

CHAPTER 2
BIRTH CERTIFICATES

Authority

N.J.S.A. 26:8-23.

Source and Effective Date

R.1999 d.410, effective December 6, 1999.
See: 30 N.J.R. 4107(a), 31 N.J.R. 4042(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 2, Birth Certificates, expires on June 4, 2005. See: 37 N.J.R. 172(b).

Chapter Historical Note

Chapter 2, Birth Certificates; Subchapter 1, Administrative Policy, was adopted as R.1972 d.135, effective August 1, 1972. See: 4 N.J.R. 122(b), 4 N.J.R. 186(b).

Subchapter 2, Fees, was adopted as R.1972 d.206, effective December 1, 1972. See: 4 N.J.R. 266(a).

Chapter 2, Birth Certificates, was repealed and Chapter 2, Birth Certificates, was adopted as new rules by R.1993 d.397, effective August 16, 1993. See: 24 N.J.R. 4325(a), 25 N.J.R. 660(a), 25 N.J.R. 3771(a). Pursuant to Executive Order No. 66(1978), Chapter 2 expired on August 16, 1998.

Chapter 2, Birth Certificates, was adopted as new rules by R.1999 d.410, effective December 6, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. CREATION OF BIRTH RECORD

8:2-1.1 Purpose and scope

These rules create the birth record and permit the parents, at the time of birth, to choose any name for their child without restrictions, except for names which contain obscenities or numerical characters. The rules set forth the options open to a parent in the naming of the child, and clarify who the informant of the birth information should be.

8:2-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Commissioner” means the State Commissioner of Health and Senior Services.

“Department” means the New Jersey State Department of Health and Senior Services.

“Informant” means the name of the individual providing the personal particulars for the preparation of the birth certificate.

“State Registrar” means the New Jersey State Registrar of Vital Statistics.

“Surname” means the last complete name on a birth certificate without a hyphen or both names including the hyphen if the last names on the birth certificate are hyphenated.

8:2-1.3 Designation of child's name

(a) The designation of a child's name including the surname is the right of the child's parent(s). The child may be given any chosen name(s) or surname, except that the State Registrar may reject a name that contains an obscenity, numerals, or combination of letters and numerals or a name that is illegible. The chosen name shall be printed on the back of the birth record and the birth record shall be signed by one or both parents. The hospital official who witnesses the signing shall also sign the birth record.

1. Where either parent is unavailable for any reason, the choice of the child's name(s) rests with the parent who has custody of the newborn child. That parent shall state in writing on the back of the birth record that the other parent is not available; thereafter the recording parent shall be the sole informant for the purpose of compliance with N.J.S.A. 26:8-26 and this subchapter.

2. In cases where both parents have custody of the child, are both available, and disagree on the selection of a surname, the surname selected by one parent and the surname selected by the other parent shall both be entered on the certificate, separated by a hyphen, with the selected names entered in alphabetical order.

(b) The parents or custodian of the child shall have five days from the child's birth to decide the child's surname. If no designation is made within that time, and no surname has been registered pursuant to (a)2 above, or if the chosen surname is rejected by the State Registrar, for the reasons specified in (a) above, the child's surname shall be recorded as both parents surnames in alphabetical order separated by a hyphen. If the parents disagree on the selection of a given

name, or if the State Registrar rejects the given name chosen by the parents or parent, for the reasons specified in (a) above, a dash (-) shall be entered in the space allotted for a given name on the certificate. After five days, any surname assigned by the registrar, a surname registered pursuant to (a)2 above, or the dash designation may only be changed through the procedures set out in N.J.S.A. 26:8-48 and 2A:52-4.

8:2-1.4 Names of parents

- (a) The woman giving birth shall be recorded as a parent.
- (b) If the birthing parent is married at the time of the birth, or was married and the child was born within 300 days after the marriage was terminated by death, annulment or divorce, the spouse's name shall be listed on the birth record unless the spouse denies parentage and both the husband and wife agree and acknowledge the denial in writing on the Affidavit of Denial of Paternity form.
- (c) If the birthing parent is not married, and was not married within 300 days of the birth, the name of the father should be provided. The name provided by the informant will only be entered on the birth record if both parents acknowledge the child in writing.
- (d) The name recorded for either parent may be changed by order of a court of competent jurisdiction.

Case Notes

Biological parents of unborn child being carried by a surrogate were not entitled to place their names on child's birth certificate immediately after birth of child; biological parents would be able to place their names on the child's birth certificate after surrogate relinquished her rights to child, at least 72 hours after the birth, and if the biological parents signed the birth certificate within five days after birth of child. A.H.W. and P.W., 772 A.2d 948 (2001).

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8:2-1.5 Informant

The custodial parent(s) of a child shall act as informant and provide the necessary information to complete the original birth certificate. The informant shall certify on forms provided by the State Registrar that the information provided is accurate and true to the best of the informant's knowledge.

SUBCHAPTER 2. FEES

8:2-2.1 Fees; refund of fees; excess payment

- (a) Fees for birth record searches, copies of birth records or changes to birth records are specified in N.J.S.A. 26:8-40.1; 26:8-62; 26:8-63; 26:8-64; and 2A:52-4 (Vital Statistics).
- (b) In the instance of individuals forwarding funds in excess of those fees specified in N.J.S.A. 26:8-40.1, 26:8-61, 26:8-62, 26:8-63, 26:8-64, and 2A:52-4 (Vital Statistics), the New Jersey State Department of Health and Senior Services will not make refunds of \$1.00 or less.