

Chapter 8

AN ACT TO AMEND THE VITAL STATISTICS ACT

(Assented to March 17, 2015)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **The *Vital Statistics Act* is amended by this Act.**
2. **Paragraph (b) of the definition of “parent” in section 1 is amended by adding “ or 2(2.3)” after “subsection 2(2.1)”.**
3. **Subsection 2(2.1) is amended by adding “or father” after “the mother”.**
4. **The following is added after subsection 2(2.1):**

Statutory declaration of parent

(2.2) Where a registration of birth does not include the particulars of a parent, that parent may at any time submit a statutory declaration of his or her particulars in the prescribed form and with the prescribed fee to the Registrar General.

Statutory declaration of person acknowledging to be a parent

(2.3) Where the registration of birth does not include the particulars of a person who acknowledges himself or herself to be a parent of the child since the time of the child’s birth, the mother or father of the child and that person may at any time jointly submit a statutory declaration of the particulars of that person in the prescribed form and with the prescribed fee to the Registrar General.

Amendment of registration of birth

(2.4) The Registrar General shall amend the registration of birth in accordance with any statutory declaration submitted in accordance with subsection (2.2) or (2.3) by making the necessary notation on the registration.

5. **Subsection 2(5) is amended by striking out “the statement” and substituting “a statement or statutory declaration submitted under this section”.**
6. **Section 3 is amended by:**
 - (a) **renumbering section 3 as subsection 3(1); and**
 - (b) **adding the following after subsection 3(1):**

Surname in case of disagreement

(2) If the parents who complete the statement respecting the birth referred to in subsection 2(2) cannot agree on a surname, the surname must be

- (a) the parents' surname, if the parents have the same surname; or
- (b) a surname consisting of two parents' surnames hyphenated or combined in alphabetical order, if the parents have different surnames.

Priority for surnames

(3) For the purposes of paragraph (2)(b), where there are more than two parents, priority shall be given to the surnames of the natural parents.

Request to change surname

(4) A parent who did not complete the statement of birth referred to in subsection 2(2) may submit a request to change the surname of the child in the prescribed form and with the prescribed fee to the Registrar General within five years of the child's birth.

Request to change surname accompanying statutory declaration

(5) A person submitting a statutory declaration under subsection 2(2.2) or (2.3) within five years of the child's birth may attach to the statutory declaration a request in the prescribed form and with the prescribed fee to change the surname of the child.

Amending surname on registration of birth

(6) Where the Registrar General receives a request submitted in accordance with subsection (4), (5) or (7), he or she shall in the following cases amend the registration of birth by making the necessary notation to show the requested surname as the surname of the child on the registration of birth:

- (a) if all other parents whose particulars appear on the registration of birth consent and the requested surname is in compliance with subsection (1);
or
- (b) the requested surname is in compliance with paragraph (2)(a) or (2)(b) and subsection (3).

New request in case of non-compliance

(7) Where the Registrar General receives a request under subsection (4) or (5) or this subsection but refuses it for failure to comply with paragraph (6)(a) or (6)(b), a new request may be submitted in the prescribed form and with the prescribed fee.

7. The following is added after section 11

Interpretation

11.1 (1) In this section and in sections 11.2 and 11.3,

“health care professional” means a medical practitioner, nurse practitioner or psychologist or a member of a prescribed health care profession who

- (a) is licensed, certified or registered to practice his or her health care profession in the jurisdiction within which he or she practices; and
- (b) is in good standing with the regulatory authority for that profession in that jurisdiction; (*professionnel de la santé*)

“sex designation” means the recorded sex of a person, either male or female. (*désignation du sexe*)

Application for change of sex designation

(2) A person whose birth is registered in Nunavut may apply to the Registrar General to change the sex designation on his or her registration of birth.

Contents of application

(3) An applicant under subsection (2) shall include the following with his or her application:

- (a) a statutory declaration in a prescribed form attesting that:
 - (i) he or she identifies with the requested sex designation, and
 - (ii) he or she is currently living full-time in a manner that is consistent with the requested sex designation and intends to continue doing so;
- (b) supporting letters from two health care professionals that meet the requirements set out in subsection (4) and (5);
- (c) evidence of
 - (i) his or her current full legal name and date and place of birth, and
 - (ii) the names of his or her parents;
- (d) evidence that his or her birth is registered in Nunavut;
- (e) evidence of his or her place of residence if not in Nunavut;
- (f) all certificates and certified copies respecting his or her birth that were previously issued under section 30 and that are in his or her control;
- (g) any additional information that is prescribed; and
- (h) the prescribed fee.

Supporting letters

(4) A supporting letter referred to in paragraph (3)(b) must be provided by a health care professional who

- (a) has treated or evaluated the applicant; and
- (b) practices in a jurisdiction in Canada or, in the case of an applicant whose place of residence is outside Canada, practices in any jurisdiction.

Idem

(5) A supporting letter referred to in paragraph (3)(b) must

- (a) identify the applicant by his or her current full legal name and date of birth;
- (b) include a statement that the health care professional is of the opinion
 - (i) that the sex designation on the applicant's registration of birth is inconsistent with the sex designation with which the applicant identifies, and
 - (ii) that the sex designation requested by the applicant is consistent with the sex designation with which the applicant identifies;
- (c) include evidence that the health care professional is qualified to practice in his or her jurisdiction;
- (d) include a statement about the duration of the health care professional's relationship with the applicant and of any additional case history regarding the applicant reviewed by the health care professional;
- (e) if the applicant is a minor, include a statement that the health care professional is of the opinion that the minor has the capacity to make health care decisions;
- (f) include any additional information that is prescribed; and
- (g) be in a form that is acceptable to the Registrar General.

Alternate documentation

(6) The Registrar General may accept any prescribed documentation instead of the supporting letters referred to in paragraph 3(b).

Additional evidence

(7) The Registrar General may require an applicant under subsection (2) to provide any additional documentation, evidence, material or information in respect of the application.

Changing sex designation

11.2. (1) Subject to subsection (2), the Registrar General shall amend the birth registration of an applicant by changing the sex designation if the Registrar General receives

- (a) an application under subsection 11.1(2); and
- (b) payment of the prescribed fee.

Refusal to change sex designation

(2) The Registrar General shall refuse to amend a registration of birth in accordance with subsection (1) if

- (a) the application does not fulfil the requirements of subsections 11.1(3) to (6); or
- (b) a request is made under subsection 11.1(7) and the applicant does not provide additional documentation, evidence, material or information that is satisfactory to the Registrar General.

Reasons

(3) On refusing to amend a registration of birth statement under this section, the Registrar General shall provide written reasons to the applicant.

New application

(4) A refusal under this section does not prejudice the applicant's right to make a new application under subsection 11.1(2) where further evidence is provided.

Birth certificates after change of sex designation

11.3 Every birth certificate and certified copy of a registration of birth issued in respect of the applicant after an amendment is made under subsection 11.2(1) shall be issued as if the original registration had been made with the sex designation changed.

Return of certificates and certified copies

11.4 Upon request of the Registrar General, a person who is in possession or control of a certificate or certified copy issued under section 30 in respect of an applicant's birth before an amendment is made under subsection 11.2(1) shall return the birth certificate to the Registrar General immediately for cancellation.

8. Subsection 13(2) is amended by striking out “in lawful wedlock”.

9. The following is added after subsection 13(2.1):

Birth parents

(2.2) Where a new registration of birth has been prepared under paragraph (2.1)(a), a person who could have added his or her particulars to the original registration of birth as a parent may at any time submit a statutory declaration of his or her particulars to the Registrar General in the same manner and with the same fee as a statutory declaration submitted under subsection 2(2.2) or 2(2.3).

Amendment

(2.3) The Registrar General shall amend the names of the birth parents on a registration of birth in accordance with any statutory declaration submitted in accordance with subsection (2.2) by making the necessary notation on the registration.

10. The following is added after subsection 19(3):

Coroner's duty when a body is destroyed, irrecoverable or removed from Nunavut

(3.1) On conducting an investigation or holding an inquest under the *Coroners Act* in circumstances in which a body has been destroyed in whole or in part, has been found but cannot be recovered, or has been removed from Nunavut, a coroner who is satisfied that a death has occurred in Nunavut shall

- (a) enter the personal particulars of the deceased on a death registration statement;
- (b) complete the medical certificate portion of the death registration statement by recording that the body has been destroyed in whole or in part, has been seen but could not be recovered, or has been removed from Nunavut; and
- (c) without delay on the close of the investigation or inquest, submit the completed death registration statement to the Registrar General.

11. The following is added after section 51:

Interpretation

51.1 (1) In this section and section 51.2, "record" includes a statement, statutory declaration, registration, record of information or other document referred to in this Act.

Electronic version of records

(2) The Registrar General and district registrars may copy, create and maintain an electronic version of any original record.

Disposal of original record

(3) The Registrar General and district registrars may dispose of an original record in accordance with the regulations if he or she maintains an electronic version of the original record as a permanent record of that original in accordance with the regulations.

Conflict or inconsistency

(4) If there is a conflict or inconsistency between an original record and an electronic version of that record that is not maintained as a permanent record under subsection (3), the information set out in the original record prevails.

Reference to record

(5) Any reference in this Act to a record other than an original record includes an electronic version of that record that is copied, created or maintained in accordance with this section.

Reference to original record

(6) Any reference in this Act to an original record includes a permanent record maintained electronically under subsection (3).

Electronic database

- 51.2** (1) The Registrar General may establish and maintain an electronic database of
- (a) the particulars of registered births, stillbirths, adoptions, deaths, and marriages;
 - (b) the particulars of amendments and corrections to registrations of births, stillbirths, adoptions, deaths, and marriages;
 - (c) information respecting the cancellation of registrations; and
 - (d) information respecting the issuance of certificates and certified copies of registered statements.

Exclusion

(2) Electronic versions of records maintained under subsection 51.1(3) as permanent records of the originals do not constitute an electronic database.

Reliance on electronic database

(3) Subject to subsection (4), the Registrar General and district registrars may rely on the information recorded in the electronic database for any purpose related to the administration of this Act.

Conflict or inconsistency

(4) If there is a conflict or inconsistency between any information recorded in the electronic database and information set out in an original or electronic version of a record, the information set out in the original or the electronic version of the record prevails.

Clerical or typographical error

(5) The Registrar General may at any time and on his or her initiative, correct a clerical or typographical error or omission in the electronic database, provided that any such correction is not inconsistent with information set out in an original record.

12. Subsection 60(1) is amended:

- (a) **by repealing paragraph (m); and**
- (b) **by adding the following after paragraph (l):**

- (1.1) respecting the disposal of original records when electronic versions are kept as permanent records of the originals;
- (1.2) respecting the maintenance of electronic versions of original records as permanent records of those originals; and

13. Subsection 60(1) is amended:

- (a) **in the English version of paragraph (1.2) by striking out “and”; and**
- (b) **by adding the following after paragraph (1.2):**

- (1.3) prescribing the health care professions included in the definition of “health care professional” under section 11.1;
- (1.4) prescribing additional information required for an application under subsection 11.1(3);
- (1.5) prescribing additional information required for a supporting letter under subsection 11.1(5);
- (1.6) respecting the documentation that the Registrar General may accept instead of the supporting letters referred to in paragraph 11.1(3)(b); and

Consequential Amendments

14. Paragraph 8(01)(b) of the *Children’s Law Act* is amended by striking out “the person and the mother of the child have filed a statement under subsection 2(2.1)” and substituting “the person and the mother or father of the child have jointly filed a statement or statutory declaration under subsection 2(2.1), 2(2.3) or 13(2.2)”.

Coming into force

15. Sections 2, 4 to 7, 9, 13 and 14 come into force on a day or days to be fixed by order of the Commissioner.