

WEST VIRGINIA CODE ANNOTATED

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*** (STATUTES CURRENT THROUGH 2003 REGULAR AND FIRST
EXTRAORDINARY SESSIONS OF THE LEGISLATURE) ***
*** ANNOTATIONS CURRENT THROUGH APRIL 16, 2003 ***

CHAPTER 16. PUBLIC HEALTH

ARTICLE 5. VITAL STATISTICS

§16-5-1. Definitions.

As used in this article:

a. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it reasonably may be concluded that death recently occurred.

b. "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, such death being indicated by the fact that after such expulsion or extraction 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.

c. "Filing" means the presentation of a certificate, report or other record provided for in this article, of a birth, death, fetal death, adoption, marriage, divorce or annulment, for registration by the division of vital statistics of the state department of health.

d. "Final disposition" means the burial, interment, cremation or other disposition of a dead body or fetus.

e. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial or domiciliary care to two or more unrelated individuals or to which persons are committed by law.

f. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, 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.

g. "Physician" means a person authorized or licensed to practice medicine pursuant to article three [§§30-3-1 et seq.] or article fourteen [§§30-14-1 et seq.], chapter thirty of this Code.

h. "Registration" means the acceptance by the division of vital statistics, and the incorporation in its official records, of certificates, reports, or other records provided for in this article, of births, deaths, fetal deaths, adoptions, marriages, divorces and annulments.

i. "System of vital statistics" means the registration, collection, preservation, amendment, certification of vital statistics records and activities related thereto, including, but not restricted to, the tabulation, analysis and publication of statistical data derived from such records.

j. "Vital statistics" means records of birth, death, fetal death, marriage, divorce, annulment and data related thereto.

k. "Local registrar" means the person appointed by the state registrar of vital statistics for a county or other district to perform the vital statistics functions specified to be performed in and for such county or other district.

l. "Deputy local registrar" means a person appointed by and working under the supervision of a local registrar in the discharge of the vital statistics functions specified to be performed in and for the county or other district of such local registrar.

m. "Subregistrar" means a person appointed, with the approval of the state registrar of vital statistics, by and working under the supervision of a local registrar in the discharge of the vital statistics functions specified to be performed in and for the county or other district of such local registrar.

HISTORY: 1969, c. 61.

QUOTED in Moore v. Goode, 180 W. Va. 78, 375 S.E.2d 549 (1988).

NOTES APPLICABLE TO ENTIRE ARTICLE

REVISION OF ARTICLE. --Acts 1969, c. 61, repealed the former article, consisting of §§ 16-5-1 to 16-5-24, and enacted the present article consisting of §§ 16-5-1 to 16-5-35. The former article derived from Acts 1887, c. 64; Acts 1919, c. 125; Acts 1921, c. 137; Code 1923, c. 150, §§ 23 to 28o, 28q, 29, 31(6)(h); 1931 Code, § 16-5-20; Acts 1933, 2nd Ex. Sess., c. 96; Acts 1935, c. 106; Acts 1939, c. 32; Acts 1943, c. 103; Acts 1947, c. 127; Acts 1949, cc. 101, 102; Acts 1959, c. 137; Acts 1961, c. 61; Acts 1967, c. 49. The amendment so changed the provisions of this article that a detailed comparison of the old and new sections was not practicable. Where present provisions are similar to former provisions, the historical citations of the former sections have been added.

§16-5-2. Vital statistics; statewide system; supervision by the director of health; offices, etc.

The director of the department of health shall have general supervision over the system of vital statistics, which shall be under the immediate supervision of the state registrar of vital statistics. The director shall provide for such clerical and other assistants as may be necessary for the purposes of this article. Suitable offices shall be provided at the seat of state government and such offices shall be properly equipped with a fire-proof vault and filing cases for the permanent and safe preservation of all official records made, maintained or filed under the provisions of this article.

HISTORY: 1921, c. 137, § 2; Code 1923, c. 150, § 24; 1949, c. 101; 1969, c. 61; 1977, c. 102.

§16-5-3. Rules and regulations of state board of health.

The state board of health is authorized to adopt, amend and repeal rules and regulations for the purpose of carrying out the specific provisions of this article.

HISTORY: 1969, c. 61; 1977, c. 102.

NOTES:

CODE OF STATE RULE REFERENCES. --Vital statistics, 64CSR32, effective May 1, 1991.

§16-5-4. Appointment of state registrar of vital statistics.

The state director of the department of health shall appoint and prescribe the qualifications of the state registrar of vital statistics.

HISTORY: 1921, c. 137, § 2; Code 1923, c. 150, § 24; 1949, c. 101; 1969, c. 61; 1977, c. 102.

§16-5-5. Duties of state registrar of vital statistics; enforcement of article.

(a) The state registrar of vital statistics shall:

(1) Administer and enforce the provisions of this article and all other applicable laws of this state and all lawful rules and regulations adopted and promulgated thereunder;

(2) Direct and supervise the statewide system of vital statistics and the operation of the division of vital statistics, and act as custodian of its records;

(3) Direct, supervise and control the activities of local registrars and the activities of public officers in relation to the operation of the vital statistics system and provide them with the postage necessary for them to carry out their duties under this article;

(4) Prescribe, provide and distribute, subject to the rules and regulations promulgated by the board of health, all forms necessary to carry out the provisions of this article and of the rules and regulations adopted and promulgated thereunder;

(5) Prepare and publish annual reports of vital statistics of this state, and such other reports as may be required by the director of the state health department; and

(6) Offer voluntary paternity establishment services.

(b) The state registrar of vital statistics may delegate such functions and duties as are hereby vested in him or her to officers and employees of the division of vital statistics and to local registrars as the state registrar may deem necessary or expedient.

(c) The state registrar, either personally or by a duly delegated representative, shall have authority to investigate cases of irregularity or violation of law arising under the provisions of this article, and all local registrars, deputy local registrars and subregistrars shall aid him or her, upon request, in such investigations. When he or she shall deem it necessary, he or she shall report cases of violation of any of the provisions of this article to the prosecuting attorney of the county, with a statement of the facts and circumstances. When any such case is reported to him or her by the state registrar, the prosecuting attorney shall forthwith initiate and promptly prosecute the necessary

court proceedings against the person or corporation responsible for the alleged violation of law. Upon request of the state registrar, the attorney general shall assist in the enforcement of the provisions of this article.

HISTORY: 1921, c. 137, § § 1, 17, 24; Code 1923, c. 150, § § 23, 28k, 29; 1959, c. 137; 1969, c. 61; 1977, c. 102; 1998, c. 79.

§16-5-6. Registration districts.

For the purposes of this article, subject to the rules and regulations promulgated by the state board of health, the director of the state health department may establish registration districts throughout the State. The director may eliminate, or change the boundaries of, any district and may consolidate two or more districts or subdivide any district to facilitate registration.

HISTORY: 1921, c. 137, § 3; Code 1923, c. 150, § 25; 1969, c. 61; 1977, c. 102.

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

a. The state registrar of vital statistics shall appoint a local registrar and the local registrar may appoint one or more deputy local registrars of vital statistics for each registration district.

b. When it appears necessary for the convenience of the people in any district the local registrar may, with the approval of the state registrar, appoint one or more persons to act as subregistrars.

c. The state registrar may remove a local registrar, a deputy local registrar, or a local subregistrar for reasonable cause.

HISTORY: 1921, c. 137, § 4; Code 1923, c. 150, § 26; 1969, c. 61.

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

a. A local registrar, with respect to his registration district, shall:

(1) Administer and enforce the provisions of this article and all instructions, rules and regulations adopted and promulgated pursuant thereto.

(2) Require that certificates be completed and filed in accordance with provisions of this article and the rules and regulations adopted and promulgated pursuant thereto.

(3) Transmit, on the first and fifteenth day of each month or as soon as possible thereafter, the certificates, reports or other returns filed with him to the state registrar of vital statistics, or transmit the same more frequently when directed to do so by the state registrar.

(4) Maintain such records, make such reports and perform such other duties as may be required by the state registrar of vital statistics.

b. In accordance with rules and regulations adopted and promulgated pursuant to this article, the deputy local registrar shall perform the duties of the local registrar in the absence or incapacity of such local registrar and shall perform such other duties as may be prescribed.

c. Subregistrars shall perform such duties as may be prescribed by rules and regulations adopted and promulgated pursuant to this article.

HISTORY: 1921, c. 137, § 18; Code 1923, c. 150, § 281; 1949, c. 101; 1969, c. 61.

§16-5-9. Compensation of local registrars.

a. Each local registrar shall be paid the sum of one dollar for each certificate of birth, death, or fetal death registered by him and transmitted to the state registrar of vital statistics in accordance with the rules and regulations adopted and promulgated pursuant to this article.

b. If no birth, death or fetal death is registered by him during any calendar month, the local registrar shall report that fact to the state registrar of vital statistics and be paid the sum of one dollar for such report.

c. No compensation shall be paid under this section to any full-time employee of any state or local governmental unit or body. Where such employee is designated to serve, and serves, as a local registrar, the compensation provided by this section shall be paid to the governmental unit or body by which such local registrar is employed.

HISTORY: 1921, c. 137, §19; Code 1923, c. 150, §28m; 1949, c. 102; 1961, c. 61; 1969, c. 61.

§16-5-10. Payment of fees to local registrars.

The state registrar of vital statistics shall certify at the end of each quarter of the calendar year, to the county courts of the several counties, the number of births, fetal deaths and deaths properly registered with the names of the local registrars and the amounts due each. All amounts payable to a local registrar under the provisions of this section shall be paid by the treasurer of the county in which the registration district is located, upon the order of the county court [county commission] of such county issued upon such certification by the state registrar of vital statistics. Where a local registrar is a full-time employee of any state or local governmental unit or body, the state registrar shall so state in his certification, and, in such case, the county court shall make payment, pursuant to section nine [§ 16-5-9] of this article, to the governmental unit or body by which such registrar is employed.

HISTORY: 1921, c. 137, §19; Code 1923, c. 150, §28m; 1949, c. 102; 1961, c. 61; 1969, c. 61.

NOTES:

EDITOR'S NOTES. --For construction of the county court as county commission, see W.Va. Const. art. IX, § 9.

§16-5-11. Form of certificates, etc.

a. In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports and other returns required by this article, or by rules and regulations adopted and promulgated thereunder, shall include as a minimum (in addition to the items required by the laws of this State) the items recommended by the federal agency responsible for national vital statistics, subject to the approval of, and to modification by, the state board of health.

b. Each certificate, report and form required to be filed under this article shall have entered upon its face the date of registration, duly attested.

HISTORY: 1969, c. 61.

USER NOTE: For more generally applicable notes, see notes under the first section of this part, subpart, article, or chapter.

§16-5-12. Birth registration generally; acknowledgment of paternity.

(a) A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within seven days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this section. When a birth occurs in a moving conveyance, a birth certificate shall be filed in the district in which the child is first removed from the conveyance. When a birth occurs in a district other than where the mother resides, a birth certificate shall be filed in the district in which the child is born and in the district in which the mother resides.

(b) When a birth occurs in an institution, the person in charge of the institution or his or her designated representative shall obtain the personal data, prepare the certificate, secure the signatures required for the certificate and file it with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required for the certificate within five days after the birth.

(c) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth or in the absence of such a person;

(2) Any other person in attendance at or immediately after the birth or in the absence of such a person; or

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

(d) Either of the parents of the child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven days prescribed above.

(e) In order that each county may have a complete record of the births occurring in said county, the local registrar shall transmit each month to the county clerk of his or her county the copies of the

certificates of all births occurring in said county, from which copies the clerk shall compile a record of such births and shall enter the same in a systematic and orderly way in a well-bound register of births, which said register shall be a public record: Provided, That such copies and register shall not state that any child was either legitimate or illegitimate. The form of said register of births shall be prescribed by the state registrar of vital statistics.

(f) In addition to the personal data furnished for the certificate of birth issued for a live birth in accordance with the provisions of this section, a person whose name is to appear on such certificate of birth as a parent shall contemporaneously furnish to the person preparing and filing the certificate of birth the social security account number (or numbers, if the parent has more than one such number) issued to the parent. A record of the social security number or numbers shall be filed with the local registrar of the district in which the birth occurs within seven days after such birth and the local registrar shall transmit such number or numbers to the state registrar of vital statistics in the same manner as other personal data is transmitted to the state registrar.

(g) If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction pursuant to the provisions of article twenty-four [§ § 48-24-101 et seq.], chapter forty-eight of this code or other applicable law, in which case the name of the father as determined by the court shall be entered.

(h) If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and of the person to be named as the father unless a determination of paternity has been made by a court of competent jurisdiction pursuant to the provisions of article twenty-four [§ § 48-24-101 et seq.], chapter forty-eight of this code or other applicable law, in which case the name of the father as determined by the court shall be entered.

(i) A written, notarized acknowledgment of both the man and the woman that the man is the father of a named child legally establishes the man as the father of the child for all purposes and child support may be established pursuant to the provisions of chapter forty-eight [§ § 48-1-101 et seq.] of this code.

(1) The written acknowledgment shall include filing instructions, the parties' social security numbers and addresses and a statement, given orally and in writing, of the alternatives to, the legal consequences of and the rights and obligations of acknowledging paternity, including, but not limited to, the duty to support a child. If either of the parents is a minor, the statement shall include an explanation of any rights that may be afforded due to the minority status.

(2) The failure or refusal to include all information required by subdivision (1) of this subsection shall not affect the validity of the written acknowledgment, in the absence of a finding by a court of competent jurisdiction that the acknowledgment was obtained by fraud, duress or material mistake of fact, as provided in subdivision (4) of this subsection.

(3) The original written acknowledgment should be filed with the state registrar of vital statistics. Upon receipt of any acknowledgment executed pursuant to this section, the registrar shall forward the copy of the acknowledgment to the bureau for child support enforcement and the parents, if the address of the parents is known to the registrar. If a birth certificate for the child has been previously issued which is incorrect or incomplete, a new birth certificate shall be issued.

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

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

(B) The complaint shall be served upon the other parent as provided in rule 4 of the West Virginia rules of civil procedure.

(C) The family court judge shall hold a hearing within sixty days of the service of process upon the other parent. If the complaint was filed within sixty days of the date the acknowledgment of paternity was executed, the court shall order the acknowledgment to be rescinded without any requirement of a showing of fraud, duress or material mistake of fact. If the complaint was filed more than sixty days from the date of execution or the date of an administrative or judicial proceeding relating to the child in which the signatory is a party, the court may only set aside the acknowledgment upon a finding, by clear and convincing evidence, that the acknowledgment was executed under circumstances of fraud, duress or material mistake of fact. The circuit clerk shall forward a copy of any order entered pursuant to this proceeding to the state registrar of vital statistics by certified mail.

HISTORY: 1919, c. 125, § 6(8); 1921, c. 137, § § 1, 13, 14, 17; Code 1923, c. 150, § § 23, 28g, 28h, 28k, 31(6)(h); 1959, c. 137; 1969, c. 61; 1979, c. 118; 1990, c. 40; 2000, c. 46; 2001, c. 91; 2001, 5th Ex. Sess., c. 5.

NOTES:

EFFECT OF AMENDMENT OF 2000. --Acts 2000, c. 46, effective June 9, 2000, in the section heading, added "acknowledgement of paternity"; and rewrote the section.

EFFECT OF AMENDMENTS OF 2001. --Acts 2001, c. 91, effective March 22, 2001, substituted "the" for "such" throughout; in (f), deleted "On and after the first day of November, one thousand nine hundred ninety" from the beginning; in (g), substituted "article twenty-four, chapter forty-eight" for "article six, chapter forty-eight-a"; in (h), substituted "article twenty-four, chapter forty-eight" for "article six, chapter forty-eight-a"; and in (i)(3), substituted "bureau for child support enforcement" for "child support enforcement division".

Acts 2001, 5th Ex. Sess., c. 5, effective September 19, 2001 and operable on January 1, 2002, in (i)(1), substituted "social security numbers" for "social security number"; and in (i)(4)(C), substituted "family court judge" for "family law master".

TEXTBOOKS. --Handbook on Evidence for West Virginia Lawyers, Cleckley (Michie).

W. VA. LAW REVIEW. --"McGuire v. Farley: The West Virginia Supreme Court of Appeals Takes a Step Toward Equal Protection for the Unwed Father," 91 W. Va. L. Rev. 617 (1988-89).

QUOTED in Moore v. Goode, 180 W. Va. 78, 375 S.E.2d 549 (1988).

§16-5-12a. Registration of infants born with specified birth defects; requiring physician or midwife to check for defects; registration of minors with previously undiagnosed birth defects; form for reporting birth defects to be provided by and filed with registrar of vital statistics; confidentiality; exceptions; parental consent to subsequent reporting to various agencies; form for hearing impairment to be provided by and filed with commission on hearing impaired; definitions; registration of infants born with hearing impairments or risk of hearing impairment; registration of minors with previously undiagnosed hearing impairments.

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

- (1) Anencephaly;
- (2) Spina bifida;
- (3) Hydrocephaly;
- (4) Cleft palate;
- (5) Total cleft lip;
- (6) Esophageal atresia and atenosis;
- (7) Rectal and anal atresia;
- (8) Hypospadias;
- (9) Reduction and deformity -- upper limb;
- (10) Reduction and deformity -- lower limb;
- (11) Congenital dislocation of the hip;
- (12) Down's syndrome;
- (13) Visual impairments; and
- (14) Others as may be requested by the director of health.

(b) If any such impairment is found in an infant, and/or if such impairment is found in any subsequent examination of any minor which has not been previously diagnosed, the examining physician, midwife or other health care provider licensed under chapter thirty [§ § 30-1-1 et seq.] of the code shall within thirty days of the examination make a report of the diagnosis to the state registrar of vital statistics on forms provided by the state registrar of vital statistics. The report shall include the name of the child, the name or names of the parents or parent or guardian and a description of the impairment.

(c) The information received by the state registrar pursuant to this section pertaining to the identity of the persons named shall be kept confidential: Provided, That if consent of the parents, or if only one of the parents exists, of the parent, or of the guardian is obtained, the registrar may

provide such information to the division of health, the division of human resources, the department of education, the division of vocational rehabilitation, and the school for the deaf and the blind so that such information can be utilized to provide assistance or services for the benefit of the child.

(d) The commission on the hearing impaired as provided for in section one [§ 5-14-1], article fourteen, chapter five of this code shall develop and provide a form, to every physician or midwife attending a birth or providing medical care to a newborn infant, which assists the physician or midwife in collecting information from the infant's family about the infant's potential for a hearing impairment. The form shall identify an infant with a hearing impairment or at risk of developing a hearing impairment. For purposes of this section, an infant with a hearing impairment is a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels. An infant at risk of being hearing impaired is a child at birth who is at a higher risk than normal of being hearing impaired due to one or more of the following factors present at birth:

- (1) Family history of a congenital hearing loss;
- (2) Rubella or virus during pregnancy;
- (3) Congenital ear, nose or throat anomalies;
- (4) Below normal birth weight;
- (5) Abnormal level of jaundice;
- (6) Anoxia or apnea; and
- (7) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate and respiration.

(e) If any such hearing impairment or risk of hearing impairment is found in an infant, and/or if such impairment or risk of hearing impairment is found in any subsequent examination of any minor which has not been previously diagnosed, the examining physician or midwife shall within thirty days of the examination make a report of the diagnosis to the commission on the hearing impaired on the forms provided by the commission on the hearing impaired. The report shall include the name of the child, the name or names of the parents or parent or guardian and a description of the hearing impairment or of the risk of hearing impairment.

HISTORY: 1982, c. 69; 1983, c. 98; 1991, c. 80.

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

Upon receiving a report of the disappearance of any child born in this state, the state registrar shall indicate in a clear and conspicuous manner in the child's birth record that the child has been reported as missing, including the title and location of the law-enforcement agency providing the report. Upon receiving a request for any birth records containing a report of the disappearance of any child, the state registrar shall immediately notify the local law-enforcement agency which provided the missing child report. The state registrar shall transmit any relevant information concerning the applicant's identity, address and other pertinent data immediately to the relevant local law-enforcement agency. The state registrar shall retain the original written request until notified of the missing child's recovery or the child attains the age of eighteen. Upon notification

that any missing child has been recovered, the state registrar shall remove the report of the disappearance from the child's birth record. The provisions of this section shall be implemented by the first day of July, one thousand nine hundred ninety-three.

HISTORY: 1991, c. 138.

§16-5-13. Infants of unknown parentage; foundling registration.

a. Whoever assumes the custody of a living infant of unknown parentage shall report, on a form and in the manner prescribed by the state registrar of vital statistics, within seven days of the date of such assumption of custody, to the local registrar of the district in which the child was found, the following information:

(1) The date and place of finding;

(2) Sex, color or race and approximate age of child;

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

(4) Other data required by rules and regulations adopted and promulgated pursuant to this article.

b. The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation.

c. A report registered under this section shall constitute the certificate of birth for the infant.

d. If the child is identified and a certificate of birth is found or obtained, any report registered under this section shall be sealed and filed and may be opened only by order of a court of record of competent jurisdiction or as may be provided by lawful rule and regulation adopted and promulgated pursuant to this article.

HISTORY: 1969, c. 61.

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

(a) When the birth of a person born in this state has not been registered within the time period provided in section twelve [§16-5-12] of this article, a certificate may be filed in accordance with a legislative rule promulgated by the state board of health in accordance with the provisions of chapter twenty-nine-a [§§29A-1-1 et seq.] of this code. Such certificate shall be registered subject to such evidentiary requirements as the state board of health shall by rule prescribe to substantiate the alleged facts of birth.

(b) Certificates of birth registered one year or more after the date of occurrence shall be marked "Delayed" and shall show on their face the date of the delayed registration.

(c) A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

(d) (1) When an applicant does not submit the minimum documentation required in the rules for delayed registration or when the state registrar of vital statistics finds reason to question the validity or adequacy of the certificate or the documentary evidence, the state registrar of vital statistics shall not register the delayed certificate and shall advise the applicant in writing of the reasons for this action.

(2) The state board of health may by legislative rule promulgated in accordance with the provisions of chapter twenty-nine-a of this code provide for the dismissal of an application which is not actively prosecuted.

(e) On and after the first day of November, one thousand nine hundred ninety, in addition to the required documentation and other data furnished in an application for a delayed registration of birth in accordance with the provisions of this section, a person whose name is to appear on the certificate of birth as a parent shall contemporaneously furnish with the application the social security account number (or numbers, if the parent has more than one such number) issued to the parent.

HISTORY: 1969, c. 61; 1990, c. 40.

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

(a) If a delayed certificate of birth is refused under the provisions of section fourteen [§16-5-14] of this article, a petition may be filed in the circuit court of the county in which the petitioner resides or in the circuit court of Kanawha County for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

(b) Such petition shall allege:

(1) That the person for whom a delayed registration of birth is sought was born in this state;

(2) That no record of birth of such person can be found in the office of the state or the local custodian of birth records;

(3) That diligent efforts by the petitioner have failed to obtain the evidence required in accordance with section fourteen of this article and of any rules and regulations adopted and promulgated thereunder;

(4) That the state registrar of vital statistics has refused to register a delayed certificate of birth; and

(5) Such other allegations as may be required by the court.

(c) The petition shall be accompanied by a copy of the statement of reasons of the registration official made in accordance with subsection (d)(1), section fourteen [§16-5-14(d)(1)] of this article and by all documentary evidence which was submitted to the registration official in support of such registration.

(d) The court shall fix a time and place for hearing the petition and shall require that the petitioner give the registration official who refused to register the petitioner's delayed certificate of

birth not less than twenty days' notice of said hearing. Such official, or his authorized representative, may appear and testify in the proceeding.

(e) If the court finds from the evidence presented that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as the case may require and shall issue an order setting forth the information required under the provisions of this article to establish a record of birth. This order shall include the birth date to be registered, a summary statement of the evidence presented, and the date of the court's action.

(f) The clerk of the court shall forward each such order to the state registrar of vital statistics not later than the tenth day of the calendar month following the month in which it was entered. Such order shall be registered by the state registrar of vital statistics and shall constitute the record of birth, from which copies may be issued in accordance with the provisions of this article.

(g) Any judgment shall be final unless reversed, vacated or modified on appeal, and any appeal shall be sought in the manner and within the time provided by law for appeals in other civil cases.

(h) On and after the first day of November, one thousand nine hundred ninety, in addition to the evidence presented to establish a record of birth in accordance with the provisions of this section, a person whose name is to appear on the delayed certificate of birth as a parent shall furnish to the clerk of the circuit court the social security account number (or numbers, if the parent has more than one such number) issued to the parent. A record of the social security number or numbers shall be forwarded to the state registrar of vital statistics along with the order establishing a record of birth, as provided for in subsection (f) of this section.

HISTORY: 1969, c. 61; 1990, c. 40.

§16-5-16. Court reports of adoption.

(a) In conformance with the provisions of section ten [§48-4-10], article four, chapter forty-eight of this code, any court in this state entering an order of adoption shall require the preparation by the clerk of the court of a certificate of adoption on a form prescribed and furnished by the state registrar of vital statistics. Such certificate shall include the factual information described in section ten, article four, chapter forty-eight of this code; shall provide such additional information as may be required under legislative rules duly adopted pursuant to this article to establish a new certificate of birth of the person adopted; shall identify the order of adoption; and shall be certified by the clerk of court.

(b) Information in the possession of the petitioner necessary to prepare the certificate of adoption shall be pleaded in the petition for adoption or shall be furnished to the clerk of the court by the petitioner for adoption at the time the petition is filed. Any social or welfare agency or other person concerned with the adoption shall supply the petitioner with such information in the possession of such agency or person as may be necessary to complete the certificate.

(c) Whenever an adoption order or decree is amended or vacated, the clerk of the court shall prepare a certificate thereof, which shall include such facts as are necessary to identify the original adoption certificate and the facts amended in the adoption order or decree which are required to properly amend the birth record.

(d) Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state registrar of vital statistics a report of all orders or decrees of adoption and of annulments or amendments thereof, entered in the preceding month, together with such related certificates and reports as may be required under the provisions of this article.

(e) When the state registrar of vital statistics shall receive a record of adoption or of an annulment or amendment of an order or decree of adoption from a court for a person born outside of this state, such record shall be forwarded to the appropriate registration authority in the state of birth.

(f) On and after the first day of November, one thousand nine hundred ninety, in addition to the information pleaded or furnished in accordance with the provisions of subsection (b) of this section, each person whose name is to appear on the certificate of adoption as a parent, whether as an adoptive parent or as a natural parent who joins in the adoption without relinquishing parental rights, shall furnish to the clerk of the circuit court the social security account number (or numbers, if the parent has more than one such number) issued to the parent. A record of the social security number or numbers shall be forwarded to the state registrar of vital statistics along with the certificate of adoption, as provided for in subsection (d) of this section.

HISTORY: 1969, c. 61; 1990, c. 40.

§ 6-5-17. Court reports of determination of paternity.

(a) Whenever a judgment has been entered determining the paternity of a child, the clerk of the court shall prepare a certificate on a form prescribed and furnished by the state registrar of vital statistics. The certificate shall include such facts as are necessary to locate and identify the certificate of birth of the person whose paternity is determined; shall provide information necessary to establish a new certificate of birth of the person whose paternity is determined; and shall identify the action and be certified by the clerk of court.

(b) Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state registrar of vital statistics certificates of paternity entered in the preceding month, together with such related reports as the state registrar of vital statistics shall require.

(c) On and after the first day of November, one thousand nine hundred ninety, in addition to providing the information necessary to establish a new certificate of birth of the person whose paternity has been determined, in accordance with the provisions of subsection (a) of this section, a person whose name is to appear on the certificate of paternity as a parent shall furnish to the clerk of the circuit court the social security account number (or numbers, if the parent has more than one such number) issued to the parent. A record of the social security number or numbers shall be forwarded to the state registrar of vital statistics along with the certificate of paternity, as provided for in subsection (b) of this section.

HISTORY: 1969, c. 61; 1990, c. 40.

§16-5-18. New certificate of birth following adoption, legitimation, or determination of paternity.

a. The state registrar of vital statistics shall establish a new certificate of birth for a person born in this State, when he receives either of the following:

(1) A certificate of adoption as provided in section sixteen [§ 16-5-16] of this article or a certified copy of an order or decree of adoption together with all information necessary to identify the original certificate of birth and to establish a new certificate of birth.

(2) A request that a new certificate be established, together with such evidence as is required by state or duly adopted rule and regulation showing that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such a person.

b. When a new certificate of birth is established, the actual place and date of birth, if known, shall be shown. It shall be substituted for the original certificate of birth and thereafter the original certificate and the evidence of adoption, paternity, or legitimation shall not be subject to inspection except upon order of a court of competent jurisdiction. Upon receipt of notice of the vacation of an adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

c. If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed certificate of birth shall be filed with the state registrar of vital statistics as provided in section fourteen [§ 16-5-14] or section fifteen [§ 16-5-15] of this article, before a new certificate of birth is established, except that when the date and place of birth and parentage have been established in the adoption proceedings, a delayed certificate shall not be required.

d. When a new certificate of birth is established by the state registrar of vital statistics, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this State shall be sealed from inspection or forwarded to the state registrar of vital statistics, as he shall direct.

HISTORY: 1969, c. 61.

§16-5-18a. Record of foreign birth in adoption cases.

When it appears from a certificate of adoption, transmitted to the state registrar of vital statistics as provided for in section sixteen [§16-5-16] of this article, that the child was born outside of the United States or its territories, then upon submission to the state registrar of vital statistics of evidence as to the child's birthdate and birthplace provided by the original birth certificate, or a certified copy, extract, or translation thereof or by any other essentially equivalent document including, but not limited to, the records of the United States immigration and naturalization service or of the United States department of state, the state registrar of vital statistics shall make and file a new birth certificate for the child. The new birth certificate shall include the actual place and date of birth, the child's name and parentage as ordered in the decree of adoption and any other necessary facts as required by the state registrar.

HISTORY: 1978, c. 49.

§16-5-18b. Limitation on use of social security numbers.

A social security account number obtained in accordance with the provisions of this article with respect to the filing of: (1) A certificate of birth; (2) an application for a delayed registration of birth; (3) a judicial order establishing a record of birth; (4) an adoption order or decree; or (5) a certificate of paternity shall not be transmitted to a clerk of the county commission. The social security account number shall not appear upon the public record of the register of births or upon any certificate of birth registration issued by the state registrar, local registrar, county clerk or other issuing authority, if any. The social security account numbers shall be made available by the state registrar to the bureau for child support enforcement upon the request of the bureau, to be used solely in connection with the enforcement of child support orders.

HISTORY: 1990, c. 40; 1995, c. 88; 1997, 1st Ex. Sess., c. 16; 2001, c. 91.

NOTES:

EFFECT OF AMENDMENT OF 2001. --Acts 2001, c. 91, effective March 22, 2001, substituted "the" for "such" throughout, substituted "bureau for child support enforcement" for "child support enforcement division", deleted "created by chapter forty-eight-a" preceding "upon the request", and substituted "bureau" for "division".

§16-5-19. Death registration.

(a) A death certificate for each death which occurs in this state shall be filed with the local registrar of the registration district in which the death occurs within three days after such death, and prior to removal of the body from the state, and shall be registered by such registrar if it has been completed and filed in accordance with this section: Provided, That

(1) If the place of death is unknown, a death certificate shall be filed in the registration district in which a dead body is found within three days after the finding;

(2) If death occurs in a moving conveyance, a death certificate shall be filed in the registration district in which the dead body is first removed from such conveyance; and

(3) If the death occurs in a district other than where the deceased resided, a death certificate shall be filed in the registration district in which the death occurred and in the district in which the deceased resided.

(b) The funeral director or person acting for him who first assumes custody of a dead body shall file the death certificate. He shall obtain the necessary personal data from the next of kin or the best qualified person or source available. The funeral director or person acting for him shall obtain the medical certification of the cause of death from the person responsible for making such certification. The personal data obtained shall include the deceased person's social security number or numbers. The social security account number of an individual who has died shall be placed in the records relating to the death and shall be recorded on the death certificate. A record of the social security number or numbers shall be filed with the local registrar of the district in which the

deceased person resided within seven days after the death, and the local registrar shall transmit such number or numbers to the state registrar of vital statistics in the same manner as other personal data is transmitted to the state registrar.

(c) The medical certification shall be completed and signed within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which results in death except when inquiry is required pursuant to chapter sixty-one [§§61-12-1 et seq.], article twelve or other applicable provisions of this code.

(d) When death occurs without medical attendance and inquiry is not required pursuant to chapter sixty-one, article twelve or other applicable provisions of this code, the local health officer shall investigate the cause of death and complete and sign the medical certification within twenty-four hours after receiving notice of the death.

(e) When death occurs in a manner subject to investigation, the coroner or other officer or official charged with the legal duty of making such investigation shall investigate the cause of death and shall complete and sign the medical certification within twenty-four hours after making determination of the cause of death.

(f) In order that each county may have a complete record of the deaths occurring in said county, the local registrar shall transmit each month to the county clerk of his county a copy of the certificates of all deaths occurring in said county, and if any person shall die in a county other than that county within the state in which such person last resided prior to death, then the state registrar shall, if possible, also furnish a copy of such death certificate to the clerk of the county commission of the county wherein such person last resided, from which copies the clerk shall compile a record of such deaths and shall enter the same in a systematic and orderly way in a well-bound register of deaths for that county, which such register shall be a public record. The form of said death register shall be prescribed by the state registrar of vital statistics.

HISTORY: 1921, c. 137, § § 1, 7, 8, 9, 17; Code 1923, c. 150, § § 23, 28a, 28b, 28c, 28k; 1947, c. 127; 1959, c. 137; 1969, c. 61; 1979, c. 118; 1997, 1st Ex. Sess., c. 16.

§16-5-20. Fetal death registration.

a. A fetal death certificate for each fetal death which occurs in this State after a gestation period of twenty completed weeks shall be filed with the local registrar of the registration district in which the delivery occurs within three days after such delivery and prior to removal of the fetus from the State, and shall be registered with such registrar if it has been completed and filed in accordance with this section: Provided, That

(1) If the place of fetal death is unknown, a fetal death certificate shall be filed in the registration district in which a dead fetus is found within three days after the finding; and

(2) If a fetal death occurs in a moving conveyance, a fetal death certificate shall be filed in the registration district in which the fetus is first removed from such conveyance.

b. The funeral director or person acting for him who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in

attendance at or after the delivery shall file the certificate of fetal death. The person filing such certificate shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification of the cause of death from the person responsible for making such certification.

c. The medical certification shall be completed and signed within twenty-four hours after delivery by the physician in attendance at or after delivery except when inquiry is required by chapter sixty-one, article twelve [§§61-12-3 et seq.] or other applicable provision of this Code.

d. When a fetal death occurs without medical attendance for the mother at or after delivery and an inquiry is not required by chapter sixty-one, article twelve [§§61-12-3 et seq.] or other applicable provision of this Code, the local health officer shall investigate the cause of fetal death and shall complete and sign the medical certification within twenty-four hours after receiving notice of the delivery.

e. When the coroner or other officer or official charged with the legal duty of making such investigation shall investigate a fetal death as required by chapter sixty-one, article twelve [§§61-12-3 et seq.] or other applicable provision of this Code, he shall complete and sign the medical certification within twenty-four hours after making determination of the cause of such fetal death.

HISTORY: 1921, c. 137, § 6; Code 1923, c. 150, § 28; 1969, c. 61.

NOTES:

EDITOR'S NOTES. --The opinions of the attorney general cited in the following annotations construe former § 16-5-6, covering the same subject matter as this section.

BURIAL PERMIT --If no death certificate is required, no removal or burial permit need be procured. 51 Op. Att'y Gen. 507 (1965).

DISPOSITION OF STILLBORN FETUS GENERALLY --A stillborn fetus either less than five months developed in gestation or less than ten inches in length [now less than twenty weeks in gestation] may be disposed of by the hospital authorities, with parental consent, and neither a birth nor a death certificate need be prepared. 51 Op. Att'y Gen. 507 (1965).

A stillborn fetus either five or more months developed in gestation or ten or more inches in length [now more than twenty weeks in gestation] may be disposed of by the hospital authorities, with parental consent, but both a birth and a death certificate must be prepared. 51 Op. Att'y Gen. 507 (1965).

The permission of the parents of the stillborn fetus must be secured, whatever disposition is made thereof. 51 Op. Att'y Gen. 507 (1965).

UNDERTAKER --Hospital authorities may complete the disposition of remains section of the death certificate as a person acting as undertaker. 51 Op. Att'y Gen. 507 (1965).

Nothing prevents parents from making their own burial arrangements with a licensed undertaker if they so desire. 51 Op. Att'y Gen. 507 (1965).

§16-5-21. Burial, transit and disinterment and reinterment permits.

a. The funeral director or person acting for him who first assumes custody of a dead body or of a fetus which has died after a gestation period of twenty completed weeks shall obtain a burial or transit permit prior to final disposition or removal from the State of the body or fetus and within seventy-two hours after death.

b. Such burial or transit permit shall be issued by the local registrar of the district where the certificate of death or fetal death is filed in accordance with the requirements of section nineteen [§16-5-19] or section twenty [§ 16-5-20] of this article.

c. A burial or transit permit issued under the law of another state which accompanies a dead body or fetus brought into this State shall be authority for final disposition of the body or fetus in this State.

d. A permit for disinterment and reinterment shall be required prior to disinterment of a dead body or fetus except as authorized by rule and regulation or otherwise provided by law or by order of a court having jurisdiction with respect thereto. Such permit shall be issued by the local registrar to a licensed funeral director, embalmer, or other persons acting on their behalf, upon proper application.

e. The form and contents of burial, transit and disinterment and reinterment permits shall be prescribed by the state registrar of vital statistics in conformance with the provisions of subdivision (4), subsection a, section five [§ 16-5-5(a)(4)] of this article.

HISTORY: 1921, c. 137, § 5; Code 1923, c. 150, § 27; 1947, c. 127; 1969, c. 61.

NOTES:

CROSS REFERENCES. --Fetal death registration, see § 16-5-20.

"LICENSED FUNERAL DIRECTOR." --The term "licensed funeral director," as used in d, means one duly licensed by the West Virginia board of embalmers and funeral directors (board of funeral service examiners). Op. Att'y Gen., May 17, 1974.

§16-5-22. No burial without permit; duty of custodian or funeral director.

No person in charge of any premises on which interment or other disposition of dead bodies is made shall inter or permit the interment or other disposition of any such body unless it is accompanied by a burial, transit or reinterment permit except as otherwise provided by order of a court having jurisdiction with respect thereto. Such person shall endorse upon the permit the date of interment or other disposition over his signature and shall return the permit, so endorsed, to the local registrar of the registration district within which the interment or other disposition of the body is made. Such return shall be made within ten days from the date of interment or other disposition. The person endorsing the permit shall keep a record of all bodies interred or otherwise disposed of on the premises under his charge, which record shall contain the name of the deceased person, place of death, date of burial or disposal, name and address of the funeral director or person acting for him, and such other information as may be required by rule and regulation duly adopted pursuant to this article. Such record shall at all times be open to official inspection: Provided, That when a body is interred or otherwise disposed of in a cemetery, burial ground, or other premises having no

person in charge, the funeral director or person acting for him and making or supervising such interment or disposition shall endorse upon the burial, transit or reinterment permit, the date of interment or disposition over his signature and shall write across the face of the permit "No person in charge" and shall file the endorsed permit with the local registrar of the registration district in which interment or other disposition is made within ten days of such interment or other disposition.

HISTORY: 1921, c. 137, § 11; Code 1923, c. 150, § 28e; 1969, c. 61.

NOTES:

CROSS REFERENCES. --Fetal death registration, see § 16-5-20.

§16-5-23. Extension of time for filing death certificates, etc.

a. The state board of health shall, by rule and regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this article, provide for the extension of the periods prescribed in sections nineteen [§16-5-19], twenty [§16-5-20] and twenty-one [§16-5-21] of this article for the filing of death certificates, fetal death certificates, medical certifications of the cause of death, and for the obtaining of burial or transit permits, in cases in which compliance with the applicable prescribed period would result in undue hardship.

b. Rules and regulations of the state board of health shall provide for the issuance of a burial or transit permit under section twenty-one [§16-5-21] of this article prior to the filing of a certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this article in cases in which compliance with the requirement that the certificate be filed prior to the issuance of the permit would result in undue hardship.

HISTORY: 1969, c. 61.

§16-5-24. Correction and amendment of vital records.

(a) A certificate or record registered pursuant to this article may be amended only in accordance with the provisions of this article and rules and regulations duly adopted thereunder.

(b) A certificate that is amended under this section shall be marked "amended," except as hereinafter provided in this subsection and in subsection (d) of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The state board of health shall prescribe by rule and regulation the conditions under which additions or minor corrections shall be made to birth certificates within one year after the date of birth without the certificate being considered or marked as amended. The state board of health shall also prescribe by legislative rule promulgated in accordance with the provisions of chapter twenty-nine-a [§ § 29A-1-1 et seq.] of this code a simplified procedure for the correction of any certificate or record registered pursuant to this article which is deficient in any particular, including, but not limited to, the omission or misspelling of a first name, and such rule and regulation shall specify when and under what circumstances a certificate or record so corrected shall be considered or marked as amended.

(c) Upon receipt of a certified copy of a court order of a court of competent jurisdiction changing the name of a person born in this state, which order was made and entered in a proceeding brought for that purpose, and upon request of such person or his parent, guardian, or legal representative, the state registrar of vital statistics shall amend the certificate of birth to reflect the new name.

(d) Upon request, and upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents, the state registrar of vital statistics shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Upon request of both of the parents, the surname of the child shall be changed on the certificate to that of the father. Such certificate shall not be marked "amended."

(e) When a certificate is amended under this section, the state registrar of vital statistics shall report the amendment to the custodian of any permanent local records and such record shall be amended accordingly.

(f) On and after the first day of November, one thousand nine hundred ninety, in addition to providing the information necessary to amend a certificate or record in accordance with the provisions of this section, a person whose name is to appear on the amended certificate as a parent shall furnish to the person receiving the information the social security account number (or numbers, if the parent has more than one such number) issued to the parent. A record of the social security number or numbers shall be forwarded to the state registrar of vital statistics along with the information required for the amended certificate.

HISTORY: 1969, c. 61; 1990, c. 40.

BIRTH CERTIFICATE --Where father failed to avail himself of the opportunity to have surname changed to his upon child's birth, under this section, and the particular facts of the case, it was too late, four years later, to make that change. *Lufft v. Lufft*, 188 W. Va. 339, 424 S.E.2d 266 (1992).

PENALTY FOR ALTERATION --The provisions of § 61-5-22, relating to the alteration, concealment or destruction of public records by an officer and the penalty therefor would only apply where there is a fraudulent act on the part of such public officer, and such records may be safely amended upon the presentation of sufficient evidence in support of the proposed amendment. Op. Att'y Gen., Jan. 12, 1970.

QUOTED in *Kathy L.B. v. Patrick J.B.*, 179 W. Va. 655, 371 S.E.2d 583 (1988).

§16-5-25. Reproduction of records.

To preserve original documents, the state registrar of vital statistics is hereby authorized to prepare typewritten, photographic, or other reproductions of original records and files in his office. Such reproductions when certified by him shall be accepted as the original record.

HISTORY: 1969, c. 61.

§16-5-26. Disclosure of records.

a. To protect the integrity of vital statistics records, to insure their proper use, and to insure the efficient and proper operation of the vital statistics system, it shall be unlawful for any person to permit inspection of confidential information or to disclose confidential information contained in vital statistics records, or to copy or issue a copy of all or part of any such confidential information, except as authorized by law or by order of a court having jurisdiction with respect thereto or by rule and regulation duly adopted under the provisions of this article.

b. The state board of health may by rule and regulation authorize the disclosure of confidential data contained in vital statistics records for statistical research purposes.

c. Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by rule and regulation duly adopted or upon order of a court having jurisdiction with respect thereto.

d. Appeals from decisions of the custodians of permanent local records refusing to disclose confidential information, or to permit inspection of or copying of confidential information under the authority of this section and rules and regulations issued hereunder shall be made to the state registrar of vital statistics, whose decisions shall be binding upon the local custodians of permanent local records.

HISTORY: 1931 Code, § 16-5-20; 1969, c. 61.

ALR REFERENCES. --What constitutes legitimate research justifying inspection of state or local public records not open to inspection by general public, 40 ALR4th 333.

§16-5-27. Copies of data from vital records.

In accordance with section twenty-five [§16-5-25] of this article and the rules and regulations adopted pursuant thereto:

a. The state registrar of vital statistics shall upon request issue a certified copy of all or any part of any certificate or record in his custody. Each copy issued shall show the date of registration, and copies issued from records marked "delayed," "amended," or "court order" shall be similarly marked and shall show the effective date of the delayed registration, amendment or court order.

b. A certified copy of a certificate or any part thereof, issued in accordance with subdivision a of this section, shall be considered for all purposes the same as the original, and shall be prima facie evidence of the facts therein stated.

c. The national office of vital statistics may be furnished such copies of or data from state vital statistics records as it may require for national statistics: Provided, That the State shall be reimbursed for the cost of furnishing such data: Provided, however, That such data shall not be used for other than statistical purposes by the national office of vital statistics unless so authorized by the state board of health.

d. Federal, state, local and other public or private agencies may, upon request, be furnished copies of or data from state vital statistics for statistical purposes upon such terms or conditions as may be prescribed by the state board of health.

e. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, or fetal death, except as authorized by this article, or by rules and regulations duly adopted thereunder: Provided, That the foregoing provisions of this subdivision shall not be construed as in any way prohibiting or infringing upon the right and duty of a county clerk to furnish a certified copy of any records in his lawful custody.

HISTORY: 1921, c. 137, §20; Code 1923, c. 150, §28n; 1933, 2nd Ex. Sess., c. 96; 1935, c. 106; 1939, c. 32; 1961, c. 61; 1969, c. 61.

NOTES:

TEXTBOOKS. --Handbook on Evidence for West Virginia Lawyers, Cleckley (Michie).

QUOTED in Moore v. Goode, 180 W. Va. 78, 375 S.E.2d 549 (1988).

§16-5-28. Fees for copies and searches.

(a) The state director of the department of health shall prescribe the fees, if any, to be charged and collected by the state registrar of vital statistics, for certified copies of certificates or records, not to exceed five dollars per copy, or for a search of the files or records when no copy is made: Provided, That the state registrar shall, upon request of any parent or guardian, supply without fee a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment: Provided, however, That the state registrar may furnish certified copies of birth and death records to the state welfare department [division of human services], and to organized charities, free of charge, when such certificates are needed in presenting claims to the federal government, or to the state department of welfare, and an accurate record shall be made of all such certificates so furnished.

(b) After the first day of July, one thousand nine hundred eighty-two, and subject to the provisions set forth in section two [§12-2-2], article two, chapter twelve of this Code, there is established in the state treasury a separate account which shall be designated "the vital statistics account."

The director of health shall promptly deposit two fifths of all fees received under the provisions of this section to the vital statistics account. The director of health shall promptly deposit three fifths of all fees received under the provisions of this section to the general revenue fund account.

The director of health is authorized to expend the moneys deposited in the vital statistics account in accordance with the laws of this State as is necessary to implement this article. The legislature shall appropriate all moneys in the vital statistics account as part of the annual state budget beginning with the fiscal year one thousand nine hundred eighty-three -- eighty-four.

The director shall make an annual report to the Legislature on the vital statistics account, including the previous fiscal year's expenditures and projected expenditures for the next fiscal year.

HISTORY: 1921, c. 137, §20; Code 1923, c. 150, §28n; 1933, 2nd Ex. Sess., c. 96; 1935, c. 106; 1939, c. 32; 1961, c. 61; 1969, c. 61; 1977, c. 102; 1982, c. 70.

NOTES:

EDITOR'S NOTES. --For construction of the welfare department as the division of human services, see §9-2-1a.

§16-5-29. Persons required to keep records.

a. Every person in charge of an institution as defined in this article shall keep a record concerning each person admitted to or confined in such institution containing such information as is required by the standard certificate of birth, death, and fetal death forms issued under the provisions of this article. The record shall be made at the time of admission from information provided by such person, but when it cannot be so obtained, the same shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

b. When a dead human body is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name and address of the person to whom the body is released, and date of removal from the institution or if finally disposed of by the institution, the date, place, and manner of disposition.

c. A funeral director, embalmer or other person who removes from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any certificate or other form required by this article, shall keep a record which shall identify the body, and such information pertaining to his receipt, removal and delivery of such body as may be prescribed by rules and regulations duly adopted by the state board of health.

d. Records maintained under this section shall be retained for a period of not less than three years and shall be made available for inspection by the state registrar of vital statistics or his representative upon request.

HISTORY: 1921, c. 137, § 16; Code 1923, c. 150, § 28j; 1969, c. 61.

§16-5-30. Duty to furnish information relative to vital events.

Any person having knowledge of any fact required to be recorded under the provisions of this article or any rules and regulations duly adopted thereunder, or knowledge of which by the state registrar of vital statistics is necessary to effectuate the purposes of this article, shall furnish information of such fact to the state registrar of vital statistics upon request.

HISTORY: 1969, c. 61.

§16-5-31. Penalties.

a. (1) Any person who wilfully and knowingly makes any false statement in a report, record, or certificate required to be filed under this article, or in an application for an amendment thereof or who wilfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record or certificate, or amendment thereof; or

(2) Any person who without lawful authority and with the intent to deceive, makes, alters, amends or mutilates any record, report, or certificate required to be filed under this article, or any certified copy of such record, report, or certificate; or

(3) Any person who wilfully and knowingly uses or attempts to use, or furnishes or attempts to furnish to another for use, for any purpose of deception, any certificate, record, report, or certified copy thereof so made, altered, amended, or mutilated; or

(4) Any person who with the intention to deceive wilfully uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which related to the birth of another person; or

(5) Any person who wilfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person to whom the record of birth relates, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

b. (1) Any person who knowingly transports or accepts for transportation, interment or other disposition a dead body without an accompanying permit as provided in this article; or

(2) Any person who refuses to provide information required by this article; or

(3) Any person who wilfully neglects or violates any of the provisions of this article or refuses to perform any of the duties imposed upon him by this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

HISTORY: 1969, c. 61.

§16-5-32. Uniform system of registration of marriage, divorce and annulment of marriage.

To the end that an efficient and uniform system of registration of marriage, divorce and annulment of marriage shall be established in this State, the state registrar of vital statistics shall provide for the registration of each marriage, divorce and annulment of marriage which shall occur in this State. In so doing, the state director of health subject to rules and regulations promulgated by the board of health shall have the authority and duty to:

a. Install a statewide system of registering, indexing, and preserving records of marriage, divorce and annulment of marriage.

b. Make and amend necessary rules and regulations, give instructions, and prescribe and furnish forms, for collecting, transcribing, compiling and preserving records and statistics of marriage, divorce and annulment of marriage.

c. Make and publish a statistical report of marriage, divorce and annulment of marriage in this State.

HISTORY: 1967, c. 49; 1969, c. 61; 1977, c. 102.

§16-5-33. Registration of marriages.

All marriages taking place within the State shall be registered with the state registrar of vital statistics in the following manner:

a. On or before the tenth day of each month, the county clerk of each county shall forward to the state registrar a report of all marriage records made by him during the previous month, in such form and setting forth such information as may be prescribed by rule and regulation duly adopted pursuant to this article.

b. The state registrar shall preserve and index all records thus received and shall upon request issue a certified copy of the same, which shall be prima facie evidence in all courts in the State of the facts stated therein.

HISTORY: 1921, c. 137, §21; Code 1923, c. 150, §280; 1969, c. 61.

§16-5-34. Registration of divorces and annulments of marriages.

a. The clerk of every court of record having jurisdiction of actions for divorce or annulment of marriage shall monthly make and deliver to the state registrar of vital statistics a report on a form prescribed by the state registrar of vital statistics, listing all of the divorces or annulments of marriages granted by such court during the preceding calendar month, showing insofar as such information appears in the complaint or final order or decree:

- (1) The names and ages of the parties to the action,
- (2) The date and place of the marriage thereby terminated,
- (3) The names of said parties' children under the age of eighteen years,
- (4) The date of the final order or decree:

Provided, That in counties where the court is not in continuous session these reports shall be forwarded within ten days following the close of the term of the court.

b. The state registrar shall search his files of reports of divorce and annulment of marriage upon receipt of written request and a fee of one dollar. If the record is found, he shall verify the facts of the divorce or annulment of marriage in writing to the applicant and shall notify the applicant of the place where the original record is found.

c. Failure of the clerk of the court to comply with the provisions of subsection a hereof shall in no way affect the validity of any final judgment, order or decree of divorce or annulment of marriage.

HISTORY: 1967, c. 49; 1969, c. 61.

§16-5-35. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.

HISTORY: 1969, c. 61.