

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Vital Records Code
- 2) Code Citation: 77 Ill. Adm. Code 500
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
500.40	Amended
500.43	New
- 4) Statutory Authority: Vital Records Act [410 ILCS 535]
- 5) Effective Date of Rulemaking: October 3, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: 35 Ill. Reg. 750; January 14, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In the table of contents, Section 500.43, "-Related Surgery" was changed to "Re-assignment".
 2. In Section 500.40(a)(1)(C), "names" was changed to "name or based on the newborn delivery records from the hospital".
 3. In Section 500.40(a)(2)(K), "first or middle" was added after "parents".
 4. In the fifth and sixth lines of Section 500.40(h)(3), "request" was stricken and "applicant" was added; "specify typewritten copies" was stricken and "request a short form certification" was added.

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5. Section 500.43 was rewritten as follows:

"Section 500.43 Amendments to Birth Records Following Gender Re-assignment"

Changes to gender on birth records following an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender designation on an existing Illinois birth record shall be governed by this Section. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender. The burden of proof shall be on the applicant to clearly demonstrate that he/she has met the gender change criteria set forth in this Section.

- a) Except as provided in subsection (b), all requested changes shall be supported by an affidavit of a physician, licensed to practice medicine in Illinois or any other State. The physician's affidavit shall clearly state that he or she has performed an operation on the applicant that has reassigned the gender of the applicant, and that, by reason of the operation, the sex designation on the applicant's birth record (certificate) should be changed. (Section 1(9) and 17(d) of the Act) The affidavit shall specify the name of the operation or operations that justify the change in gender on the applicant's birth record.
- b) Applicants who have undergone a gender reassignment operation outside of the United States shall submit an affidavit signed by an examining physician duly licensed to practice medicine in Illinois or any state in the United States. The affidavit shall clearly establish that the examining physician personally examined the applicant and shall clearly state that the identified operation previously performed has reassigned the applicant's gender and justifies a change in the applicant's gender on his/her birth record.
- c) The Department shall specify the form of the application and supporting affidavits and shall have the authority to request additional information and documentary proof, including copies of certified medical or other records.
- d) Name changes shall comply with separate criteria for name changes in this Part.

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(Source: Amended at 35 Ill. Reg. _____, effective _____)"

In addition, various typographical, grammatical, and form changes were made in response to JCAR comments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 500 sets forth procedures for obtaining and amending birth, marriage, adoption, and death records in the State of Illinois. The rules have been amended to add provisions for amendments to birth records following a gender-related operation. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, or reassigning gender. Requirements for requesting a birth certificate gender change are set forth in the rules.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, 5th Floor
Springfield, Illinois 62761
e-mail: dph.rules@illinois.gov

217/782-2043

The full text of the Adopted Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER e: VITAL RECORDS

PART 500
 ILLINOIS VITAL RECORDS CODE

Section

500.10	Definitions
500.20	Access to Vital Records
500.30	Delayed Records of Birth
500.40	Amendments, Additions or Corrections to Vital Records
500.43	Amendments to Birth Records Following Gender Re-assignment
500.45	New Certificates of Birth
500.47	Illinois Adoption Registry and Information Exchange
500.50	Transportation and Disposition of Dead Human Body
500.60	Court Order to Restore Original Certificate of Birth
500.70	Availability of Medical and Health Information
500.80	Appointment and Removal of Local Registrars
500.90	Social Security Numbers of the Mother and Father of an Infant

500.APPENDIX A Birth Records

500.ILLUSTRATION A	Certificate of Live Birth
500.ILLUSTRATION B	Information For Medical and Health Use Only
500.ILLUSTRATION C	Record of a Foreign Birth
500.ILLUSTRATION D	Certificate of Birth – Foundling Child
500.ILLUSTRATION E	Application for Search of Birth Record Files
500.ILLUSTRATION F	Application for Correction of a Birth Certificate

500.APPENDIX B Delayed Birth Records

500.ILLUSTRATION A	Instructions for Filing a Delayed Record of Birth for a Child Age One to Seven Years
500.ILLUSTRATION B	Delayed Record of Birth
500.ILLUSTRATION C	Filing a Delayed Record of Birth After the Seventh Birthday
500.ILLUSTRATION D	Application for Delayed Record of Birth
500.ILLUSTRATION E	Delayed Record of Birth (Registered After Seventh Birthday)
500.ILLUSTRATION F	Affidavit in Support of an Application for a Delayed Registration of Birth

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- 500.APPENDIX C Marriage Application and Record
- 500.APPENDIX D Certificate of Dissolution, Invalidity of Marriage or Legal Separation
- 500.APPENDIX E Adoption Records
- 500.ILLUSTRATION A Certificate of Adoption
 - 500.ILLUSTRATION B Information Concerning Adoptive Parents
 - 500.ILLUSTRATION C Information Concerning Parents
 - 500.ILLUSTRATION D Instructions for Adoption Registry Forms
 - 500.ILLUSTRATION E Birth Parent Registration Identification Form
 - 500.ILLUSTRATION F Instructions for Adoptee Registration (Repealed)
 - 500.ILLUSTRATION G Adopted Person Registration Identification Form
 - 500.ILLUSTRATION H Information Exchange Authorization Form
 - 500.ILLUSTRATION I Denial of Information Exchange Form
 - 500.ILLUSTRATION J Instructions for Applying for a New Birth Certificate for a Legitimated Child
 - 500.ILLUSTRATION K Surrendered Person Registration Identification Form
 - 500.ILLUSTRATION L Non-surrendered Birth Sibling Registration
 - 500.ILLUSTRATION M Adoptive Parent Registration Identification Form
 - 500.ILLUSTRATION N Legal Guardian Registration Identification Form
 - 500.ILLUSTRATION O Adoption Registry Application Form
 - 500.ILLUSTRATION P Medical Questionnaire Form
- 500.APPENDIX F Death Records
- 500.ILLUSTRATION A Certificate of Fetal Death
 - 500.ILLUSTRATION B Medical Examiner's – Coroner's Certificate of Death
 - 500.ILLUSTRATION C Medical Certificate of Death
 - 500.ILLUSTRATION D Application for Search of Death Record Files
 - 500.ILLUSTRATION E Corrected Cause of Death Certification
 - 500.ILLUSTRATION F Application for Correction of a Death Certificate
- 500.APPENDIX G Death Records
- 500.ILLUSTRATION A Report of Death
 - 500.ILLUSTRATION B Necropsy (NEC)1
 - 500.ILLUSTRATION C Permit for Disposition of Dead Human Body
 - 500.ILLUSTRATION D Coroner's or Medical Examiner's Permit to Cremate a Dead Human Body
 - 500.ILLUSTRATION E Application for Disinterment – Reinterment Permit
- 500.APPENDIX H Affidavits
- 500.ILLUSTRATION A Affidavit by Mother
 - 500.ILLUSTRATION B Affidavit by Father
 - 500.ILLUSTRATION C Affidavit and Certificate of Correction
 - 500.ILLUSTRATION D Abstract of a Record

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500.APPENDIX I Subregistrar's Appointment Blank

AUTHORITY: Implementing and authorized by the Vital Records Act [410 ILCS 535], Adoption Act [750 ILCS 50], and Jane Doe II v. Lumpkin, United States District Court, Central District of Illinois, Case No. 89-1224.

SOURCE: Amended April 7, 1976, effective May 1, 1976; amended at 6 Ill. Reg. 3880, effective March 29, 1982; codified at 8 Ill. Reg. 8917; emergency amendment at 15 Ill. Reg. 3593, effective February 20, 1991, for a maximum of 150 days; emergency expired July 22, 1991; amended at 15 Ill. Reg. 11706, effective August 1, 1991; emergency amendment at 24 Ill. Reg. 3885, effective February 25, 2000, for a maximum of 150 days; emergency expired July 24, 2000; amended at 24 Ill. Reg. 11882, effective July 26, 2000; amended at 35 Ill. Reg. 16682, effective October 3, 2011.

Section 500.40 Amendments, Additions or Corrections to Vital Records

- a) The State Registrar shall endorse on the record or certificate the following additions and/or minor corrections made within one year ~~after~~from the date of occurrence without the certificate being considered amended. Additions or minor corrections shall be made unless the change affects the integrity of the record (for example, a contradiction to existing documentation such as a hospital medical record). For purposes of this Section, singular terms should be read to include the plural and vice versa, unless the context clearly indicates otherwise.
 - 1) Minor Birth Corrections include, but are not limited to:
 - A) Additions and/or changes of given names of the registered person;
 - B) Changes in the time of birth, if it does not change date of occurrence;
 - C) Changes in the sex designation of the registered person within one year after the date of birth, if justified by the given name or based on the newborn delivery records from the hospital ~~or if supported by a notarized statement of a licensed physician~~;
 - D) Spelling errors or omissions of the parents'~~parent(s)~~ first or middle name;

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- E) ~~Parents'~~~~Parent(s)~~ ages, if within ~~two~~2 years of the age shown;
 - F) ~~Parents' places~~~~Parent(s) place~~ of birth, if the country is not different;
 - G) Mother's residence and/or mailing address at the time of occurrence; or
 - H) Spelling errors in the registered person's and/or ~~parent's~~~~parent(s)~~ surname, if verified by a ~~signature~~~~signature(s)~~.
- 2) Minor Death Corrections include, but are not limited to:
- A) Addition and/or changes of given names of the decedent;
 - B) Changes in the sex designation of the decedent, if justified by the given names or if supported by a notarized statement of a licensed physician;
 - C) Changes in ethnicity;
 - D) Changes in either the age or ~~birth date~~~~birthdate~~ of the decedent (not both);
 - E) Decedent's place of birth, if not a different country;
 - F) Spelling errors or omission of the given or middle names of the marital spouse;
 - G) Additions or changes in the social security number;
 - H) Additions or changes in occupation/industry;
 - I) Additions or changes in obvious errors of dates of service;
 - J) Decedent's resident address;
 - K) Spelling errors or omissions of the ~~parents' first or middle names~~~~parent(s) name(s)~~;

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- L) Relationship and/or mailing address of informant;
 - M) Date physician attended deceased;
 - N) Notification of coroner or medical examiner; or
 - O) Changes in hour of death, if date of death is not affected.
- b) When such additions or minor corrections are made by the State Registrar, a notation as to the source of information, together with the date the change was made, and the initials of the authorized agent making the change, shall be made in the margin of the record in such a way as not to become a part of the certifiable record.
- c) The State Registrar shall retain for six ~~(6)~~ years, either in the original or microphotographic form, all source documents used as the basis for additions or minor corrections. The State Registrar shall also furnish a copy of the amended certificate or record to the custodian of any permanent local records, and ~~these~~ records shall be corrected accordingly.
- d) Once an item on the record or certificate has been corrected as a minor correction, all future amendments made to the same ~~item~~~~(s)~~ ~~shall~~ ~~must~~ be completed in accordance with the major correction guidelines.
- e) The State Registrar reserves the right to require proof to amend the record or certificate when the requested correction compromises the integrity of the vital record.
- f) Certificates filed pursuant to the Act, including those filed at the time of occurrence or shortly thereafter, "delayed" certificates filed under ~~the provision of~~ Sections 14 and 19 of the Act, and "new" certificates filed under ~~the provisions of~~ Section 17 of the Act, shall be corrected or amended in accordance with this Section.
- 1) A request for a major administrative correction of a certificate, filed on or after January 1, 1916, shall be made to the State Registrar. A request for a major administrative correction of a certificate filed prior to that date shall be made to the county clerk of the county in which the birth, death or fetal

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death occurred. The request shall identify the certificate to be corrected by stating whether it is a birth, death or fetal death record. In addition, the name of the registered person, the date and place of the event, the items ~~that~~which are omitted or in error, and the correct information for ~~those~~such items ~~shall~~must also be submitted.

- 2) After consulting the certificate in the files, the county clerk may initiate the correction form and send it to the applicant with instructions regarding who should sign and what documentary proof, if any, is required to support the correction sought.
- 3) The persons who shall sign the correction form in the indicated order of priority are:
 - A) To correct birth certificates: the mother or father of the registered person, if the registered person is a minor; the registered person, if the person is of legal age; other next of kin or legal guardian; authorized official of a hospital, if the hospital record was the source of the personal particulars.
 - B) To correct death or fetal death certificates: the signators of the original certificate, i.e., the informant, physician, coroner/medical examiner, funeral director, decedent's spouse, mother, father, or other next of kin.
 - i) The medical certification of death can be amended by the certifying physician, or the attending physician who was in charge of the patient's care for the illness or condition ~~that~~which resulted in death.
 - ii) (Exception: A correction to a Medical Examiner's/Coroner's Certificate of Death within one year after the initial registration of the death shall be accomplished by the Medical Examiner or Coroner filing an "Amended Certificate of Death.")
- g) Each copy of the correction form ~~shall~~must be individually signed. The affiants should sign their given names and present legal ~~surnames~~surname, and fill in the present complete address. The correction forms shall be signed in the presence of

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a person authorized to administer oaths, who ~~shall~~**must** date the form, sign in ink, affix ~~his or her~~**their** seal or stamp, and enter the complete address.

- 1) Records created at or nearest following the date of birth provide the best proof to correct the child's given name or date of birth. Records created prior to the birth of the child are required to correct the given names of the parents, surname of the child and/or father, or mother's maiden name, color or race of parents, or age and birthplace of parents. Records created at or nearest following the decedent's birth provide the best proof to correct name, age, ~~birth date~~**birthdate**, and birthplace. However, if such proof is not available, records created later in life may be accepted.
- 2) To correct color or race on a death record, the best evidence is the decedent's birth or marriage record or birth certificate of a child of the decedent. To correct marital status, the best evidence is the decedent's marriage record, spouse's death record, or divorce decree, if any, or other court records. To correct a fetal death record, information on documents required for similar items on live birth and death certificates shall be furnished.
- 3) To correct other items on a certificate, such documentary evidence shall be required as is deemed necessary to preserve the integrity of the certificate. More than one document may be required in some instances. Some corrections may not require documentary proof, depending on the nature of the correction and the identity of the affiant in relation to the registrant. The burden of submitting proof is on the applicant. The State Registrar shall make the final determination of whether the document submitted satisfactorily proves the correction sought. Any documents submitted, whether accepted or rejected as proof, shall be returned to the applicant, or his or her representative. Examples of available documents ~~that~~**which** substantiate facts are:
 - A) Baptismal or confirmation records;
 - B) Cradle roll certificates;
 - C) 1st grade school records;
 - D) Applicant's marriage record;

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- E) Military records;
 - F) Social security records;
 - G) Child's birth record;
 - H) Parents' marriage record;
 - I) Parent's birth record(s);
 - J) Immunization or clinic records;
 - K) Insurance policies;
 - L) Parent's Naturalization certificate;
 - M) Census records; or
 - N) Other documents as deemed appropriate.
- h) The original certificate of birth, death, or fetal death shall have the correction entered on its face by ~~inter-lineation~~interlineation through the incorrect entries. The correct information is then typed or written above or near the incorrect information. A statement to the effect that the certificate has been amended, and the date, shall appear on the face of the certificate.
- 1) The Department shall permanently retain the original of the correction form ~~shall be permanently retained by the Department~~, either as an original record or in microphotographic form. An approved copy of the correction form, or an official copy of the certificate as corrected, shall be sent to the county clerk and local registrar, as their authority to correct their file copies of the certificate.
 - 2) The applicant shall be notified that the correction has been approved and made.
 - 3) Certifications or certified copies of the certificates as corrected will be furnished upon the written request of an eligible applicant as provided in

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Section 25 of the Act. If the applicant ~~desires~~wishes certified copies ~~that~~which do not show the previous entries regarding the items ~~that~~ ~~were~~which had been corrected, the ~~applicant~~request should ~~request a short form certification~~specify typewritten copies; however, a statement to the effect that the certificate had been amended, and the date ~~amended~~, shall appear on the certified copy.

- i) A correction form is not required to amend the surname on a birth certificate when the person has obtained a legal change of name from a court of competent jurisdiction. Legal name changes shall be reflected on a birth certificate, if supported by a certified copy of the court decree. The new names will be entered on the original certificate in the files of the State Registrar by ~~inter-~~interlineation. The certificate shall be marked as having been amended and the decree number and the effective date entered. The State Registrar shall send the county clerk and local registrar official copies of the original certificate, as amended, to replace the copies in their files. Thereafter, any certifications or certified copies issued shall indicate that the certificate has been changed and the date of the amendment.
- 1) The addition of the father's identity on the child's birth certificate, at the request of the ~~birth~~natural father and mother, does not permit the changing of the child's surname to that of the father.
- 2) Name Change Based on Naturalization
- A) The name of the informant (if parent), the name of the child and the name of the mother and/or father may be amended on the child's birth certificate, based upon a change of name granted to the ~~parent~~parent(s) by a naturalization court or other court of competent jurisdiction. This applies only if the name change was granted while the child was a minor.
- B) If the child is of legal age at the time of his/her ~~parents'~~parent(s) naturalization, the Division of Vital Records is ~~only~~ authorized to amend only the informant's name (if parent) and/or the ~~parents'~~ namesparent(s) ~~name(s)~~ on the child's certificate of birth.
- j) The State Registrar shall amend a delayed birth registration established by court order under the provisions of Section 15 of the Act ~~shall be amended by the State~~

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~~Registrar~~ only upon the basis of an order from the court ~~that~~~~which~~ originally established the facts of birth. The procedure followed in amending the certificate and issuing copies ~~of the same~~ is as described ~~in subsection (i) above~~ regarding legal name changes.

- k) To change the given name of a child on a new birth certificate filed under Section 17 of the Vital Records Act (if the applicant has knowledge of the adoption), a certified copy of an amended Adoption decree or an amended Certificate of Adoption will be required as proof.
- l) A voluntary change of name, spelling of the given names or surname, or the order of the given names and/or surname as ~~those~~~~sueh~~ names appear on the birth record; shall not be reflected upon the birth record unless a request for ~~thesueh~~ "correction" is accompanied by an appropriate court order.
- m) When a request for a correction constitutes change in identity of the registrant or the father or mother, a court determination is required to reflect ~~thesueh~~ change on the birth record.
- n) The State Registrar shall not, at the request of any person, change a written signature on a record under the correction provisions. Such a change shall ~~only~~ be reflected on the certificate ~~only~~ with a court determination.
- o) The State Registrar shall not, at the request of any person, change a file date on a certificate; therefore, the integrity of the record is protected.
- p) Provisions for the addition of the ~~birth~~~~natural~~ father's name and information to records:
 - 1) When the parents are not married:
 - A) Both parents ~~shall~~~~must~~ sign the major correction forms;
 - B) A court order is needed to change the child's surname; and
 - C) ~~If in the event~~ either parent is deceased, a court determination shall be required to add the father's name and information to the record.
 - 2) When parents are married at the time of the child's birth:

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- A) Both parents ~~shall~~**must** sign the major correction forms (the State Registrar will accept a certified copy of the divorce decree or death record and obituary notice in lieu of either parent's signature);
- B) A court order is needed to change the child's surname;
- C) The married name ~~shall~~**must** be added to the end of mother's name (if the mother is shown as an informant on record);
- D) Legitimacy status ~~shall~~**must** be changed on the record.

(Source: Amended at 35 Ill. Reg. 16682, effective October 3, 2011)

Section 500.43 Amendments to Birth Records Following Gender Re-assignment

Changes to gender on birth records following an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender designation on an existing Illinois birth record shall be governed by this Section. A person born in Illinois, with an existing Illinois birth record, may submit an application to the Department seeking to have the gender changed on his or her own birth record after undergoing an operation having the effect of reflecting, enhancing, changing, reassigning or otherwise affecting gender. The burden of proof shall be on the applicant to clearly demonstrate that he/she has met the gender change criteria set forth in this Section.

- a) Except as provided in subsection (b), all requested changes shall be supported by an affidavit of a physician, licensed to practice medicine in Illinois or any other State. The physician's affidavit shall clearly state that he or she has performed an operation on the applicant that has reassigned the gender of the applicant, and that, by reason of the operation, the sex designation on the applicant's birth record (certificate) should be changed. (Section 1(9) and 17(d) of the Act) The affidavit shall specify the name of the operation or operations that justify the change in gender on the applicant's birth record.
- b) Applicants who have undergone a gender reassignment operation outside of the United States shall submit an affidavit signed by an examining physician duly licensed to practice medicine in Illinois or any state in the United States. The affidavit shall clearly establish that the examining physician personally examined the applicant and shall clearly state that the identified operation previously

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performed has reassigned the applicant's gender and justifies a change in the applicant's gender on his/her birth record.

- c) The Department shall specify the form of the application and supporting affidavits and shall have the authority to request additional information and documentary proof, including copies of certified medical or other records.
- d) Name changes shall comply with separate criteria for name changes in this Part.

(Source: Added at 35 Ill. Reg. 16682, effective October 3, 2011)