

ILLINOIS REGISTER

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>
500.10	Amended
500.15	New
500.25	New
- 4) Statutory Authority: Vital Records Act [410 ILCS 535]; Gestational Surrogacy Act [750 ILCS 47]; Illinois Parentage Act of 1984 [750 ILCS 45]
- 5) Effective Date of Amendments:
- 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: April 26, 2013; 37 Ill. Reg. 5298
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference(s) between proposal and final version:

No comments were received during the first notice period and no changes were made.

The following changes were made in response to comments and suggestions of JCAR:

 1. In Section 500.10, the definition of "Adoption Act" was stricken.
 2. In Section 500.25(m), "or if she is the biological mother of the child" was deleted.
- 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 an emergency rule currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Rules were needed for gestational surrogacy births to ensure the establishment of a parent-child relationship between a child and his or her intended parents when the child is being carried by a gestational surrogate prior to the birth of the child, and to ensure that the intended parents' names, irrespective of gender or marital/civil union status, are entered on the child's birth record. The Definitions Section is being amended to include definitions from the Gestational Surrogacy Act. A Referenced Materials Section is being added to the rules. A new Section 500.25 (Gestational Surrogacy births) is being added to set forth requirements for a process for establishing a parent-child relationship prior to the birth of the child between a child and his or her intended when the child is being carried by a gestational surrogate.
- 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
- (271)782-2043
e-mail: dph.rules@illinois.gov

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
<u>500.15</u>	<u>Referenced Materials</u>
500.20	Access to Vital Records
<u>500.25</u>	<u>Gestational Surrogacy Births</u>
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

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	Registration of Birth
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; amended at 37 Ill. Reg. 12555, effective July 19, 2013; amended at 37 Ill. Reg. _____, effective _____.

Section 500.10 Definitions

"Act" means the Vital Records Act ~~[410 ILCS 535]~~.

~~"Adoption Act" refers to the Act located at 750 ILCS 50.~~

"Affiant" means the person signing the correction form.

"Certificate" means an officially registered Certificate of Live Birth, Delayed Record of Birth, Medical Death, Medical Examiner's/Coroner's Death, or Fetal Death (Stillbirth).

"Certified court order", "court order", "appropriate court order", and "court determination" mean an order entered by a court of competent jurisdiction ~~that jurisdiction which order~~ is certified by the clerk of the court and, dated, and ~~that which order~~ includes the full information required by the State Registrar to amend, correct, replace, impound, open, or create a vital record without reference to any other document.

"Correction" means the administrative correction or amendment of a certificate to reflect the correct information at items where incorrect information has originally been entered; or the addition of correct information for items previously omitted from the certificate. "Correction" does not mean to enter on the certificate facts different from those which existed at the time of the event.

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"Correction form" means the standard correction form; "Affidavit and Certificate of Correction;" prescribed by the State Registrar.

"Court of competent jurisdiction" means any Circuit Court in Illinois, any United States District Court, any equivalent court in any state or United States territory, any tribal court of any of the Indian Nations located within the United States, and any appellate level court in the United States. "Court of competent jurisdiction" does not include any administrative body or tribunal without general trial jurisdiction.

"Custodian" means the State Registrar of Vital Records, local registrars; or county clerks.

"Delayed birth registration" means the registration of any birth that was not registered within 3 days after the event and includes:

the registration of a birth that occurred more than 3 days, but less than one year prior to the application for registration;

the registration of a birth that occurred more than one year, but less than 7 years prior to the application for registration; and

the registration of a birth that occurred more than 7 years prior to the application for registration.

"Department" means the Illinois Department of Public Health.

"Final disposition" means the burial, cremation, or other disposition of a dead human body, fetus, or parts of a dead human body or fetus, including depositing in a vault or tomb, removal from the State, or use by a hospital or other institution for medical or scientific study in accordance with the Cadaver Act ~~[410 ILCS 510]~~ (and Section 8 of the Uniform Anatomical Gift Act ~~[755 ILCS 50/8]~~).

"Funeral director or person acting as such" means a person licensed in the State of Illinois to practice funeral directing, or a person acting under the direction or supervision of an Illinois licensed funeral director as an employee or an associate of the funeral director.

"Gestational surrogacy" means the process by which a woman attempts to carry and give birth to a child created through in vitro fertilization using the gamete or

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gametes of at least one of the intended parents and to which the gestational surrogate has made no genetic contribution. (Section 10 of the Gestational Surrogacy Act)

"Gestational surrogacy contract" means a written agreement regarding gestational surrogacy. (Section 10 of the Gestational Surrogacy Act)

"Gestational surrogate" means a woman who agrees to engage in a gestational surrogacy. (Section 10 of the Gestational Surrogacy Act)

"Intended parent" means a person or persons who enter into a gestational surrogacy contract with a gestational surrogate pursuant to which he or she will be the legal parent of the resulting child. (Section 10 of the Gestational Surrogacy Act) The intended parent or parents can be married, in a civil union or single.

"Legal representative" refers to:

an attorney acting on behalf of a person or persons~~person(s)~~ named on a birth certificate;

an agent authorized by power of attorney;

a court-appointed personal representative;

an agent with written, notarized authorization from a person or persons~~person(s)~~ named on a birth certificate for the purpose of obtaining a certified copy for that person; or

any other agent, approved by the State Registrar as a legal representative of the person to whom the birth certificate relates.

"Major correction" includes, but is not limited to, any administrative correction made more than one year after the date of the occurrence, or an administrative correction made within one year ~~after~~of the date of the occurrence relating to these items (except as provided in Section 500.40(f)(3)(D) ~~of this Part~~):

significant changes in the surname of the registered person;

on births, changes in the date or place of the occurrence;

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the ~~parent's age~~[parent\(s\) age\(s\)](#), if changed more than 2 years;

changes in the cause of death;

the identity of the ~~parent or parents~~[parent\(s\)](#) on the birth certificate;

changes in marital status; ~~or~~

the birthdate and/or age of the decedent on a death certificate; ~~or~~;

other like circumstances.

Any other item corrected within one year of the occurrence is considered a "minor correction-":

"Minor correction" means any administrative correction made within one year ~~after~~[after](#) the occurrence not meeting the criteria of a major correction.

"Personal services contract" means a contract between a unit of the State or local government body and an individual or a firm for the provision of services to the unit of the State or local government.

"State Registrar" means the State Registrar of Vital Records.

(Source: Amended at 37 Ill. Reg. _____, effective _____)

Section 500.15 Referenced Materials

The following Illinois statutes and administrative rules are referenced in this Part:

- a) [Freedom of Information Act \[5 ILCS 140\]](#)
- b) [State Records Act \[5 ILCS 160\]](#)
- c) [Cadaver Act \[410 ILCS 510\]](#)
- d) [Vital Records Act \[410 ILCS 535\]](#)
- e) [Article 8, Part 21 of the Code of Civil Procedure \[735 ILCS 5/Art. 8, Part 21\]](#)

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- f) Illinois Parentage Act of 1984 [750 ILCS 45]
- g) Gestational Surrogacy Act [750 ILCS 47]
- h) Adoption Act [750 ILCS 50]
- i) Uniform Anatomical Gift Act [755 ILCS 50]
- j) Access to Records of the Department of Public Health (2 Ill. Adm. Code 1127)

(Source: Added at 37 Ill. Reg. _____, effective _____)

Section 500.25 Gestational Surrogacy Births

- a) A process for establishing a parent-child relationship between a child and his or her intended parent or parents when the child is being carried by a gestational surrogate shall be completed prior to the birth of the child in accordance with Section 12 of the Vital Records Act, Section 6 of the Illinois Parentage Act of 1984, and the Gestational Surrogacy Act.
- b) At least one of the intended parents/co-parents must be the biological parent (egg or sperm donor) of the child being carried by the gestational surrogate.
- c) The name or names of the intended parent or parents, irrespective of gender or marital/civil union status, shall be entered on the child's birth record so long as the intended parent is a party to, or both intended parents are parties to, an otherwise lawful gestational surrogacy contract.
- d) The names of the gestational surrogate and the gestational surrogate's husband/civil union partner, if any, are not placed on the child's birth certificate.
- e) All parties and spouses/partners involved in the surrogate arrangement must sign certified statements consenting to the establishment of the child's parentage (see Appendix J).
- f) A physician licensed to practice medicine in all its branches in the State of Illinois must sign a certified statement that the child being carried by the gestational surrogate is the child of the intended parent/co-parent or parents/co-parents and that neither the gestational surrogate nor the gestational surrogate's husband/civil union partner, if any, is a biological parent of the child being

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carried by the gestational surrogate. (Section 6(a) of the Illinois Parentage Act of 1984)

- g) The attorneys representing the intended parent/co-parent or parents/co-parents and the gestational surrogate and her husband/civil union partner, if any, must each sign a separate certified statement that the parties have signed a gestational surrogacy contract and that this contract satisfies the requirements of Section 25 of the Gestational Surrogacy Act. (Section 6(a) of the Illinois Parentage Act of 1984)
- h) The certified statements must be on forms prescribed by the Department and executed prior to the birth of the child (see Appendix J).
- i) The certified statement must be witnessed by two competent adults age 18 or older who are not the parties and spouses/civil union partners involved in the surrogate arrangement.
- j) The original certified statements, not photocopies, must be delivered to the director of medical records in the hospital of planned delivery prior to the birth of the child. These original statements are to be placed in the medical record of the gestational surrogate. (Section 6(a) of the Illinois Parentage Act of 1984)
- k) If a surrogate birth occurs in an Illinois hospital other than the hospital planned for the delivery, the person preparing the birth certificate must be advised of the existence of the surrogate parentage statements. The birth record preparer should immediately contact the Department's Division of Vital Records, or the hospital where the birth was planned, for a copy of the surrogate parentage statements and also request that the original surrogate parentage statements be forwarded to the delivering hospital for inclusion in its medical records files.
- l) A photocopy of all of the certified statements shall be filed, at no charge, with the Department's Division of Vital Records prior to the birth of the child at the following address:

Illinois Department of Public Health
Division of Vital Records
925 East Ridgely Ave.
Springfield IL 62702-2737

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m) The Gestational Surrogacy Act does not apply if the gestational surrogate delivers the child outside of Illinois.

(Source: Added at 37 Ill. Reg. _____, effective _____)