

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 844

Short Title: Amend Vital Records Law.

(Public)

---

Sponsors: Representatives Barbee; McMahan and Buchanan.

---

Referred to: State Government.

---

April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO AMEND THE VITAL RECORDS LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-26 is repealed.  
Sec. 2. Chapter 130A of the General Statutes is amended by adding the following new section to read:

**"§ 130A-26A. Violations of Article 4.**

(a) A person who commits any of the following acts shall be guilty of a Class 1 misdemeanor:

- (1) Willfully and knowingly makes any false statement in a certificate, record, or report required by Article 4 of this Chapter;
- (2) Removes or permits the removal of a dead body of a human being without authorization provided in Article 4 of this Chapter;
- (3) Refuses or fails to furnish correctly any information in the person's possession or furnishes false information affecting a certificate or record required by Article 4 of this Chapter;
- (4) Fails, neglects, or refuses to perform any act or duty required by Article 4 of this Chapter or by the instructions of the State Registrar prepared under authority of the Article.

- 1           (5) Charges a fee for performing any act or duty required by Article 4 of  
2           this Chapter or by the State Registrar pursuant to Article 4 of this  
3           Chapter, other than fees specifically authorized by law.
- 4       (b) A person who commits any of the following acts shall be guilty of a Class I  
5 felony:
- 6           (1) Willfully and knowingly makes any false statement in an application for  
7           a certified copy of a vital record, or who willfully and knowingly  
8           supplies false information intending that the information be used in the  
9           obtaining of any copy of a vital record;
- 10          (2) Without lawful authority and with the intent to deceive makes,  
11          counterfeits, alters, amends, or mutilates a certificate, record, or report  
12          required by Article 4 of this Chapter or a certified copy of the  
13          certificate, record, or report;
- 14          (3) Willfully and knowingly obtains, possesses, sells, furnishes, uses, or  
15          attempts to use for any purpose of deception, a certificate, record, or  
16          report required by Article 4 of this Chapter or a certified copy of the  
17          certificate, record, or report, which is counterfeited, altered, amended, or  
18          mutilated, or which is false in whole or in part or which relates to the  
19          birth of another person, whether living or deceased;
- 20          (4) When employed by the Vital Records Section of the Department or  
21          designated under Article 4 of this Chapter, willfully and knowingly  
22          furnishes or processes a certificate of birth, death, marriage, or divorce,  
23          or certified copy of a certificate of birth, death, marriage, or divorce  
24          with the knowledge or intention that it be used for the purposes of  
25          deception;
- 26          (5) Without lawful authority possesses a certificate, record, or report  
27          required by Article 4 of this Chapter or a certified copy of the  
28          certificate, record, or report knowing that it was stolen or otherwise  
29          unlawfully obtained;
- 30          (6) Willfully alters, except as provided by G.S. 130A-118, or falsifies a  
31          certificate or record required by Article 4 of this Chapter; or willfully  
32          alters, falsifies, or changes a photocopy, certified copy, extract copy, or  
33          any document containing information obtained from an original or copy  
34          of a certificate or record required by Article 4 of this Chapter; or  
35          willfully makes, creates, or uses any altered, falsified or changed record,  
36          reproduction, copy or document for the purpose of attempting to prove  
37          or establish for any purpose whatsoever any matter purported to be  
38          shown on it;
- 39          (7) Without lawful authority, manufactures or possesses the seal of: (i) the  
40          Vital Records Section, (ii) a county register of deeds, or (iii) a county  
41          health department, or without lawful authority, manufactures or  
42          possesses a reproduction or a counterfeit copy of the seal;

- 1           (8) Without lawful authority prepares or issues any certificate which  
2           purports to be an official certified copy of a vital record;  
3           (9) Without lawful authority, manufactures or possesses Vital Records  
4           Section, county register of deeds, or county health department vital  
5           records forms or safety paper used to certify births, deaths, marriages,  
6           and divorces, or reproductions or counterfeit copies of the forms or  
7           safety paper; or  
8           (10) Willfully and knowingly furnishes a certificate of birth or certified copy  
9           of a record of birth with the intention that it be used by an unauthorized  
10           person or for an unauthorized purpose."

11           Sec. 3. G.S. 130A-101 reads as rewritten:

12 **"§ 130A-101. Birth registration.**

13           (a) A certificate of birth for each live birth, regardless of the gestation period,  
14 which occurs in this State shall be filed with the local registrar of the county in which the  
15 birth occurs within ~~10~~five days after the birth and shall be registered by the registrar if it  
16 has been completed and filed in accordance with this Article and the rules.

17           (b) When a birth occurs in a hospital or other medical facility, the person in charge  
18 of the facility shall obtain the personal data, prepare the certificate, secure the signatures  
19 required by the certificate and file it with the local ~~registrar~~registrar within five days after  
20 the birth. The physician or other person in attendance shall provide the medical  
21 information required by the ~~certificate~~certificate, and shall ~~certify the facts of birth within 10~~  
22 ~~days after the birth.~~ If the physician or other person in attendance does not certify the facts of  
23 birth within the ten day period, the person in charge of the facility may complete and sign the  
24 certificate.

25           (c) When a birth occurs outside a hospital or other medical facility, the certificate  
26 shall be prepared and filed by one of the following in the indicated order of priority:

- 27           (1) The physician in attendance at or immediately after the birth, or in the  
28 absence of such a person;  
29           (2) Any other person in attendance at or immediately after the birth, or in  
30 the absence of such a person;  
31           (3) The father, the mother or, in the absence or inability of the father and  
32 the mother, the person in charge of the premises where the birth  
33 occurred.

34           (d) When a birth occurs on a moving conveyance and the child is first moved from  
35 the conveyance in this State, the birth shall be registered in the county where the child is  
36 first removed from the conveyance, and that place shall be considered the place of birth.

37           (e) If the mother was married at the time of either conception or birth, or between  
38 conception and birth, the name of the husband shall be entered on the certificate as the  
39 father of the child, unless paternity has been otherwise determined by a court of  
40 competent jurisdiction, in which case the name of the father as determined by the court  
41 shall be entered. ~~The surname of the child shall be the same as that of the husband, except that~~  
42 ~~upon agreement of the husband and mother, or upon agreement of the mother and father if~~  
43 ~~paternity has been otherwise determined, any surname may be chosen.~~

1 (f) If the mother was unmarried at all times from date of conception through date  
2 of birth, the name of the father shall not be entered on the certificate unless the child's  
3 mother and father complete an affidavit acknowledging paternity which contains the  
4 following:

5 (1) A sworn statement by the mother consenting to the assertion of paternity  
6 by the father and declaring that the father is the child's natural father;

7 (2) A sworn statement by the father declaring that he believes he is the  
8 natural father of the child;

9 (3) Information explaining in plain language the effect of signing the  
10 affidavit, including a statement of parental rights and responsibilities  
11 and an acknowledgment of the receipt of this information; and

12 (4) The social security numbers of both parents.

13 The State Registrar, in consultation with the Child Support Enforcement Section of the  
14 Division of Social Services, shall develop and disseminate a form affidavit for use in  
15 compliance with this section, together with an information sheet that contains all the  
16 information required to be disclosed by subdivision (3) of this subsection.

17 Upon the execution of the affidavit, the declaring father shall be listed as the father on  
18 the birth certificate and shall be presumed to be the natural father of the child. The  
19 executed affidavit shall be filed with the registrar along with the birth certificate. A  
20 certified copy of the affidavit shall be admissible in any action to establish paternity. The  
21 presumption of paternity arising under this section may be rebutted in a legal action only  
22 by clear, cogent, and convincing evidence. ~~The surname of the child shall be determined by~~  
23 ~~the mother, except if the father's name is entered on the certificate, the mother and father shall~~  
24 ~~agree upon the child's surname. If there is no agreement, the child's surname shall be the same as~~  
25 ~~that of the mother.~~

26 The execution and filing of this affidavit with the registrar does not affect rights of  
27 inheritance unless the affidavit is also filed with the clerk of court in accordance with  
28 G.S. 29-19(b)(2).

29 (g) Each parent shall provide his or her social security number to the person  
30 responsible for preparing and filing the certificate of birth."

31 Sec. 4. This act becomes effective October 1, 1995.