

**Testimony**  
**Senate Bill 2063**  
**Government and Veterans Affairs Committee**  
**January 11, 2013; 10 a.m.**  
**North Dakota Department of Health**

Good morning, Chairman Dever and members of the Government and Veterans Affairs committee. My name is Carmell Barth and I am the Deputy State Registrar for the Department of Health's Division of Vital Records. I am here today to provide testimony in support of Senate Bill 2063.

The Division of Vital Records is required by state law to register and certify all vital events that occur in the state. These include births, deaths, fetal deaths, marriages, divorces and abortions. The primary purpose of this bill is to solidify the requirements for registering a birth that occurs outside of a hospital setting and to make a few other minor changes to the Health Statistics Act based on a recent update to the national model law governing vital records.

I will cover all the changes requested in Senate Bill 2063, but I would like to start with the primary one that strengthens the requirements for births that occur outside of a hospital. Births of a child in a hospital setting are registered by the hospital using an electronic process. Currently, a parent of a child born outside of a hospital is only required to fill out the parent and hospital worksheets and submit those with an affidavit to the Division of Vital Records in order for us to register the birth. The information on these worksheets is necessary to accurately document the facts regarding the birth. Our issue is not with the documentation, but with validation. The paper process can make it very easy to fraudulently submit these documents and register a birth with or without a baby ever being born, and no proof of which state the baby was born in. Under our current process, we request additional documentation from parents to validate the facts of birth. Some families have questioned our requirements and the current law does not support our validation process.

The changes we would like to make start on page 3, in line 17. The amendment provides that the required worksheets be submitted by one of the parents to our office within five days of the birth. Starting on line 20, we want to validate the three primary facts of birth by requiring acceptable evidence that will be established by the rule making process, to document that: a) the mother was pregnant, b) the child was born alive, and c) the baby was born in North Dakota. The rules proposed to accomplish this are outlined in the attached draft

version of changes to ND Administrative Code, Chapter 33-04-04, subsection 2, regarding Out-of-Institution Births that I will go through now. (See attachment 1, section 33-04-04-02 changes)

The proposed rules allow different options to prove the three basic facts of birth. These proposed rules will provide the Division of Vital Records the necessary information to validate every birth that occurs in our state. We need to make every effort to ensure the births we are registering actually happened and that the information presented is accurate and authentic. We believe that the evidence requirements should be authorized through administrative rule because if other acceptable forms of evidence become available, we can simply edit the rules, rather than changing the law. However, the intent of the law is clear, which is to validate the three primary facts of birth.

The remaining changes required by Senate Bill 2063 relate to revisions in national model law and are necessary for North Dakota to maintain proper vital event registration methods and fine tune some of our current processes. The first is at the top of page 2, line 1, where the definition of a Fetal Death needs to be modified to match the national definition. The reason for the change is to add language to the definition so that it clearly differentiates a fetal death from an induced termination of pregnancy. Fetal deaths are spontaneous events that cause a pregnancy to end and a fetus to die. We do not want there to be any confusion between this event and an induced termination of a pregnancy. The additional language starting on line 6 comes directly from the national model law and is being added to distinguish heartbeats from transient cardiac contractions and respiration from fleeting respiratory efforts or gasps. These are important because it helps medical personnel to determine if the fetus showed any signs of life, which in that case the event would be determined to be a birth and not a fetal death. This determination is left solely to the doctor or other medical personnel at the time of the birth.

The next change is on page 4, starting in line 18, under the delayed registration of birth section. This minor change reduces the time the Division of Vital Records is required to keep an application open for a delayed registration of birth. Currently, the law requires us to keep the file open for two years. The process to document a birth that was never originally registered takes some effort on the part of the person trying to register a birth, but we have found that this usually takes about 2 to 3 months at the most. Requests that are more than one year old are generally never completed. Also, in this same section of law, subsection 5 on line 20 is a new change that would prohibit the Division of Vital Records from registering a birth record for someone that has been deceased for more than one year. This reduces the risk of registering a birth for

fraudulent reasons. Birth certificate fraud is much more prevalent than it has been in the past, and this is another change that is in the newest revision of the national model law.

The next set of changes starts on page 5, under the death registration section, starting on line 4. This change reduces the maximum number of days required to file the medical certification of death from 15, down to 10. Since we have implemented our electronic death registration system back in 2008, we have found that 75 percent of our deaths are now reported in 10 days or less. This change is again reflected on line 12 and again on line 14 for consistency. The minor change in subsection 7, on line 27, clarifies that the intent of this subsection is to mandate that the social security number for each death registration is required when available and not that the social security number must be printed on each death record issued. We issue three types of death records, one of which does not include a person's social security number. This minor change addresses any misunderstanding about the mandate regarding a person's social security number.

The next change is on page 6 and deals with fetal death registration, starting on line 5. The language in the subsection refers to the required number of weeks of gestation before a fetus can be called a fetal death. The model law requirement is twenty (20) completed weeks or more, but our law allows for less than that when provided by rules of the state department of health. The fact is there are no rules for less than twenty (20) weeks. There never have been to my knowledge. So we are asking for that part of subsection 1 to be removed to reflect the current model law requirement.

Subsections 2 and 3 are being amended to reflect the current electronic process for fetal death registration that has been in place since January 1, 2008. Although the term "death" may imply a funeral home, fetal deaths are typically completed and registered by hospital staff and may or may not involve a funeral home. The new language in subsection 2 and the removal of subsection 3 more accurately reflect the current registration process. Subsections 4, 5 and 6 are renumbered 3, 4 and 5, respectively.

The next change is in subsection 23-02.1-25, starting with line 13 on page 7, regarding correcting and amending vital records. The language in the current version of the law is too restrictive regarding what the Division of Vital Records can amend with a court order. Court orders are usually a last resort when amending vital records; however, we want the law to reflect that we will accept a court order to amend any field on a record and not just a person's

name. The changes we have made also more accurately reflect the current processes governing the court order requirements.

The final change is a minor correction to subsection 5 of section 23-02.1-30, regarding persons required to keep records. This minor change, starting on page 7 in line 20, reflects the omission of hospitals and other institutions to file monthly event reports with the Division of Vital Records. This requirement has always been in place as a check and balance to ensure that we have every birth, death and fetal death filed each month. We still need this manual process in place even with our new electronic systems and this correction more accurately describes the current process.

This concludes my testimony and I'd be happy to answer any questions you may have.