



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2026-857.1

Summary

Amendment of ARM 37.8.303 pertaining to Delayed Birth Certificates

Hearing Date and Time

Friday, May 15, 2026, at 9:00 a.m.

Virtual Hearing Information

Join Zoom Meeting: <https://mt-gov.zoom.us/j/84663255810?pwd=y1JJmNFIAjxyajlpOvXjH0XdUMkIT.1>

Meeting ID: 846 6325 5810 and Password: 224231

Dial by Telephone: +1 646 558 8656

Meeting ID: 846 6325 5810 and Password: 224231

Find your local number: <https://mt-gov.zoom.us/u/kekRf1DkeA>

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, May 22, 2026, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, May 1, 2026, at 5:00 p.m.

Contact

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Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

37.8.303 DELAYED BIRTH CERTIFICATE

- (1) Any person born in the state of Montana whose birth was not properly recorded within one year after the birth may have their birth record file filed and receive as a delayed birth certificate if the requirements of this rule are met.
- (2) The request for a delayed birth certificate must be filed by the individual, the individual's parents, or the individual's adult children on a Montana delayed birth registration form available from the department.
- (3) The person filing the form must submit to the department at least three documents proving the applicant's individual's name, the date and place of birth, and the applicant's individual's parents' names. The documentation must meet the following minimum requirements: Documentation of the name of the applicant and the date and place of birth must be supported by at least the following:
 - (a) if the record is filed within five years after the date of birth, either a health care facility record created at the time of birth and two pieces of documentary evidence meeting the requirements of (4) or, if a health care facility record is not available, three pieces of such documentary evidence; or Each document must be dated at least one year before the date of the application or within the first year of birth.

- (b) if the record is filed five years or more after the date of birth, three pieces of documentary evidence meeting the requirements of (5) Each document must include the individual's month, date, and year of birth or age, and their full name as it should appear on the birth certificate.
 - (c) Each of the documents must be from separate sources.
 - (d) One document may be an affidavit from an individual present at the birth and at least 18 years of age at that time.
 - (e) Of the documents that are not an affidavit, at least one document must establish the town or county and state of birth of the individual, and one document must establish the full names of both parents, including the mother's maiden name.
 - (f) Copies of documents issued by a government agency must be certified. Altered documents of any kind will not be accepted.
- (4) ~~For any person under the age of five, the documents must be dated at least one year before the date of the application or within the first year of birth.~~
 - (5) ~~Any document submitted in evidence for any person five years of age or older must be dated at least five years before the date of application or within three years after the date of birth.~~
 - (6) ~~No two of the documents submitted as evidence may be from the same source and only one document may be a sworn affidavit. A sworn affidavit must state the date and place of birth of the applicant, establish the age of the affiant and the fact that the affiant was present at the birth and be signed by a person who is at least 10 years older than the applicant for the delayed birth certificate.~~
 - (7) ~~Of the documents that are not sworn affidavits, at least one must establish the place, month, day and year of birth; one must establish the town or county and state of birth; and they must establish the full names of both parents, including the mother's maiden name.~~
 - (8) ~~Only official copies of documents will be accepted. Affidavits from notary publics that they have examined documents will not be accepted in lieu of official documents. Altered documents will not be accepted.~~
- (9)(4) If an application for a delayed birth certificate is incomplete or does not meet the department's issuance criteria as listed above, the department shall notify the applicant individual of:
- (a) ~~the problems~~ deficiencies;
 - (b) ~~the procedures necessary to rectify the problems~~ deficiencies; and
 - (c) the right to seek an order from a court of competent jurisdiction to obtain registration of the delayed birth certificate.

~~(10)~~(5) If, after notification, the application is not actively pursued for a period of 180 days, the application and supporting documents will be returned to the applicant and a new fee, application and supporting documentation will be required to reapply.

Authorizing statute(s): 50-15-102, 50-15-204, MCA

Implementing statute(s): 50-15-103, 50-15-204, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) proposes to amend ARM 37.8.303 pertaining to delayed birth certificates.

The rule allows Montana residents, whose births were not properly recorded within one year of birth, to obtain a delayed birth certificate. The department has observed that revisions to this rule are needed to provide clearer guidance on the requirements and procedures to obtain a delayed birth certificate, make the rule easier to understand, and eliminate unnecessarily burdensome requirements. The proposed rule amendments will help decrease confusion among the public, courts, and department staff by removing ambiguous rule language and updating the requirements for supporting documentation. Additionally, the rule was last updated in 2003, and revising the rule to make it more user friendly and eliminate unnecessary requirements aligns with the goals of the Red Tape Relief Initiative. The revised rule uses plain language to clearly describe the required documentation and procedure to obtain a delayed birth certificate while still maintaining a required level of supporting documentation that ensures only valid requests for a delayed birth certificate are processed.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined there is no class or group of small businesses affected by the proposed rulemaking and that the proposed rule will not have a significant and direct effect upon small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services