
VITAL STATISTICS AMENDMENT ACT, 2004

CHAPTER 55

Assented to May 20, 2004

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 1 of the Vital Statistics Act, R.S.B.C. 1996, c. 479, is amended by adding the following definitions:

“**midwife**” means a person who is registered as a member of the College of Midwives of British Columbia;

“**registration**” means a registration under this Act of the particulars of a birth, stillbirth, adoption, marriage or death; .

2 Section 2 (1) and (2) is amended by adding “or midwife” after “medical practitioner”.

3 Section 4 (1) is amended by adding the following paragraph:

(e) in accordance with an order of the court under section 4.1 (1).

4 The following section is added:

Court order respecting child’s name

- 4.1** (1) The court may, in an order declaring a child’s parentage, make an order
- (a) that the registration of a child’s name be changed, or
 - (b) if the child’s name has not yet been registered, requiring the child’s name to be registered as specified in the order.
- (2) If an order under subsection (1) is in respect of a child’s surname, the court must order the child’s surname to be
- (a) the surname of either parent, or
 - (b) a surname consisting of both parents’ surnames hyphenated or combined in alphabetical order, in which case, section 4 (2) and (3) applies.
- (3) Before making an order under subsection (1), the court must
- (a) consider the best interests of the child, including the matters set out in section 9 (1) (a), (b) and (c),
 - (b) if the child is at least 7 years of age but less than 12, consider the views of the child, and
 - (c) if the child is 12 years of age or older, have the child’s written consent to change the child’s name.

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- (4) If an order is made under subsection (1),
 - (a) the chief executive officer must record the child's name on the registration of birth, consistent with the order of the court, and
 - (b) a birth certificate issued after recording the name under paragraph (a) must be issued as if the original registration had contained that name.

5 Section 8 (10) is repealed.**6 Section 10 (1) is amended by striking out "section 26" and substituting "section 4.1 or 26".****7 Section 11 (2) is repealed and the following substituted:**

- (2) Within 48 hours after a stillbirth in British Columbia, a statement in the form required by the chief executive officer respecting the stillbirth must be completed and delivered to a funeral director or the chief executive officer by
 - (a) the mother or father, or
 - (b) an adult person, including the funeral director, having knowledge of the facts relevant to the stillbirth.

8 Section 18 (5) is repealed and the following substituted:

- (5) After the conclusion of the autopsy, inquiry or inquest referred to in subsection (4),
 - (a) the medical practitioner who performed the autopsy, or the coroner, must complete and sign the medical certificate referred to in subsection (2) and deliver it to the chief executive officer, and
 - (b) the coroner must deliver a copy of any report prepared under section 20 (4) (b) or 25 (2) of the *Coroners Act* to the chief executive officer.

9 Section 28 is repealed and the following substituted:**Registrations fraudulently or improperly obtained**

- 28** If, after the notice to and hearing of those interested parties as the chief executive officer considers proper, the chief executive officer is satisfied that a registration under this Act was fraudulently or improperly obtained, the chief executive officer may order that it be cancelled, and after that a certificate must not be issued in respect of the registration.

10 Section 30 is amended**(a) by repealing subsections (1) to (3) and substituting the following:**

- (1) A person who wishes to dispute a decision of the chief executive officer to either accept or refuse an application for registration of a birth, stillbirth, marriage or

death may, within one year of the chief executive officer's decision, make an application to the Supreme Court for an order requiring the chief executive officer

- (a) to accept the application for registration and register the birth, stillbirth, marriage or death, as applicable, or
- (b) to reject the application for registration and cancel any registration of the birth, stillbirth, marriage or death, as applicable, that was made.

(2) On an application under subsection (1), the court may make an order described in that subsection if the court

- (a) is satisfied
 - (i) that the application is made in good faith, and
 - (ii) of the truth and sufficiency of the evidence adduced on the application, and
- (b) considers the standards respecting delayed registration set out in the regulations for the guidance of the chief executive officer. ,

(b) in subsection (4) by striking out “subsection (3)” and substituting “subsection (2)”, and

(c) by repealing subsection (9) and substituting the following:

- (9) Any interested person may appeal to the Supreme Court if the chief executive officer makes an order to cancel
 - (a) a registration under section 28, or
 - (b) a certificate under section 40.1 (2).

11 Section 36 is amended

(a) by repealing subsection (1) and substituting the following:

- (1) A certificate of birth may be issued by the chief executive officer, on application in the form required by the chief executive officer and on payment of the prescribed fee, only to the following persons:
 - (a) the person who is the subject of the certificate;
 - (b) a parent of the person who is subject of the certificate, if that person is less than 19 years of age or is incapable;
 - (c) a custodial guardian if no parent under paragraph (b) is capable;
 - (d) a person who has written authorization from a person described in paragraph (a), (b) or (c) to be issued the certificate;
 - (e) an officer of any provincial government or the government of Canada who requires the certificate for use in the discharge of official duties;
 - (f) any other person who satisfies the chief executive officer concerning the good faith of the person's cause for requiring the certificate. , **and**

(b) by repealing subsection (4) and substituting the following:

- (4) Subject to sections 63 (2) and 64 (3) of the *Adoption Act*, a certified copy or certified electronic extract of a registration of birth, or of a portion of the copy or extract, may be issued, on application in the form required by the chief executive officer and on payment of the prescribed fee, by the chief executive officer only to the following persons:
- (a) a person who is eligible to receive a certificate of birth under subsection (1);
 - (b) a parent of the person who is the subject of the registration, regardless of the age or capability of that person;
 - (c) if the person described under subsection (1) (a) is deceased, the nearest living relative of that person;
 - (d) a person who requires the copy or extract to comply with section 32 (b) of the *Adoption Act*;
 - (e) a medical health officer appointed under the *Health Act* who requires the copy or extract for use in the discharge of official duties;
 - (f) any person, if
 - (i) the person described under subsection (1) (a) has been deceased for 20 years or more, or
 - (ii) more than 120 years have passed since the birth of the person described under subsection (1) (a);
 - (g) any other person who satisfies the chief executive officer concerning the good faith of the person's cause for requiring the copy or extract.

12 Section 37 is repealed and the following substituted:**Marriage certificates**

- 37** (1) A certificate of marriage may be issued by the chief executive officer, on application in the form required by the chief executive officer and on payment of the prescribed fee, only to the following persons:
- (a) either party to the marriage;
 - (b) a person who has written authorization from a person described in paragraph (a) to be issued the certificate;
 - (c) an officer of any provincial government or the government of Canada who requires the certificate for use in the discharge of official duties;
 - (d) any other person who satisfies the chief executive officer concerning the good faith of the person's cause for requiring the certificate.
- (2) A certified copy or certified electronic extract of a registration of marriage may be issued by the chief executive officer, on application in the form required by the chief executive officer and on payment of the prescribed fee, only to the following persons:

- (a) a person who is eligible to receive a certificate of marriage under subsection (1);
- (b) if a person described under subsection (1) (a) is deceased, the nearest living relative of that person;
- (c) any person, if
 - (i) both parties described under subsection (1) (a) have been deceased for 20 years or more, or
 - (ii) more than 75 years have passed since the marriage of the parties described under subsection (1) (a);
- (d) any other person who satisfies the chief executive officer concerning the good faith of the person's cause for requiring the copy or extract.

13 Section 38 is amended

(a) by repealing subsection (3) and substituting the following:

- (3) A certified copy or certified electronic extract of a registration of a death or stillbirth may be issued by the chief executive officer, on application in the form required by the chief executive officer and on payment of the prescribed fee, only to the following persons:
 - (a) the nearest living relative of the deceased;
 - (b) a medical practitioner who requires the copy or extract for use in the treatment of a member of the deceased's immediate family, if the family member's illness, in the opinion of the medical practitioner, may be life threatening;
 - (c) a person who is authorized by a court order to be issued the copy or extract;
 - (d) an officer of any provincial government or the government of Canada who requires the copy or extract for use in the discharge of official duties;
 - (e) any person, if more than 20 years have passed since the death of the deceased;
 - (f) any other person who satisfies the chief executive officer concerning the good faith of the person's cause for requiring the copy or extract. , **and**

(b) in subsection (4) by striking out "registration in the chief executive officer's office." and substituting "registration in the vital statistics registrar's office."

14 Sections 38 (5), 39 (2) and (4) and 40 (1) are amended by striking out "certified copy, photostatic copy or photographic print" and substituting "certified copy or certified electronic extract".

15 Section 39 (4) (a) is amended by striking out "section 36 (4), 37 (2) or 38 (2) or (3)," and substituting "section 38 (2),".

16 Section 40 (4) is repealed and the following substituted:

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- (4) Unless cancelled under section 40.1, a document or certificate issued under this Act under the signature of a person described in subsection (3) is valid, even if the signatory ceased to hold office before the issue of the document or certificate.

17 The following section is added:**Cancellation of certificates**

- 40.1** (1) The chief executive officer may order that a certificate be cancelled on or after the occurrence of any of the following events in respect of a person named in the certificate:
- (a) the registration of birth is altered under section 3;
 - (b) a change of name is recorded under section 4.1 (4);
 - (c) the registration of a foundling is cancelled under section 8 (7) (b);
 - (d) a change in a given name is recorded under section 10 (3);
 - (e) an adoption order is registered and the original birth registration deleted under section 12;
 - (f) a marriage is annulled;
 - (g) a death;
 - (h) a change of name is recorded under section 26 (1) (a);
 - (i) a change of sex designation is made under section 27 (1);
 - (j) a registration is cancelled under section 28;
 - (k) an error or omission is corrected under section 29.
- (2) The chief executive officer may order that a certificate be cancelled if, after the notice to and hearing of those interested parties as the chief executive officer considers proper, the chief executive officer is satisfied that the certificate
- (a) was obtained, or is being possessed or used, fraudulently or for improper purposes,
 - (b) is being used in a manner that violates this Act or the regulations, or
 - (c) is invalid for any reason other than a reason listed under subsection (1).
- (3) If a certificate is cancelled under subsection (1) or (2), the chief executive officer may make an order requiring the delivery, to the chief executive officer, of
- (a) the certificate, and
 - (b) any certified copy or certified electronic extract of the registration on which the certificate was based.
- (4) If an order is made under subsection (3), any person having possession or control of the certificate, certified copy or certified electronic extract must deliver it to the chief executive officer within the time specified by the chief executive officer.

18 Section 41 is repealed and the following substituted:

Certificate or copies as evidence

- 41** (1) Subject to subsection (3), a certificate, or a certified copy or certified electronic extract of a registration, is admissible in court as evidence of the facts recorded in the certificate, certified copy or certified electronic extract, as applicable.
- (2) It is not necessary to prove the signature or official position of the person who has signed a certificate, certified copy or certified electronic extract described under subsection (1).
- (3) A certificate that has been cancelled under section 40.1, or a certified copy or certified electronic extract of a registration that has been cancelled under section 8 or 28, is admissible in court as evidence only
- (a) of the fact of the certificate, certified copy or certified electronic extract having been issued, and
 - (b) of the information contained on the face of the certificate or registration, without being evidence of the truth of that information.

19 *Sections 43 and 44 are amended by striking out “adoptions, changes of name and dissolutions and annulments of marriage” and substituting “adoptions and changes of name”.*

20 *Section 49 (1) is amended by striking out “offence.” and substituting “offence and is liable on conviction to a fine of not more than \$50 000.”*

21 *Section 54 (2) is amended by adding the following paragraph:*

- (j) respecting restrictions or prohibitions on the use of a birth, marriage or death certificate, or classes of those certificates.

Commencement

- 22** This Act comes into force by regulation of the Lieutenant Governor in Council.