

**Department of State Health Services  
Council Agenda Memo for State Health Services Council  
November 28-29, 2012**

**Agenda Item Title:** Amendments to rules and new rules concerning administration and registration of vital statistics records

**Agenda Number:** 5.b

**Recommended Council Action:**

For Discussion Only

For Discussion and Action by the Council

**Background:**

The Vital Statistics Unit (VSU) in the Health Information and Vital Statistics Section is under the Chief Operating Officer of DSHS. The VSU manages the registration of all vital events (birth, death, fetal death, marriage, divorce, and annulment) in the State of Texas. The unit responds to customer requests for certified copies or verification of vital event records and other supplemental documents; monitors validity and reliability of vital statistics data to ensure the overall quality of data filed and to enable federal, state and local governmental entities to make pertinent public health decisions; and responds to requests for information and data.

An Internal Audit raised several concerns and recommendations for the VSU, and a State Audit charged VSU to comply with five recommendations to:

- 1) issue birth certificates in compliance with applicable laws and regulations;
- 2) issue birth certificates only to qualified applicants;
- 3) safeguard funds it received for issuing birth certificates;
- 4) comply with certain security related policies and procedures; and
- 5) strengthen application controls over its information systems.

Because the current rules do not reflect the VSU current operations, it appeared from the Audit that VSU was not adequately safeguarding the vital records of the State of Texas. The proposed rule changes will address these concerns.

The program costs are offset by the fees generated through the sale of records and verifications.

**Summary:**

The purpose of the amendments and new rules is to:

- comply with the four-year rule review, as required by Government Code, Section 2001.039;
- reflect recent operational changes and update obsolete language and name changes;
- address recommendations of Rider 72, 82<sup>nd</sup> Legislature, 2011, to strengthen safeguards related to delayed certificates of birth registration, standardize birth registrar practices, and establish identification requirements for qualified applicants;
- address recommendations of the Internal Audit and State Audit to issue birth certificates only to qualified applicants; and
- comply with legislative mandates in House Bill (HB) 3666, 81<sup>st</sup> Legislature, Regular Session, 2009, relating to requirements for an amended marriage license and the issuance of a marriage license to an underage applicant, and HB 2927, 81<sup>st</sup> Legislature, Regular Session, 2009, relating to filing disinterment permits as amendments to death certificates.

The new rules address birth registration, certification requirements and procedures, continuing education requirements, and application for Birth Registrar certification and recertification. The new rules also address delayed birth certification, requirements and acceptability of documentation, verification by the State Registrar, and dismissal after application is not completed within one year.

**Key Health Measures:**

The proposed amendments and new rules update and clarify rule language but are not expected to change program outcomes or create any new measurements. The intent of the rule changes is to enhance the understanding of the requirements, and reflect program information accurately for better interpretation of the rules by the public. The following table provides examples of data that VSU regularly monitors for program effectiveness and efficiency. VSU will continue to monitor this data to ensure that the rules do not have any unintended consequences to program functioning.

<b>VSU Request Processing Output - Records Service Transactions</b>						
	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
Birth Certificate	263,059	265,541	250,676	252,927	255,105	259,255
Death Certificate – 1st copy*	20,812	34,589	76,609	108,760	142,185	175,576
Death Certificate – additional*	38,722	129,653	420,189	661,624	907,814	1,116,180
Heirloom Birth Certificate	2,068	1,820	1,574	1,526	1,461	1,461
Birth Verification	950	1,834	6,498	4,872	6,669	6,375
Death Verification	940	677	897	714	889	1,067
Divorce Verification	1,932	1,387	1,256	1,310	1,197	1,781
Marriage Verification	3,055	2,409	2,490	2,789	2,630	2,490
Not Found Birth	6,959	7,007	6,409	5,388	4,508	4,252
Not Found Death	2,876	2,370	1,720	1,608	1,872	1,891

\*HB 1739, 80<sup>th</sup> Legislature, 2007, required funeral homes to register all deaths electronically.

**Summary of Input from Stakeholder Groups:**

The proposed revisions were shared with stakeholders during Vital Statistics’ 2012 Regional Conferences on June 11, June 13, and June 15, 2012. The stakeholders were given a hardcopy of the revisions and the opportunity to raise any issues, questions, or concerns. The stakeholders’ questions and concerns were verbally discussed during the proposed rule revision session. The stakeholders were not in opposition to the proposed rule revisions. The stakeholders included the Local Registrars, Funeral Home Directors, Hospital Health Information Managers and Birth Register Clerks, and County and District Clerks. Stakeholders will have an additional opportunity to comment on the rules during the 30-day public comment period.

**Proposed Motion:**

Motion to recommend HHSC approval for publication of rules contained in agenda item #5.b.

**Approved by Assistant Commissioner/Director:** Geraldine Harris, Unit Director/State Registrar, VSU **Date:** 11/07/2012

**Presenter:** Geraldine Harris **Program:** Unit Director/State Registrar **Phone No.:** 776-7646

**Approved by CCEA:** Carolyn Bivens **Date:** 11/07/2012

Title 25. HEALTH SERVICES  
Part 1. DEPARTMENT OF STATE HEALTH SERVICES  
Chapter 181 Vital Statistics  
Subchapter A. Miscellaneous Provisions  
Amendments §§181.1, 181.2, 181.6, 181.8 - 181.11, and 181.13  
Subchapter B. Vital Records  
Amendments §§181.21 - 181.34  
New §181.35  
Subchapter C. Central Adoption Registry  
Amendments §§181.42 - 181.45  
Subchapter D. Birth Registration Certification  
New §§181.50 - 181.54  
Subchapter E. Delayed Registration  
New §§181.60 - 181.65

### Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§181.1, 181.2, 181.6, 181.8 - 181.11, and 181.13, 181.21 - 181.34, and 181.42 - 181.45, and new §§181.35, 181.50 - 181.54 and 181.60 - 181.65 concerning the administration and registration of vital statistics records.

### BACKGROUND AND PURPOSE

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act), according to the schedule listed therein. Sections 181.1, 181.2, 181.6, 181.8 - 181.11, and 181.13, 181.21 - 181.34, and 181.42 - 181.45 have been reviewed, and the department has determined that the rules should continue to exist with the amendments because rules on this subject are needed.

### SECTION-BY-SECTION SUMMARY

The amendment to §181.1 updates definitions by adding a new definition for “Vital Statistics Unit;” deleting the definition for the “Bureau of Vital Statistics;” and revising various definitions to update legacy agency references.

The amendments to §§181.2, 181.9, 181.11, 181.13, 181.22, 181.23, 181.24, 181.27, 181.29 - 181.32, 181.34, and 181.42 - 181.45 clarify existing language and update legacy agency references from the "Bureau of Vital Statistics" to the "Vital Statistics Unit."

The amendments to §181.6 update recent operational changes, clarifying the responsibility of the State Registrar and Local Registrar’s responsibility to file the disinterment permit as opposed to amending the certificate. This is in accordance with House Bill (HB) 2927, 81st Legislature,

Regular Session, 2009, which amended Health and Safety Code, Chapter 711, relating to the regulation of cemeteries by state and local government.

Amendments to §181.8 update recent operational changes to enhance the confidentiality of adoption records by shredding paper birth records using a cross cut paper shredder, and removing any birth records stored in electronic format from storage media in accordance with the National Institute of Standards and Technologies (NIST) "Guidelines for Media Sanitation" (Publication SP-800-88). The amendments also clarify the submittal of Acknowledgement of Paternity documents, and updates legacy agency references.

Amendments to §181.10 update legacy agency references, and clarify the method of availability of birth record copies.

An amendment to §181.11 revises the legal reference in the Health and Safety Code from §191.005 and §192.006 to §191.0045.

The amendment to §181.21 clarifies the criteria for refusal of issuance of records.

The amendment to §181.25 update legacy agency references, and comply with legislative mandates in House Bill (HB) 3666, 81st Legislature, Regular Session, 2009, relating to the application for the issuance of a marriage license which amended Family Code, Subchapter C, §2.209, "Duplicate License."

The amendment to §181.26 updates recent operational changes and clarifies existing language regarding the filing of birth certificates for infants born outside of a licensed institution.

The amendments to §181.28 update recent operational changes, clarifies existing language, address recommendations of Rider 72, 82nd Legislature, 2011, the 2006 Internal Audit, and the 2009 State Audit to issue birth certificates only to qualified applicants.

The amendments to §181.33 update legacy agency references, and updates obsolete language relative to the completion of a certificate of death.

New §181.35 complies with legislative mandates in HB 3666, 81st Legislature, Regular Session, 2009, which amended Family Code, Subchapter B, §2.102, "Parental Consent of Underage Applicants to Marriage," relating to the application for the issuance of a marriage license.

The amendments to §§181.42 - 181.45 update policies and procedures concerning the Central Adoption Registry.

New §§181.50 - 181.54 concern birth registration, certification requirements and procedures, continuing education requirements and application for Birth Registrar certification and recertification.

New §§181.60 - 181.65 concern delayed birth certification; requirements and acceptability of documentation; verification by the State Registrar; and dismissal after non-completion of application within one year.

#### FISCAL NOTE

Geraldine Harris, Unit Director, of the Vital Statistics Unit, has determined that for each year of the first five years that the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

#### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Harris has also determined that there will be no adverse economic costs to small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

Additionally, Ms. Harris has also determined that for each year of the first five years the sections are in effect, the public will benefit from their adoption. These rules impact the people of Texas whose vital records are stored and safeguarded by the Texas Vital Statistics Unit.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKING IMPACT ASSESSMENT

The department has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Albert Rivera, Health Information and Vital Statistics, Vital Statistics Unit, Department of State Health Services, Mail Code 1966, P.O. Box 149347, Austin, Texas 78714-9347, telephone (512) 776-7696 or albert.rivera@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

#### STATUTORY AUTHORITY

The amendments and new rules are authorized by Health and Safety Code, §191.002, which authorizes rules necessary for the effective administration of Vital Statistics Records; Government Code, §531.0055 and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001. Review of the sections implements Government Code, §2001.039.

The amendments and new rules affect Health and Safety Code, Chapters 191 and 1001; and Government Code, Chapter 531.

Legend: (Proposed Amendments)

Single Underline = Proposed New Language

**[Bold Print and Brackets]** = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

## SUBCHAPTER A. MISCELLANEOUS PROVISIONS.

### §181.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (2) (No change.)

**[(3) Bureau of Vital Statistics (Bureau)--The office within the Texas Department of Health charged with the implementation of the Texas Vital Statistics Act.]**

(3) **[(4)]** Certified--A certified statement, form, or letter, of the facts stated on the form or document as filed in the Vital Statistics Unit [Bureau of Vital Statistics], certified by the State Registrar [state registrar] or duly appointed designee, over the respective signature and may bear the seal of the Vital Statistics Unit [Bureau of Vital Statistics].

(4) **[(5)]** Certified copy--An abstract or photocopy of the original record issued as filed with the Vital Statistics Unit [Bureau of Vital Statistics] and issued on a designated form or security paper which shall bear the "state seal", the Texas Department of State Health Services, Vital Statistics Unit [Department of Health-Bureau of Vital Statistics] or the seal of their office, and the facsimile signature of the State Registrar or the local registration official.

(5) **[(6)]** Dead body--A lifeless human body or such parts of the human body or the bones thereof from the state of which it may be reasonably concluded that death occurred.

(6) **[(7)]** Disinterment--To exhume, unbury, or take out of the grave.

(7) **[(8)]** Death records--Records governing deaths and fetal deaths filed pursuant to the Texas Vital Statistics Act.

(8) **[(9)]** Department--The Texas Department of State Health Services, formerly known as the Texas Department of Health.

(9) **[(10)]** Embalming--The act of disinfecting or preserving a human dead body, entire or in part, by the use of chemical substances, fluids, or gases in the body; or by the introduction of the same into the body by vascular or hypodermic injection; or by direct application into the organs or cavities; or by any other method intended to disinfect or preserve a dead body or restore body tissues and structures.

(10) [(11)] Fetal death (stillbirth)--Death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(11) [(12)] Genealogist--An individual who traces the descent of persons or families. He or she may be an individual family member or a person hired by the family to trace a family tree or do family research.

(12) [(13)] Identification of applicant--Each applicant must present a current form of government issued photo identification along with his or her application. If the applicant is unable to present a current form of photo identification, two valid supporting forms of identification may be presented, one of which bears the applicant's signature.

(13) [(14)] Immediate family member--The registrant, his or her guardian, or the children, spouses, parents, siblings, or grandparents of the registrant.

(14) [(15)] Indexes--An index to or listing of birth records, death records, applications for marriage licenses, and reports of divorce or annulment of marriage.

(A) Consolidated indexes--These indexes are vital records consisting of more than one event year. Consolidated indexes may be prepared for any vital event at the discretion of the State Registrar in the form prescribed.

(B) General birth and death indexes--These indexes are maintained or established by the Vital Statistics Unit [**bureau of vital statistics**] or a local registration official which shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials, the date of the event, the county of occurrence, the state or local file number, the name of the father, the maiden name of the mother, and sex of the registrant.

(C) Summary birth and death index--These indexes are maintained or established by the Vital Statistics Unit [**Bureau of Vital Statistics**] or a local registration official which shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials, the date of the event, the county of occurrence, and sex of the registrant.

(15) [(16)] Interment--Burial or the act of placing in a grave.

(16) [(17)] Legal representative (personal representative or agent)--An attorney in fact, a funeral director, or any other person designated by affidavit, contract, or court order acting on behalf and for the benefit of the registrant or his or her immediate family. In order to determine the need for protection for personal property rights when the legal representative is acting on behalf and for the benefit of the registrant or the registrant's immediate family or other entity having a direct and tangible interest in the record, the State Registrar [**state registrar**], Local Registrar [**local registrar**], or county clerk shall require a designation document or an attested statement to that effect.

(17) [(18)] Live birth--The complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached; each product of such a birth is considered live born.

(18) [(19)] Local registration official--A county clerk or person authorized by the Vital Statistics Act to maintain a duplicate system of records for each birth, death, or fetal death that occurs in the person's jurisdiction.

(19) [(20)] Non-institutional birth [**Birth**]-A birth occurring outside a hospital or birthing center licensed by the Texas Department of State Health Services.

(20) [(21)] Person in charge of interment--Any person who places or causes to be placed a fetus, dead body or the ashes, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.

(21) [(22)] Properly qualified applicant (qualified applicant)--The registrant, or immediate family member either by blood, marriage or adoption, his or her guardian, or his or her legal agent or representative. Local, state and federal law enforcement or governmental agencies and other persons may be designated as properly qualified applicants by demonstrating a direct and tangible interest in the record when the information in the record is necessary to implement a statutory provision or to protect a personal legal property right. A properly qualified applicant may also be a person who has submitted an application for a request to release personal information and has been approved as outlined in §181.11 of this title (relating to Requests for Personal Data).

(22) [(23)] Registrant--The individual named on the certificate of birth, death, or fetal death; application for marriage license; or report of divorce or annulment of marriage.

(23) [(24)] Registrar--The State Registrar or a Local Registrar [**local registrar**] as recognized by the Texas Department of State Health Services, [**Bureau of**] Vital Statistics Unit.

(24) [(25)] Research copy--A plain paper noncertified reproduction of the complete original document or a portion of the original document.

(25) [(26)] Search--The act of examining the files and/or indexes maintained by the Vital Statistics Unit [**Bureau of Vital Statistics**] for a specific record or information.

(26) [(27)] Signature--The name of a person written with his or her own hand; or by an electronic process approved by the State Registrar.

(27) [(28)] State Registrar--The Unit Director [**Chief, Bureau**] of the Vital Statistics Unit, Texas Department of State Health Services.

(28) [(29)] Supplemental Birth Certificate--A new birth certificate prepared and filed by the Vital Statistics Unit [Bureau], which is based upon a paternity determination, or adoption. This new birth certificate replaces the original certificate of birth.

(29) [(30)] Birth Verification--A noncertified statement only of the registrant's name, date of birth, and place of birth as it appears on the birth index filed with the [Bureau of] Vital Statistics Unit.

(30) [(31)] Death Verification--A noncertified statement only of the registrant's name, date of death, and place of death as it appears on the death index filed with the [Bureau of] Vital Statistics Unit.

(31) [(32)] Fetal Death Verification--A noncertified statement only of the registrant's name, date of delivery, and place of delivery as it appears on the fetal death index filed with the [Bureau of] Vital Statistics Unit.

(32) [(33)] Marriage Verification--A noncertified statement only of the registrant's name, date of marriage, and place of marriage as it appears on the application for marriage license index filed with the [Bureau of] Vital Statistics Unit.

(33) [(34)] Report of Divorce or Annulment of Marriage Verification--A noncertified statement only of the registrant's name, date of divorce, and place of divorce as it appears on the report of divorce or annulment of marriage index as it appears on the birth index filed with the [Bureau of] Vital Statistics Unit.

(34) [(35)] Vital statistics--The registration, preparation, transcription, collection, compilation, distribution and preservation of data pertaining to births, adoptions, paternity determinations, deaths, fetal deaths, suits affecting parent child relationship, court of continuing jurisdiction, marital status, and such other data as deemed necessary by the department.

(35) [(36)] Vital Statistics Act--The Health and Safety Code, Title 3.

(36) Vital Statistics Unit--The office, formally known as the Bureau of Vital Statistics, within the Texas Department of State Health Services, formerly known as the Texas Department of Health, charged with the implementation of the Texas Vital Statistics Act.

§181.2. Assuming Custody of Body.

(a) The funeral director, or person acting as such, who assumes custody of a dead body or fetus shall obtain an electronically filed report of death through a [Bureau of] Vital Statistics Unit system or complete a report of death before transporting the body. The report of death shall within 24 hours be mailed or otherwise transmitted to the Local Registrar [local registrar] of the district in which the death occurred or in which the body was found. A copy of the completed or electronically filed report of death as prescribed by the [Bureau of] Vital Statistics Unit shall serve as authority to transport or bury the body or fetus within this state.

(b) If a dead body or fetus is to be removed from this state, transported by common carrier within this state, or cremated, the funeral director, or person acting as such, shall obtain a burial-transit permit from the Local Registrar [**local registrar**] where the death certificate is or will be filed, or from the State Registrar [**state registrar**] electronically through a [**Bureau of**] Vital Statistics Unit electronic death registration system. The registrar shall not issue a burial-transit permit until a certificate of death, completed in so far as possible, has been presented (See §181.6 of this title (relating to Disinterment)).

(c) (No change.)

#### §181.6. Disinterment.

(a) Except as is authorized for a justice of the peace acting as coroner or medical examiner under the Code of Criminal Procedure, Chapter 49, remains may not be removed from a cemetery except on written order of the State Registrar [**state registrar**] or the State Registrar's [**state registrar**] designee.

(b) The licensed funeral director or professional archeologist to whom the disinterment permit is issued shall be responsible for the proper conduct of the disinterment and removal.

(c) The State Registrar [**state registrar**] shall issue a disinterment permit so as to provide a copy for the State Registrar [**state registrar**], a copy retained by the funeral director or professional archeologist to whom issued, a copy filed with the sexton or person in charge of the cemetery in which the disinterment is to be made, and a copy for the Local Registrar [**local registrar**] of the district in which the death occurred. The State Registrar and the Local Registrar shall file the disinterment permit as an amendment to the death certificate and consider it part of the death certificate. The State Registrar and the Local Registrar shall include a copy of the disinterment permit with any future certified copies of the death certificate that are issued. [The state registrar and the local registrar shall amend the certificate of death filed in their respective offices.]

(d) - (g) (No change.)

(h) The disinterment permit issued by the State Registrar [**state registrar**] shall serve as the authority to disinter, transport by means other than a common carrier, and re-inter a body within this state. (See §181.2 of this title (relating to Assuming Custody of Body)).

(i) - (l) (No change.)

#### §181.8. Supplemental Birth Certificates.

(a) (No change.)

(b) Wherever possible, the local registration official shall remove from his or her files the original birth record and:

(1) Shred any paper birth records using a cross cut paper shredder; and

(2) Remove any birth records stored in electronic format from storage media using validated overwriting technologies and methods/tools that clear data using 1-3 overwrites in accordance with National Institute of Standards and Technologies (NIST) “Guidelines for Media Sanitation” (Publication SP-800-88). [forward it to the bureau.]

(c) Where it is not possible to remove the original birth record, the local registration official shall cancel such record in such manner as to preclude the disclosure of any information contained therein. In its place he or she shall substitute the supplemental certificate of birth.

(d) [(c)] A certificate of adoption for a child born outside the State of Texas shall, when received by the Vital Statistics Unit [bureau] be forwarded to the proper registration official of the state or territory in which such birth occurred. (For foreign adoptions, see §181.29 of this title (relating to Foreign Adoptions)).

(e) [(d)] Where application is made for the filing of a supplemental certificate based on paternity, the applicant shall submit to the Vital Statistics Unit [bureau] an Application for New Birth Certificate Based on Parentage (VS-166) signed by both parents in the presence of a Notary Public, and:

(1) a certified copy of the certificate of marriage indicating the subsequent marriage of the parents; or

(2) a copy of the [an] Acknowledgment of Paternity (VS-159.1) that has been properly filed by the Vital Statistics Unit [if an Acknowledgment of Paternity is not already in the bureau files]; or

(3) a certified copy of the court decree establishing paternity. **[if the information concerning the court decree is not already in the bureau files.]** If a court decree is presented [in the bureau files], the Application for New Birth Certificate Based on Parentage only has to be signed by one of the parents in the presence of a Notary Public.

(4) a certified copy of the court decree establishing a gestational agreement. The Application for New Birth Certificate Based on Parentage must be signed by at least one parent in the presence of a Notary Public.

(f) [(e)] Voluntary Paternity must have a written consent of both parents.

§181.9. Access to Paternity Files.

(a) (No change.)

(b) The Vital Statistics Unit [bureau] shall notify the Office of the Attorney General, the Title IV-D agency for the State of Texas, in a manner agreed by both agencies of any supplemental birth records based upon acknowledgement of paternity.

§181.10. Availability of Birth Records to Ensure Confidentiality of Adoption Placement.

(a) (No change.)

(b) Availability of birth records generally.

(1) Copies of birth records are available for request by [to] the public for searching or inspection, in accordance with Government Code, §552.115, on or after the 75th anniversary of the date of birth as shown on the record filed with the Vital Statistics Unit [bureau] or the local registration official. Original birth records shall not be made available to the public in the interest of preservation of the records.

(2) (No change.)

§181.11. Requests for Personal Data.

(a) - (b) (No change.)

(c) Procedures.

(1) - (5) (No change.)

(6) The Vital Statistics Unit [Bureau] shall charge the statutory fee for each vital record research copy as provided in the Health and Safety Code, §191.0045 [§§191.005 and 192.006].

(7) (No change.)

§181.13. Birth Certificate Form and Content.

(a) The State Registrar [state registrar] shall determine the items of information to be contained on certificates of birth. The format of the items will be designated on department forms.

(b) The State Registrar [state registrar] shall prescribe a User Agreement for the orderly implementation of electronic birth registration.

(c) (No change.)

(d) The Vital Statistics Unit [bureau] may discontinue any institution or individual's participation in electronic birth registration for failure to comply with the User Agreement.

SUBCHAPTER B. VITAL RECORDS.

§181.21. Refusal to [To] Issue Certified Copies of Records of Birth, Death, or Fetal Death.

(a) Purpose. The purpose of this section is to describe:

(1) (No change.)

(2) the hearing procedures the department will use when the applicant wants to appeal the State Registrar's [**state registrar's**] proposed refusal.

(b) Criteria for refusal. The criteria for refusal to issue a certified copy of a record is based on information the State Registrar [**state registrar that**] receives that contradicts the information shown in the record, such as:

(1) - (3) (No change.)

(c) (No change.)

#### §181.22. Fees Charged for Vital Records Services.

(a) - (e) (No change.)

(f) The fee to search for any record or information on file within the Vital Statistics Unit [**Bureau**] shall be \$10.00, regardless of whether a certified copy is issued or not.

(g) - (i) (No change.)

(j) The fee for filing an amendment to an existing certificate of birth or death on file with the Vital Statistics Unit [**bureau**] shall be \$15.00. An amendment to a certificate includes adding information to a record to make it complete and changing information on a record to make it correct. An additional fee is required to issue a certified copy of the amended record.

(k) - (s) (No change.)

#### §181.23. Indexes for Vital Records.

(a) The State Registrar [**state registrar**] shall establish and maintain an index of all vital records filed within the [**Bureau of**] Vital Statistics Unit. Local registration officials shall establish and maintain an index of all vital records filed within their local registration area.

(b) Birth indexes.

(1) General birth indexes maintained or established by the Vital Statistics Unit [**bureau of vital statistics**] or a local registration official shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials, the date of the event, the county of occurrence, the state or local file number, the name of the father, the maiden name of the mother, and sex of the registrant.

(2) A general birth index is public information and available to the public to the extent the index relates to a birth record that is public on or after the 75th anniversary of the date of birth as shown on the record unless the fact of an adoption or paternity determination can be revealed or broken or if the index contains specific identifying information relating to the parents of the child who is the subject of an adoption placement. The Vital Statistics Unit [**bureau of vital statistics**] and local registration officials shall expunge or delete any state or local file numbers included in any general birth index made available to the public because such file numbers may be used to discover information concerning specific adoptions, paternity determinations, or the identity of the parents of children who are the subjects of adoption placements.

(3) A summary birth index maintained or established by the Vital Statistics Unit [**bureau of vital statistics**] or a local registration official shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials, the date of the event, the county of occurrence, and sex of the registrant. A summary birth index or any listings of birth records are not available to the public for searching or inspection if the fact of adoption or paternity determination can be revealed from specific identifying information.

(c) Death indexes.

(1) A general death index maintained or established by the Vital Statistics Unit [**bureau of vital statistics**] or a local registration official shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials; the date of the event; the county of occurrence; the registrant's social security number, sex, and marital status; the name of the registrant's spouse, if applicable; and the state or local file number.

(2) (No change.)

(3) A summary death index maintained or established by the Vital Statistics Unit [**bureau of vital statistics**] or a local registration official shall be prepared by event year, in alphabetical order by surname of the registrant, followed by any given names or initials, the date of the event, the county of occurrence, and sex of the registrant.

(d) - (e) (No change.)

§181.24. Abuse, Misused, or Flagged Records.

(a) Abused birth record.

(1) (No change.)

(2) Local Registrars [**registrars**] shall notify the Vital Statistics Unit [**Bureau**] of any abused record. Requests for additional certifications shall be made to the Vital Statistics Unit [**bureau**].

(3) When the State Registrar [**state registrar**] receives a request for an abused birth record, he/she shall refuse to issue any additional certifications until the registrant, minor registrant's parent who is not excluded by law, or registrant's guardian has satisfactorily explained, the reason for the additional request(s).

(b) Misused record.

(1) (No change.)

(2) Upon notification or determination that a record has been misused, the State Registrar [**state registrar**] shall attach a flag or notice to the record.

(c) Flagged record.

(1) (No change.)

(2) The Vital Statistics Unit [**bureau**] will flag the record of any missing child who is under the age of eleven, when notified by a law enforcement agency or the Missing Persons Clearinghouse.

(3) When a record has a notation, or addendum, the State [**state**] and Local Registrar [**local registrar**] shall refuse to issue such a record until the conditions as stated on the notation, or addendum have been satisfied and the registrant or the requesting party has been notified.

(d) A hearing may be requested as provided in §181.21 [**§181.21(d)**] of this title (relating to Refusal to [To] Issue Certified Copies of Records of Birth, Death, or Fetal Death) to determine if flagged, abused, misused or records with an addendum or notation should be issued.

§181.25. Application for Marriage License and Affidavit of Correction to Marriage License.

(a) The Vital Statistics Unit [**bureau**] shall furnish application forms for a marriage license to each county clerk in the format as prescribed by the State Registrar.

(b) (No change.)

(c) When reproduced locally by the county clerk, the form shall be identical in content, format, and size as prescribed by the Vital Statistics Unit [**bureau**].

(d) Although the Vital Statistics Unit is the custodian of marriage applications in the state of Texas, the county of record is the custodian of all marriage licenses it registers. Therefore, any amendment to the marriage license will be reflected at the county, and not at the state level.

(e) To amend the marriage license, both parties are responsible for executing a notarized affidavit stating the error.

(f) The affidavit to amend the marriage license must contain:

(1) the full names of applicants, including the maiden surname of the female applicant;

(2) the date on which the marriage occurred;

(3) a statement identifying the error to be corrected; and

(4) the corrected statement.

(g) Upon receipt of the notarized affidavit, the county clerk shall file it as an amendment to the marriage license.

(h) The affidavit is considered part of the marriage license.

(i) The county clerk shall include a copy of the affidavit with any future certified copy of the marriage license issued by the clerk.

§181.26. Filing of Birth Certificates for Infants Born Outside of a Licensed Institution.

(a) (No change.)

(b) A registered, certified, or documented health care provider's signature on the birth certificate, or participation in electronic birth registration shall serve as prima facie evidence of the essential elements of proof required in subsection (c) of this section. The Local Registrar **[local registrar]** may accept certificates by mail when the signature of the registered, certified, or documented health care provider is on file with that registrar's office.

(c) The essential elements to register a non-institutional birth are:

(1) evidence **[proof]** of pregnancy;

(2) evidence **[proof]** that there was an infant born alive;

(3) evidence **[proof]** that the birth occurred in the registration district; and

(4) evidence **[proof]** that the infant's birth occurred on the date stated.

(d) Evidence of pregnancy, such as but not limited to:

(1) prenatal record;

(2) a statement from a physician or other health care provider qualified to determine pregnancy;

(3) a home visit by a public health nurse or other health care provider; or

(4) other evidence acceptable to the Local Registrar.

(e) Evidence that there was an infant born alive, such as, but not limited to:

(1) a statement from the physician or other health care provider who saw or examined the infant;

(2) an observation of the infant during a home visit by a public health nurse; or

(3) other evidence acceptable to the Local Registrar.

(f) Evidence that the birth occurred in the registration district, such as, but not limited to the following.

(1) If the live birth occurred in the mother's residence:

(A) a rent receipt that includes the mother's name and address;

(B) any type of utility, telephone, or other bill that includes the mother's name and address;

(C) a credit or debit card receipt that includes the date and location of the transaction;

(D) a driver's license, or a State-issued identification card, which includes the mother's current residence on the face of the license/card; or

(E) other evidence acceptable to the Local Registrar.

(2) If the live birth occurred outside of the mother's place of residence, and the mother is a resident of this State, such evidence shall consist of:

(A) an affidavit from the tenant of the premises where the live birth occurred, that the mother was present on those premises at the time of the live birth;

(B) evidence of the affiant's residence similar to that required in paragraph (1) of this subsection;

(C) evidence of the mother's residence in the State similar to that required in paragraph (1) of this subsection or

(D) other evidence acceptable to the Local Registrar.

(3) If the mother is not a resident of this State, such evidence must consist of clear and convincing evidence acceptable to the Local Registrar.

(g) Evidence that infant's birth occurred on the date stated, includes but is not limited to:

(1) prenatal record;

(2) a statement from a physician or other health care provider qualified to determine the date of birth; or

(3) other evidence acceptable to the Local Registrar.

(h) [(d)] A birth as described in subsection (c) of this section shall only be filed upon personal presentation of the following evidence by the individual responsible for the preparation and registering of the certificate. An identifying document, with photograph, shall be presented in the following order of preference:

(1) a passport or certificate of naturalization;

(2) a military service or military dependent identification card;

(3) a United States government identification card, or national identification card issued by another country;

(4) a current driver's license or other state identification card;

(5) an alien registration receipt card; or

(6) an employee or student identification card, with photograph.

**[(e) At the discretion of the local registrar, the requirements contained in this section may be supplemented with any additional requirements which may be needed to verify the circumstances of the birth. Such additional requirements may include, but are not limited to, one or more of the following:]**

**[(1) an unannounced visit to the mother's residence or the place of the alleged birth by a public health nurse, other health professional, registrar staff, or other person including city, county, state, or federal law enforcement officer, prior to registering the alleged birth. This paragraph does not permit nor give authority to enter these premises unless permission is obtained from the occupant at the time of the visit;]**

**[(2) multiple forms of identifying documents, with or without photographs, when the documents described in this section are unavailable;]**

**[(3) personal appearance of both parents, either together or separately; or]**

**[(4) personal appearance of the infant whose birth certificate the parents are attempting to file.]**

**[(f) If the required or supplemental evidence described in this section is not available and the registrar is otherwise unable to verify the circumstances of the birth, the birth may only be filed upon order of a court of competent jurisdiction.]**

**(i) [(g)]** A certificate of birth concerning a child who is between one and four years of age may only be filed by the State Registrar **[state registrar]**. The State Registrar **[state registrar]** shall require the same proof and documentation as previously mentioned in this section and, in addition, an affidavit of the parents and the attendant, if any, as to why the certificate was not timely filed. If the proof and documentation are not available, the certificate may only be filed as prescribed by the Health and Safety Code, §192.027.

**(j) [(h)]** Each Local Registrar **[local registrar]** shall notify the State Registrar's **[state registrar's]** office of any suspicious documents or records submitted or filed with his/her office.

**(k) [(i)]** Blank birth certificate forms shall only be issued to licensed institutions, certified nurse midwives, documented midwives, and individuals by the Local Registrar **[local registrar]** or the State Registrar **[state registrar]** in reasonable amounts. No blank birth certificate forms shall be distributed by mail to any one other than a registered, certified, or documented health care provider.

**[(j) Each local registrar shall maintain a record of the number of blank birth certificate forms and their control number issued to each individual. The local registrar shall submit a copy of this record to the state registrar on a monthly basis.]**

§181.27. Memorandum of Understanding with the Texas Funeral Services Commission.

(a) The purpose of this section is to implement Texas Occupations Code, Chapter 651, and Health and Safety Code, Chapters 193 and 195. In an effort to better protect the public health, safety and welfare, it is the legislative intent of the laws for the Texas Department of State Health Services (department) and the Texas Funeral Service Commission (TFSC) to adopt by rule a memorandum of understanding to facilitate cooperation between the agencies by establishing joint procedures and describing the actual duties of each agency for the referral, investigation, and resolution of complaints affecting the administration and enforcement of state laws relating to vital statistics and the licensing of funeral directors and funeral establishments.

(b) (No change.)

§181.28. Instructions and Requirements for Issuance of Certified Copies of Vital Records by the State Registrar, Local Registrar, or County Clerk.

(a) Birth certificates.

(1) The State Registrar [**state registrar**], Local Registrar [**local registrar**], or county clerk shall issue only two types of certified copies:

(A) (No change.)

(B) an abstract of birth facts, taken from the original record. Probate records and delayed records may not be abstracted. An abstract shall be issued in one of three [**four**] styles:

(i) a standard certified abstract;

**[(ii) a wallet-sized certified abstract;]**

(ii) [(iii)] an electronic or computer generated [ a typewritten] certified abstract prepared in accordance with Health and Safety Code, §192.005 or §192.011, or when the condition of the original record does not permit full reproduction; or

(iii) [(iv)] an heirloom style certified abstract which may only be issued by the State Registrar.

(2) Each certified copy of a record, or abstract of birth facts, shall be issued over the signature or facsimile thereof of the officer to whom the record is entrusted, and shall bear the seal of their office, and a statement of certification:

(A) either as a part of the custodian's files; or

(B) as authorized to be issued from the State Registrar's [**state registrar's**] file.

(3) (No change.)

(b) Death certificates.

(1) The State Registrar [**state registrar**], Local Registrar [**local registrar**], or county clerk shall issue only two types of certified copies:

(A) - (B) (No change.)

(2) (No change.)

(c) Security features. No certified copy or abstract shall be issued unless the issuing office provides security features in the paper used for issuance. Each sheet or document shall be made on paper which contains as a minimum the following security features in accordance with the security standards adopted by the State Registrar:

(1) - (2) (No change.)

(3) security thread - micro printed polyester thread that is introduced into the paper during the forming process so that the thread is embedded and is an integral part of the paper;

**[(3) a copy void pantograph - the word void appears when the document is photocopied;]**

(4) - (13) (No change.)

(d) Other permitted security features. Other security features such as, but not limited to the following, may also be incorporated in the paper used:

(1) (No change.)

(2) a copy void pantograph - the word void appears when the document is photocopied.

**[(2) security thread - micro printed polyester thread that is introduced into the paper during the forming process so that the thread is embedded and is an integral part of the paper.]**

(e) Record retention. An electronic [A] record or paper application that includes [of] the date issued, document control number, name, [and] address and signature, and a photocopy or facsimile of the form of identification to whom the record was issued shall be made and maintained for a period of three years from the date issued. [The application form, with the document number inserted, used to apply for a record will fulfill this requirement.]

(f) The Vital Statistics Unit will develop standards for procurement parameters regarding the purchase and distribution of the issuing medium for birth certificates, including paper.

(g) The Vital Statistics Unit will explore options regarding establishment of a central database for the issuance of certified copies and abstracts of birth certificates by State and Local Registrars.

(h) The Vital Statistics Unit will develop standards to limit access to archived paper birth certificates and set standards for the paper used to print certified copies and abstracts of birth.

(i) Properly Qualified Applicant Acceptable Documentation.

(1) In accordance with Health and Safety Code, §191.051, "Certified Copies," all lobby and mail-in applications submitted to obtain certified documents must meet the guidelines set out in this rule.

(2) All applicants for certified documents must present proof of identity acceptable to the State Registrar.

(3) All requests for certified documents must be submitted on a state-approved application or in a format that is acceptable to the State Registrar.

(4) All lobby and mail-in applications submitted to obtain certified documents must contain the applicant's signature.

(5) All applicants must sufficiently identify the vital record that is of interest at the time of request.

(6) All primary identification documents must have a United States issuance origin.

(7) All identification documents must be verifiable by the source that issued the document.

(8) The Vital Statistics Unit shall retain a photocopy of all documents submitted and accepted as proof of identification in accordance with the retention period in subsection (e) of this section.

(9) All applicants must present identification consistent with the following identification requirements:

(A) primary identification outlined in paragraph (10) of this subsection; or

(B) secondary identification reflected in paragraph (11) of this subsection;  
and

(C) supporting documentation stated in paragraph (12) of this subsection.

(10) Primary Identification.

(A) Primary Identification documents do not require supporting instruments, unless otherwise specified.

(B) All acceptable Primary Identification documents must be current and valid.

(C) The applicant's identification must contain the applicant's name and photograph that establishes the applicant's identity.

(D) Acceptable forms of Primary Identification:

(i) Driver's License;

(ii) Federal or State Identification card;

(iii) Federal, State or City law enforcement employment identification card, or employment badge accompanied by employment identification card;

(iv) Offender Identification card issued by the Department of Criminal Justice correctional facility or institution;

(v) Military Identification card;

(vi) Department of Homeland Security, United States Citizenship and Immigration Services (USCIS) issued:

(I) Employment Authorization Document (EAD);

(II) Permanent Resident Card (green card);

(III) Travel Documents:

(-a-) Re-entry Permit;

(-b-) Refugee Travel Permit; or

(-c-) Advance Parole.

(IV) SENTRI Card; or

(V) U.S. Citizen Identification Card.

(vii) United States Department of State issued:

(I) Border Crossing Card (B1 for business or pleasure or B2 medical purposes); or

(II) Visa.

(viii) Concealed Handgun License;

(ix) Pilot's license; or

(x) United States Passport.

(11) Secondary identification.

(A) In the absence of a form of primary identification, applicants are permitted to submit secondary forms of identification to establish proof of their identity.

(B) When submitting secondary forms of identification, applicants are required to produce:

(i) two forms of Acceptable Secondary Identification, of different types; or

(ii) one form of Acceptable Secondary Identification, plus two forms of Acceptable Supporting Identification of different types.

(C) When submitting secondary forms of identification, the documents combined must confirm the identity of the applicant. At least one of the documents must contain the applicant's name, signature, or identifiable photo of the applicant.

(D) Acceptable forms secondary identification:

(i) Current student identification;

(ii) Any Primary Identification that is expired;

(iii) Signed Social Security card, or Numident;

(iv) DD Form 214 Certificate of Release;

(v) Medicaid card;

(vi) Medicare card;

(vii) Veterans Affairs card;

(viii) Medical insurance card;

(ix) Foreign Passport accompanied by a Visa issued by the United States Department of State;

(x) Foreign Passport in accordance with the United States Department of State, Visa Waiver Program;

(xi) Certified birth certificate from the Department of State (FS-240, DS-1350 or FS-545);

(xii) Private Company Employment Identification card;

(xiii) Form I-94 - accompanied by the applicant's Visa or Passport;

(xiv) Mexican voter registration card; or

(xv) Foreign Identification with identifiable photo of applicant.

(12) Supporting Identification--Other records or documents that verify the applicant's identity. The Vital Statistics Unit refers to their policy for acceptable supporting identification. The examining or supervisory personnel may determine that a supporting identification document may meet the department's requirements in establishing identity.

§181.29. Foreign Adoptions.

(a) (No change.)

(b) A certified copy of the decree of adoption granted in a foreign country and information with translation into the English language relating to the adoptive parent(s) and adoptee should be submitted to a court of competent jurisdiction of this state for validation. It is the responsibility of the applicant(s) to have all required documents translated into the English language. An official certificate of adoption must be prepared and submitted to the Vital Statistics Unit [Bureau] by the clerk of the court validating the foreign adoption.

(c) Certificate of birth. The State Registrar [state registrar] shall prepare a new certificate of birth for a person born in a foreign country, and adopted under the laws of a foreign country or under the laws of this state, when the State Registrar [state registrar] receives the following from a resident of this state:

(1) - (3) (No change.)

(d) Guidelines. The State Registrar [state registrar] shall use the following guidelines when preparing a new certificate of birth.

(1) The State Registrar [state registrar] shall not alter or change the place of birth or the date of birth from the information contained in the documentation presented.

(2) The new certificate shall be prepared on the current certificate form in the same manner as an in-state adoption is prepared and reflect the foreign country of birth [shall bear the title "Certificate of Foreign Birth."]

(3) As prescribed in the Health and Safety Code, §192.008, all documentation used to prepare the new certificate of birth shall be placed in a sealed file and accessed by an applicant only upon presentation of a certified copy of an order from the Texas district court that validated the foreign adoption [a court of competent jurisdiction].

(4) Once a file is sealed, a standard fee shall be charged for a search for a file and any copies of records issued as prescribed in Health and Safety Code §191.0045.

(e) (No change.)

§181.30. Instructions and Requirements for Filing of Amendments to Medical Certification of Certificate of Death with a Local Registrar.

(a) An amending certificate (medical amendment) may be filed with the appropriate Local Registrar [local registrar] or State Registrar [state registrar] electronically through a Vital Statistics Unit [Bureau of Vital Statistics] electronic death registration system to complete or correct medical certification information on a certificate of death that is incomplete or inaccurate. The medical amendment must be in a format as prescribed by the department.

(b) (No change.)

(c) The registrar shall carefully examine each medical amendment when presented for registration to determine if it is complete as required by the State Registrar's [state registrar's] instructions.

(d) If the medical amendment is incomplete or unsatisfactory, the registrar shall call attention to the error and/or omission in the return.

(e) The registrar shall number the medical amendment with the same file number assigned to the original death certificate. The local registrar shall sign each medical amendment to attest to the date the amendment is filed in the local registrar's office. The signature may be either electronic, handwritten or a facsimile stamp. The medical amendment shall be attached to and become a part of the legal record of the death if the amendment is accepted for filing.

#### §181.31. Minimum Requirements for Adoption Reporting.

(a) The court that renders a decree of adoption shall send to the Vital Statistics Unit [Bureau] a certificate of adoption on Form VS-160. The clerk of the court shall send the form not later than the 10th day of the first month after the month in which the court renders the adoption decree. The certificate shall include[, ]the information as prescribed in Texas Family Code, §108.003.

(b) When the Vital Statistics Unit [Bureau] determines that a certificate of adoption filed with the State Registrar [state registrar] requires correction, the Vital Statistics Unit [Bureau] shall mail the certificate directly to the attorney of record for correction. Upon correction, the attorney shall return the corrected certificate to the Vital Statistics Unit [Bureau]. If there is no attorney of record, the Vital Statistics Unit [Bureau of] shall mail a photocopy of the certificate to the clerk of the court for correction.

(c) When the clerk of the court collects the \$15 fee required by the Texas Family Code, §108.006(b), for each adoption petition filed, the clerk shall attach the fee to the certificate of adoption(s), and forward to the Vital Statistics Unit [Bureau], as provided in subsection (a) of this section to Vital Statistics Unit - Mail Code 2096 [Bureau of Vital Statistics], P.O. Box 12040, Austin, Texas 78711-2040.

#### §181.32. Maintenance of Out-of-Business Child-Placing Agency Records and Health, Social, Educational and Genetic History Reports.

(a) At or prior to the time a child-placing agency ceases to function as a child-placing agency, it shall notify the Texas Department of State Health Services-Vital Statistics Unit [Health-Bureau of Vital Statistics], where its adoption records shall be kept for permanent safekeeping.

(b) The Vital Statistics Unit [Bureau] maintains many records of closed adoption agencies and is one entity a child-placing agency may designate to preserve its adoption records. An agency may also designate another Texas licensed child-placing agency to preserve its records.

(c) If a child-placing agency designates the Vital Statistics Unit [Bureau] to house its records, the agency shall assume the responsibility of shipping the records to a designation specified by the Vital Statistics Unit [Bureau]. The agency must ensure that the records are free from insects and rodents, and mildew-free and dry. The records shall be shipped in sturdy cardboard boxes (no larger than 12 inches x 15 inches) via an insured carrier.

(1) (No change.)

(2) The agency must provide two index cards for each adoption file, one that cross-references the birth mother's name with the adoptive parents' and adoptee's name, and one cross-referencing the adoptive parents' names with the birth mother's and adoptee's name. Each card must include the date of birth of each child and the child's adoptive name. The information may also be provided electronically in a format compatible or acceptable to the Vital Statistics Unit's [Bureau's] standards.

(d) If the child-placing agency designates the Vital Statistics Unit [Bureau] to maintain and preserve its records, a redacted or de-identified copy of the birth and/or adoption record shall be prepared by the Vital Statistics Unit [Bureau] for a qualified requestor under the Texas Family Code, §162.018, Access to Information. Charges for copies shall be as allowed by the Open Records Act, Government Code, Chapter 552.

(e) If a birth relative provides post-adoption medical or social information to the Vital Statistics Unit [Bureau] and the Vital Statistics Unit [Bureau] houses the records of the closed child-placing agency, the Vital Statistics Unit [Bureau] may place the information with the original child-placing agency's file. If a birth relative provides post-adoption medical or social information to the Vital Statistics Unit [Bureau], the adoption occurred outside of a licensed child-placing agency, and the Vital Statistics Unit [Bureau] readily identifies the sealed adoption file, the Vital Statistics Unit [Bureau] shall place the updated information in the Health, Social, Education and Genetic History record series in the date received and cross-referenced in the Vital Statistics Unit's [Bureau's] database.

(1) The Vital Statistics Unit [Bureau] shall make a diligent effort to locate the last known address of the adoptive parents and attempt to inform them of their right to examine the redacted or de-identified portion of the record.

(2) (No change.)

(f) If a child is biologically unrelated to the prospective adoptive parents and placed outside of a licensed child-placing agency, the adopting attorney shall provide to the Vital Statistics Unit [Bureau] a copy of the Health, Social, Education and Genetic History report (HSEGH) as prescribed by the Family Code. Within a reasonable amount of time, the Vital Statistics Unit [Bureau] shall provide a certificate to the adopting attorney acknowledging receipt of the report.

(g) International adoptions. If a child born in a foreign country is placed with prospective adoptive parent(s) who reside in this state and the child is being adopted in this state, the adopting attorney shall file a HSEGH with the Vital Statistics Unit [Bureau] along with all foreign documents relating to the child's history prior to being placed for adoption, along with each document's English translation. If no information is available about the child prior to placement with its prospective adoptive parent(s), the adopting parents may state that no other information except for the aforementioned documents is available concerning the child's background.

(h) (No change.)

#### §181.33. Instructions and Requirements for Registering a Certificate of Death by Catastrophe.

(a) Catastrophe is defined in the Health and Safety Code, §193.010.

(b) When catastrophe is deemed the cause of death, the Local Registrar [local registrar] shall prepare and file the certificate of death.

(c) The Local Registrar [local registrar] shall only prepare and file a certificate of death caused by catastrophe if:

(1) the body has not been found; and

(2) an affidavit has been submitted to the Local Registrar [local registrar] according to the guidelines set forth in the Health and Safety Code, §193.010(b), and the affiant has followed the specific criteria laid out in Health and Safety Code, §193.010(b).

(d) The Vital Statistics Unit [Bureau of] may prepare and file a certificate of death by catastrophe for a minor or a person for whom a guardian has been appointed who is the subject of a custody or guardianship dispute only if all parties to the dispute submit an affidavit under the Health and Safety Code, §193.010(b).

(e) A registrar completing a certificate of death that is a death by catastrophe shall complete the cause of death information as follows.

(1) Type the words, "Death by Catastrophe" in item number 33 [35], Part 1a.

(2) Do not complete the rest of item 33 [35].

(3) Complete items 36 through 39 **[40]** if known.

(4) Items 40a **[41a]** through 40f and 41 **[41f]** must be completed on all certificates of death by catastrophe.

§181.34. Instructions and Requirements for Reporting Assisted Reproduction Procedures Performed by a Health Care Facility Under a Gestational Agreement.

(a) (No change.)

(b) The Vital Statistics Unit **[Bureau]** in accordance with the guidelines of Texas Family Code, §160.763 shall prescribe the form and content of the reporting form.

(c) Reporting healthcare facilities must submit this report to the Vital Statistics Unit **[Bureau]** on a yearly basis.

(d) (No change.)

Legend: (Proposed New Rule)

Regular Print = Proposed new language

§181.35. Parental Consent of Underage Applicants to Marriage.

(a) The county clerk shall issue a marriage license to an applicant who is 16 years of age or older, but under 18 years of age, if parental consent is given.

(b) A parent or person who has legal authority to consent to marriage for an underage applicant who gives consent shall provide:

(1) proof of the parent's or person's identity; and

(2) proof that the parent or person has the legal authority to consent to marriage for the applicant.

(c) In accordance with Texas Family Code §2.009(b), proof of the parent's or person's legal identity must be established by:

(1) a driver's license or identification card issued by this state, another state, or a Canadian province that is current or has expired not more than two years preceding the date the identification is submitted to the county clerk in connection with an application for a license;

(2) a United States passport;

(3) a current passport issued by a foreign country or a consular document issued by a state or national government;

(4) an unexpired Certificate of United States Citizenship, Certificate of Naturalization, United States Citizen Identification Card, Permanent Resident Card, Temporary Resident Card, Employment Authorization Card, or other document issued by the federal Department of Homeland Security or the United States Department of State including an identification photograph;

(5) an unexpired military identification card for active duty, reserve, or retired personnel with an identification photograph;

(6) an original or certified copy of a birth certificate issued by a vital statistics registrar for a state or a foreign government;

(7) an original or certified copy of a Consular Report of Birth Abroad or Certificate of Birth Abroad issued by the United States Department of State;

(8) an original or certified copy of a court order relating to the applicant's name change or sex change;

(9) school records from a secondary school or institution of higher education;

(10) an insurance policy continuously valid for the two years preceding the date of the application for a license;

(11) a motor vehicle certificate of title;

(12) military records, including documentation of release or discharge from active duty or a draft record;

(13) an unexpired military dependent identification card;

(14) an original or certified copy of the applicant's marriage license or divorce decree;

(15) a voter registration certificate;

(16) a pilot's license issued by the Federal Aviation Administration or another authorized agency of the United States;

(17) a license to carry a concealed handgun under Government Code, Chapter 411, Subchapter H;

(18) a temporary driving permit or a temporary identification card issued by the Department of Public Safety; or

(19) an offender identification card issued by the Texas Department of Criminal Justice.

(d) Proof that the parent or person has the legal authority to consent to marriage for the applicant must be in the form of a certified document, which may include:

(1) a certified copy of a birth certificate issued by this state, another state, or a foreign government;

(2) a report of birth abroad;

(3) an adoption decree with adopting parents' names; or

(4) a court order from a court of competent jurisdiction establishing custody or guardianship.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

**[Bold Print and Brackets]** = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

#### SUBCHAPTER C. CENTRAL ADOPTION REGISTRY.

##### §181.42. Adoption Information by the Courts or Child-Placing Agencies.

(a) At the time an adoption order is rendered, the district court that grants the adoption shall provide to the adoptive parents information provided by the Vital Statistics Unit **[bureau]** describing the functions of voluntary adoption registries. If the adopted child is 14 years of age or older, the court shall provide the information to the child.

(b) - (c) (No change.)

##### §181.43. Requirement to Send Information to the Central Adoption Registry and the Coordination of the Release of Identifying Information with an Authorized Registry.

(a) An authorized voluntary adoption registry shall send to the Central Adoption Registry (CAR) duplicate information of all registrant information it maintains in its registry. This includes all registrant file information and Form VS **[BVS]** - 2271. The child-placing agency's adoption case files are not needed, unless the information contained in those files provides information to benefit or aid the match process. Registrant information shall also include proof of age and identity of each registrant, and all known names, dates of birth, and places of birth of each person for whom the registrant is searching, if known. Subsequent documentation including address changes of the registrant received by the registry shall be forwarded to the CAR.

(b) - (c) (No change.)

§181.44. Inquiry through the Central Index.

(a) The Vital Statistics Unit **[Bureau]** charges a fee of \$5.00 to determine if a child-placing agency that operates its own registry was involved in a specified adoption. An eligible applicant may send the inquiry, along with the appropriate fee and proof of age and identity to the Vital Statistics Unit - Mail Code 2096, Attention: Central Adoption Registry (CAR), P.O. Box 140123, Austin, Texas 78714-0123 or may inquire in person at the Vital Statistics Unit **[Bureau of]**, 1100 West 49th Street, Austin, Texas.

(b) - (c) (No change.)

§181.45. Registration in the Voluntary Adoption Registry System.

(a) To register with the Central Adoption Registry (CAR) or any other authorized registry as defined in Texas Family Code, §162.403(b), a person must comply with the following requirements:

(1) complete registration form (VS **[BVS]**- 2271) and any other information the authorized registry deems necessary to identify the person(s) the applicant is searching for. Form VS (**[BVS]**- 2271 shall provide a space to include the registry's mailing address if different than the CAR; and

(2) - (3) (No change.)

(b) - (c) (No change.)

Legend: (Proposed New Rules)  
Regular Print = Proposed new language

SUBCHAPTER D. BIRTH REGISTRATION CERTIFICATION.

§181.50. Scope. The purpose of this Subchapter is to establish certification requirements for the person required to register the birth of a child in this state as set forth by Health and Safety Code, Chapter 192, Subchapter A, General Registration Provisions. The person required to register the birth of a child in this state must meet the requirements of the birth registrar certification and must abide by the rules of this subchapter.

§181.51. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Acknowledgment of Paternity Training--Training from the Office of the Attorney General as prescribed in 1 TAC Chapter 55, concerning Child Support Enforcement.

(2) Application for Birth Registrar Certification/Re-certification--An online application prescribed and provided by the Vital Statistics Unit to assess the knowledge and skills of a birth registrar.

(3) Birth registrar--Person responsible for filing a birth certificate as prescribed in Health and Safety Code, §192.003(a) and (b).

(4) Birth Registrar Certification (BRC)--A certification program required for all birth registrars.

(5) Certification period--The certification period two years from certification date.

(6) Continuing education--Educational training that contributes to the advancement, extension, and enhancement of the professional skills and knowledge of the birth registrar in the practice of registering births in this state and be open to all birth registrars.

(7) Hour of continuing education--A 50 minute clock hour completed by a birth registrar in attendance at an approved continuing education program.

(8) Midwife--An individual currently licensed under the Texas Board of Nursing as an Advanced Practice Registered Nurse as defined in 22 TAC Chapter 222, or an individual currently licensed with the Texas Midwifery Board to legally practice midwifery in this state.

(9) Physician--An individual currently licensed under the Texas Medical Board to actively practice medicine in this state.

(10) Texas Electronic Registrar (TER) - Birth Registration Online Training Course--An online birth training provided by the Vital Statistics Unit.

#### §181.52. Certification Requirements and Procedures.

(a) Certification Required. A birth registrar may not complete any aspect of the birth registration process without holding a current certification issued by the Vital Statistics Unit.

(b) Certification Process. Certification for Birth Registrars requires the completion of the following:

(1) Acknowledgment of Paternity training course;

(2) TER--Birth Registration online training course;

(3) be a TER user with an individual User Identification and password;

(4) oath of confidentiality (on file at facility);

(5) a completed Application for Birth Registrar Certification/Re-certification; and

(6) physicians, midwives or persons acting as midwives must provide current licensing information with their respective licensing bodies.

(c) Re-certification Process. Birth registrars who actively register births in this state are required to obtain 8 hours of continuing education every two-year renewal period.

(d) The certification renewal period issued under subsection (a) of this section is two years beginning on the 1st day of the month following the issuance of the certification to the birth registrar.

(e) Birth registration processes occurring at facilities or by midwives may be inspected upon the submission of an Application for Birth Registrar Certification/ Re-certification.

(f) Certain Grounds for Denial or Revocation of a Certification are as follows. The Vital Statistics Unit may refuse to issue a new certification or to renew a certification or may revoke a certification of a birth registrar if it determines that the certification application contains false information, or has violated the electronic registration user agreement as prescribed by §181.13 of this title (relating to Birth Certificate Form and Consent).

#### §181.53. Continuing Education.

(a) Purpose. Each birth registrar holding an active certification and registering births in this state is required to participate in continuing education as a condition of certification renewal.

(b) Credit hours required.

(1) Birth registrars who actively register births in this state are required to obtain 8 hours of continuing education every two-year renewal period. A birth registrar may receive credit for a course only once during a renewal period.

(2) The following are mandatory continuing education hours and subjects for each renewal period.

(A) Electronic Registration - 1 credit hours. This course must at least cover principals of electronic birth registration for this state.

(B) Other training - 7 credit hours. These approved courses should cover laws, rules, best practices, policies and procedures relevant to the registration of births in this state.

(3) It is the responsibility of the licensee to track the number of hours accumulated during a certification period.

(4) Failure to comply. The Vital Statistics Unit will not renew the certification of an individual who fails to obtain the continuing education requirements of this section.

(5) Any birth registrar receiving credit for continuing education obtained fraudulently shall be reported and/or investigated by the State Registrar or the State Registrar's representative and, if necessary, shall report a violation of this section to the appropriate district or county attorney for prosecution.

§181.54. Application for Birth Registrar Certification/Re-Certification.

(a) Each birth registrar must complete an online Application for Birth Registrar Certification/Re-Certification provided by the Vital Statistics Unit.

(b) The completed Application for Birth Registrar Certification/Re-Certification must be submitted, along with the other certification requirements set forth by this subchapter, on or before the end of the certification renewal period.

(c) Each birth registrar must permanently retain a completed copy of the Application for Birth Registrar Certification/Re-Certification. This retention may be in an electronic format.

(d) Birth registrars knowingly making a false statement on the Application for Birth Registrar Certification/Re-Certification will be subject to immediate revocation of their certification and have their electronic registration privileges revoked.

SUBCHAPTER E. DELAYED REGISTRATION.

§181.60. Delayed Certification of Birth.

(a) When a certificate of birth of a person born in this state has not been registered before the one-year anniversary of the date of birth, a delayed certificate of birth may be submitted in accordance with regulations of the Vital Statistics Unit. No delayed certificate of birth shall be registered until the evidentiary requirements as specified in regulation have been met.

(b) A certificate of birth submitted under this section shall be marked "Delayed" and show the date of registration. The delayed certificate of birth shall contain a summary statement of the evidence submitted in support of the delayed registration. Probate records and delayed records may not be abstracted.

(c) An application to file a delayed certificate of birth for a birth in this state not registered before the one-year anniversary of the date of birth shall be made to the State Registrar.

(d) No delayed certificate of birth shall be registered for a deceased person.

(e) When an applicant as defined by regulation does not submit the minimum documentation required in the regulations for delayed registration or when the State Registrar has cause to question the validity or adequacy of the applicant's (sworn, notarized, witnessed) statement or the documentary evidence, and if the deficiencies are not corrected, the State

Registrar shall not register the delayed certificate of birth. The State Registrar shall advise the applicant of the reasons for this action, and shall further advise the applicant of his or her right to file a petition in the county probate court of the county in which the birth occurred for an order establishing a record of the person's date of birth, place of birth, and parentage.

(f) The State Registrar may provide for the dismissal of an application that is not actively pursued.

#### §181.61. Who May Request the Registration of a Delayed Certificate of Birth.

(a) Any person 18 years of age or older born in the State of Texas whose birth is not recorded in this state may request the registration of a delayed certificate of birth, subject to these regulations and instructions issued by the State Registrar. The information on the form must be subscribed and sworn to, before an official authorized to administer oaths, by:

(1) the person whose birth is to be registered; or

(2) the person's parent, legal guardian, or legal representative if the person is incompetent to swear to the information.

(b) Each application for a delayed certificate of birth shall be signed and sworn to, before an official authorized to administer oaths, by the person whose birth is to be registered if such person is 18 years of age or over and is competent to sign and swear to the accuracy of the facts stated therein; otherwise the application shall be signed and sworn to by the person's parent, legal guardian, or legal representative if the person is incompetent to swear to the information.

#### §181.62. Documentary Evidence; Requirements and Acceptability.

(a) To be acceptable for registration, the name of the person at the time of the birth and the date and place of birth entered on a delayed registration of birth shall be supported by at least:

(1) one piece of acceptable documentary evidence that will establish to the satisfaction of the State Registrar the name of the parent(s);

(2) three pieces of acceptable documentary evidence that will establish to the satisfaction of the State Registrar the facts and date of birth as alleged in the application; and

(3) facts of parentage shall be supported by at least one document.

(b) The State Registrar shall determine the acceptability of all documentary evidence submitted.

(1) Documents must be from independent sources and shall be in the form of the original record or a duly certified copy thereof or a signed statement from the custodian of the record or document.

(2) Documents may include but are not limited to:

- (A) census records;
- (B) hospital records;
- (C) military records;
- (D) Social Security records;
- (E) school records; or
- (F) other documents as designated by the State Registrar.

(3) For persons 15 years of age or older, all documents submitted in evidence, other than an affidavit of personal knowledge, must be at least 5 years old.

(4) At least 1 document submitted in evidence should have been created within the first 10 years of life.

(5) Documents shall not be contradictory.

§181.63. Abstraction of Documentary Evidence.

(a) The State Registrar or his or her designated representative shall abstract on the delayed certificate of birth a description of each document submitted to support the facts. This description shall include:

- (1) the title or description of the document;
- (2) the name and address of the custodial organization, if any;
- (3) the creation date of the original document; and

(4) all birth facts required by §181.62 of this title (relating to Documentary Evidence; Requirements and Acceptability) contained in each document accepted as evidence.

(b) Original documents submitted in support of the delayed certificate of birth shall be returned to the applicant after review. Copies of all items submitted shall be maintained and indexed by the State Registrar.

§181.64. Verification by the State Registrar. The State Registrar, or his or her designated representative, shall verify:

(1) that no prior certificate of birth is registered in this state for the person whose birth is to be recorded;

(2) that he or she has reviewed the evidence submitted to establish the facts of birth; and

(3) that the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the document.

§181.65. Dismissal After One Year. An application for a delayed certificate of birth that has not been completed within one year from the date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the State Registrar shall so advise the applicant and documents submitted in support of such registration shall be returned to the applicant.