



PART I ADMINISTRATION OF THE GOVERNMENT
(Chapters 1 through 182)

TITLE VII CITIES, TOWNS AND DISTRICTS

CHAPTER 46 RETURN AND REGISTRY OF BIRTHS, MARRIAGES AND DEATHS

Section 13 Correction of records

Section 13. (a) If the record relating to a birth, marriage, acknowledgment or adjudication of paternity, or death does not contain all the required facts, or if it is claimed that the facts are not correctly stated therein, the town clerk or state registrar shall receive from the person required by law to furnish the information for the original record, or by credible persons having knowledge of the case, an affidavit containing the missing or corrected facts required to correct or complete the record, accompanied by documentary evidence substantiating such facts beyond a reasonable doubt. Except as hereinafter provided, such amendments or additions can be made only to reflect the correct information at the time of the event. The minimum documentary evidence to be required shall be specified by regulations promulgated pursuant to section 4 of chapter 17.

(b) Any record filed under this chapter may be amended, corrected or supplemented within one year after the date of the event without such affidavit or documentary evidence if allowed by regulations promulgated pursuant to the provisions of section 4 of chapter 17, except such amendments, corrections, or supplements which are expressly provided for hereinafter.

(c) If a person shall have acquired the status of a child born in wedlock by the intermarriage of his parents and the acknowledgment of his father or an adjudication of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth or any other law, the record of his birth shall be amended so as to read, in all respects, as if such person had been reported at the time of birth as born to such parents in lawful wedlock.

(d) If a person is born to parents not married to each other or if the mother and her husband at the time of the birth or conception of the child complete an affidavit denying that the husband is the father of the child, or if there is an adjudication of the nonpaternity of the mother's husband, such person's birth record shall be amended to include the putative father's information required by section 1 provided that:

(1) the mother and the putative father have signed and filed an acknowledgment of paternity with the clerk in the city or town where the birth occurred, the state registrar, or the probate and family court having jurisdiction over the parties or the child pursuant to chapter 209C;

(2) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth and the court presents to the state registrar a

certified copy of such judgment on a form provided by the state registrar to amend the birth certificate;

(3) there has been an acknowledgment of paternity, or a judgment of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth or of another state or a foreign country, and one of the following persons requests an amendment and presents to the state registrar a copy of such judgment: the mother, the father named in such acknowledgment or judgment of paternity, the father named currently on the birth record, the subject of the record, the legal guardian of the subject, or the legal representative of any of the foregoing;

(4) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction in the commonwealth and the court orders the state registrar to amend the birth certificate to include the information relating to the father. Such order may include an order to amend information relating to the name of the child; or

(5) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction in the commonwealth approving or adopting a judgment establishing paternity issued by a court or administrative agency of competent jurisdiction under the law of another state or a foreign country, and the court presents to the state registrar a certified copy of such judgment on a form provided by the state registrar to amend the birth certificate. The clerk of the city or town where the child was born or the state registrar shall amend the birth certificate consistent with the findings of the court and the certificate shall be required to read, in all respects, as if such information had been reported at the time of such birth. The fact that paternity was established after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown. The original certificate and the evidence upon which the amended birth certificate was made and the original birth certificate shall be subject to inspection by the mother, the father, the subject of the record, any man presumed to be the father under section 6 of chapter 209C, or government officials requiring access for their official duties, including the IV-D agency as set forth in chapter 119A, or a legal representative of the subject of the record; an order of the probate and family court in the county where the child was born is required for anyone else seeking access to the original record or evidence.

(e) If a person has completed sex reassignment surgery, so-called, and has had his name legally changed by a court of competent jurisdiction, the birth record of said person shall be amended to reflect the newly acquired sex and name, provided that an affidavit is received by the town clerk, executed by the person to whom the record relates, and accompanied by a physician's notarized statement that the person named on the birth record has completed sex reassignment surgery, so-called, and is not of the sex recorded on said record. Said affidavit shall also be accompanied by a certified copy of the legal change of name aforementioned above.

(f) If the birth of a child is recorded as that of a child born in wedlock to the mother and the man who was her husband at the time of such birth, and the nonpaternity of the husband has been legally

determined by a court of competent jurisdiction pursuant to the laws of the commonwealth or by a court or administrative agency of competent jurisdiction under the laws of another state or foreign country, or if the birth of a child is recorded as that of a child whose parentage has been acknowledged by the mother and the putative father and either parent rescinds the acknowledgment as provided in section 11 of chapter 209C or under similar law of another state or foreign country, the birth record shall be amended to remove the father's information provided that:

(1) there has been a judgment of nonpaternity by a court under the laws of the commonwealth and the court presents to the state registrar a certified copy of such judgment, together with a form provided by the state registrar to amend the birth certificate; or

(2) there has been a judgment of nonpaternity by a court or administrative agency of competent jurisdiction under the laws of another state or foreign country and one of the following persons requests an amendment and presents to the state registrar a certified copy of such judgment: the mother, the father named in such judgment of nonpaternity, the subject of the record, the legal guardian of the subject of the record, or the legal representative of any of the foregoing.

(g) If a person shall have been adopted by judicial decree, the clerk of the town where such person was born or the state registrar shall receive the certificate of such adoption issued under the authority of section 6A of chapter 210 or a certified copy of the decree for such adoption, whether issued by a probate court for the commonwealth or by the appropriate court of any other state or country. Except as hereinafter provided, said clerk or state registrar, after receiving such certificate of adoption or any such certified copy, shall forthwith correct the record of birth of the person so adopted. If such certificate or certified copy does not contain the facts relative to the adopting parents hereinafter required for correcting such record, the clerk or state registrar shall not correct such record until he has received an affidavit, signed and sworn to by the adopting parents, or by the person adopted, furnishing such facts. If a person who was in the custody of the department of children and families is adopted and the adopting parents surrender the person back to the department, that person shall have the right to change the birth certificate back to that person's biological name.

(h) The clerk or state registrar shall on forms provided by the state registrar complete an amended, corrected, or supplemented record of birth, death, acknowledgment or adjudication of paternity, or marriage. The original record of birth, death, acknowledgment or adjudication of paternity, or marriage and all returns and index entries in whatever format they are maintained shall be identified as corrected, amended, or supplemented. Effective January 1, 2000, all documentary evidence, including certificates of adoption or certified copies thereof, shall be sent to the state registrar for permanent filing. Until that date, the clerk shall transmit to the state registrar a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit. If the affidavit is initially submitted to the state registrar, the state registrar shall forward to the town clerk where the birth or death occurred, a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit, and the town

clerk shall thereupon correct, amend or supplement the record in his office. If a copy of the record had been sent to the town clerk of the residence of the parents at the time of birth or where the deceased lived at the time of death, the state registrar shall forward to such city or town clerk a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit, and the town clerk shall thereupon correct, amend or supplement the record in his office. Reference to the record of the affidavit or such decree shall be made on the margin of the original record. If the clerk or state registrar furnishes a copy of such a record, he shall certify to the facts contained therein as corrected, amended or supplemented. Except as provided in the following two sentences, said clerk or other official responsible for the keeping of such records shall not release said information contained in such original record except upon proper judicial order, or when requested by a person seeking his own birth or marriage record, or by a person whose official duties, in the opinion of the state registrar or town clerk, entitle him to the information contained in the original record. Death records which are corrected, amended or supplemented after January 1, 1996, as well as the affidavit of the party seeking the correction, amendment, or supplementation of the death record and all documentary evidence or related records submitted in support of such affidavit shall not be restricted, except for records or other items of documentary evidence submitted in support of the affidavit which are considered medical records for purposes of paragraph (c) of clause twenty-sixth of section 7 of chapter 4 are restricted by section 2A of this chapter, or are restricted by judicial order. If the original record has been amended following adoption in accordance with this section, the clerk or state registrar shall issue information contained in the original record only upon receipt of an order of the probate court for the county in which said adoption was granted or in accordance with section 2B, or in the case of an adoption granted outside the commonwealth, upon order of the probate court for the county in which said birth occurred or in accordance with said section 2B, instructing said clerk or state registrar to release the information contained in such original record. Evidence contained in the adoption record of a parent's willingness to provide information about her identity to the adopted person shall, except in extraordinary circumstances, be considered sufficient evidence to warrant the granting of an order for release of the information contained in the birth certificate registered prior to adoption. If the corrected, amended or supplemented record is that of a person who has acquired the status of a child born in wedlock, or whose record has been amended through an adoption decree, or whose record has been amended through addition of the name of the father, the clerk or state registrar shall not indicate on such copy that the record has been corrected, amended or supplemented.

(i) Such affidavit, or a certified copy of the record of any other town or of a written statement made at the time by any person since deceased required by law to furnish evidence thereof, may be made the basis for completing the record of a birth, marriage or death not containing all the facts required by section 1 of this chapter. No delayed record of birth shall be established for any deceased person more than five years after the date of death nor shall any delayed record of marriage be established if both the wife and husband are deceased, except as provided by sections 13A, 13B and 13C.

(j) Upon the adoption of any abandoned child or foundling within the commonwealth and adopted according to the laws thereof and as to whose birth the facts required by section 1 or section 1A to be recorded have not been recorded, or, if recorded, cannot be identified, the state registrar upon receipt of an affidavit executed by the adopting parents, setting forth all the material facts known to him or them concerning said child or foundling, and of an order issued by the commissioner of children and families determining the date of birth of such child or foundling as nearly as may be, shall receive and record the facts relative to such births as provided in section 1 or section 1A. In addition to any other certificates or copies of such records authorized by law, said commissioner may, upon application, issue certificates setting forth the facts concerning said abandoned child or foundling appearing in any records of the department of children and families if no certificate of birth is recorded in the city or town where the child was born or the state registry.

(k) The person upon whose application a record of a birth, marriage or death is corrected or amended, or a delayed record of a birth, marriage or death is entered shall pay the fee as determined by the secretary of administration and finance.