of the registrant may make application.

(b) If the registrant is under 19 years of age but over 13 years of age, application to amend a birth certificate may be made by the registrant, a parent of the registrant, or the legal guardian of the registrant.

(c) If the registrant is under 14 years of age, application to amend a birth certificate may be made by a parent of the registrant or the legal guardian of the registrant.

(d) Within one year of the date of birth, application to amend a birth certificate may be made by a representative of the hospital where the birth occurred.

(e) A woman claiming to be the mother of a child under 19 years of age but whose name is not shown on the birth certificate as the mother of that child may apply to have her name added to the birth certificate or to have the birth certificate amended to show the correct name of the mother.

(f) A man claiming to be the father of a child under 19 years of age but whose name is not shown on the birth certificate as the father of that child may apply to have his name added to the birth certificate or to have the birth certificate amended to show the correct name of the father.

(g) A person named on a birth certificate as a parent of the child may apply to have his or her name removed from the birth certificate as a parent of the child after that person has been determined by a court of competent jurisdiction not to be a parent of the child.

(h) Minor corrections to birth certificates may be made at the discretion of the State Registrar without specific application from one of the above.

(4) With the exception of minor corrections, an application to amend or correct a birth certificate must be made in writing by an authorized applicant and must be accompanied by valid identification and any required fee.

(5) Correction of Minor Errors Within One Year of the Date of the Event:

(a) Correction of obvious errors, transposition of letters in words, or additions of omitted information may be made by the State Registrar based upon his or her observation or query.

(b) A notation documenting the source of information for the correction or addition and the date the change was made shall be maintained with the certificate but does not need to appear on certified copies of the certificate.

(c) The certificate does not need to be marked "Amended."

(6) All Other Amendments or Corrections to Birth Certificates:

(a) To amend or correct errors of fact on a birth certificate, documentary evidence must be presented in support of the facts at birth. All documents presented must contain sufficient information to clearly indicate

that they pertain to the registrant on the birth certificate for which the correction has been requested.

1. Acceptable documents include, but are not limited to, documents such as:
 - a. Certified copy of a marriage record;
 - b. Certified copy of a birth certificate of registrant's child;
 - c. Early school records;
 - d. Social Security records;
 - e. Passports or visas;
 - f. Military records;
 - g. Federal government census records;
 - h. Government agency records for benefit establishment such as social services, Medicaid, clinical services, or similar services;
 - i. Court orders clearly establishing the facts to be amended;
 - j. Medical records; or
 - k. Other documents deemed to be valid and adequate by the State Registrar to support the requested change.
2. Documents presented must be from independent sources. Family documents such as records from bibles or genealogical records are not acceptable.
3. Documents must be in the form of the original record or must be a duly certified copy or excerpt thereof from the original custodian of the record.
4. Only one document of each type may be used in cases where more than one document is required to support the facts.
5. The documents submitted must have been established prior to the registrant's nineteenth birthday

or at least ten years prior to the date of application for the amendment or correction. The State Registrar may make exceptions for other documents such as court orders, passports, or other evidence that clearly support the facts of birth.

(b) Amendment or correction of date of birth:

1. The date of birth cannot be changed to a date that is after the date the certificate was filed.
2. The date of birth may be changed up to 30 days within the same calendar year with two supporting documents provided that date is not after the date the certificate was filed.
3. Other changes to the date of birth may be made at the discretion of the State Registrar provided that a minimum of three documents adequately support that the registrant has consistently used the date from childhood and the change does not make the birth date after the date the certificate was filed. The change cannot be made if that change would be in conflict with any birth certificates filed in the Center for Health Statistics for other children of the same mother.

(c) Amendment or correction of registrant's name:

1. Minor misspellings or phonetic spellings of the registrant's name may be corrected with one piece of documentary evidence that supports the correction.
2. If the registrant is over 50 years of age, the first and/or middle names of the registrant as shown on the birth certificate may be corrected to the first and/or middle names the registrant has consistently used since early childhood with a minimum of two documents that support the correction.
3. If the registrant is over 50 years of age, the surname of the registrant as shown on the birth certificate may be corrected to the surname the registrant has consistently used since early childhood with a minimum of three documents that support the correction.
4. Other corrections to the name of the registrant may be made at the discretion of the State Registrar

provided a minimum of three documents adequately support that the registrant has consistently used the name from early childhood.

5. If the registrant has obtained an order from an appropriate court changing his or her name as specified in Code of Alabama 1975, § 22-9A-19(c), the registrant's name on his or her birth certificate shall be amended to show the new name of the registrant as given in the court order. If the order changing a person's name is for a married person who took a different surname at the time of marriage, that surname does not need to be shown on the birth certificate provided the order also shows the surname used at the time of birth.

(d) Addition of registrant's name after the fifth birthday:

1. If the first and middle names are blank:

a. The first and middle names may be added upon presentation of one document established at least ten years ago or prior to the fifth birthday that shows the name of the registrant along with the registrant's date of birth and parents' names.

b. A notation shall be shown on the birth certificate documenting that the names were added and by what authority.

c. The birth certificate does not need to be marked "Amended."

2. If the surname is blank and the surname to be added is the same as the surname of either parent shown on the birth certificate:

a. The surname may be added to be the same as that of either parent shown on the birth certificate upon presentation of one document established at least ten years ago or prior to the fifth birthday that shows the name of the registrant along with the registrant's date of birth and parents' names.

b. A notation shall be shown on the birth certificate documenting that the surname was added and by what authority.

c. The birth certificate does not need to be marked "Amended."

3. If the surname is blank and the surname to be added is not the same as the surname of either parent shown on the birth certificate:

a. The surname may be added to be a surname different from that of either parent shown on the birth certificate upon presentation of two documents as follows:

i. One document established at least ten years ago or prior to the fifth birthday that shows the name of the registrant along with the registrant's date of birth and at least the name of one parent.

ii. One additional document that clearly supports that the registrant has consistently used that surname from early childhood.

b. A notation shall be shown on the birth certificate documenting that the surname was added and by what authority.

c. The certificate shall be marked "Amended."

(e) Amendment to names of parents:

1. Minor misspellings of the names of the parents may be corrected with two pieces of documentary evidence that support the correction.

2. The name of a parent may be corrected if there is adequate documentary evidence showing that the name was entered incorrectly by the person preparing the birth certificate.

a. The name of the mother may be corrected if that correction is supported by adequate documentary evidence showing the name of the mother is being corrected to clearly identify the person who gave birth to the child.

b. The name of the father may be corrected if that correction is supported by adequate documentary evidence showing the name of the father is being corrected to clearly identify the person who has been determined to be the legal father of the child.

3. Except as provided under Code of Alabama 1975, § 22-9A-12, or as previously determined by a court of competent jurisdiction, the name of the father or mother will not be changed to show a different person. If the name of the father or mother listed on the child's existing birth certificate is legally changed after filing of the birth certificate, the name of the father or mother will not be changed on the child's birth certificate to reflect the name change.

(f) Amendment to other items on the birth certificate:

1. Signatures may not be amended.

2. Race of parents has not been on the birth certificate form since 1991. For years prior to 1991, race of parents will not be amended. However, an amended birth certificate may be prepared on the current form to no longer show that item on the birth certificate.

3. Other items on the birth certificate may be amended with adequate documentary evidence to support the amendment. An ~~previously entered~~ order from an Alabama circuit court determining the facts of birth may be used to amend or correct any item except signatures, the date of filing, and the date of birth to a date which is after the date of filing.

Author: Dorothy Harshbarger; Nicole Henderson Rushing
Statutory Authority: Code of Alabama, 1975, §22-9A-2, §22-9A-7, §22-9A-12, §22-9A-19.

History: Repealed and Replaced: Filed June 20, 2007; effective July 25, 2007. Amended: Filed XX-XX-XXXX; effective XX-XX-XXXX.