

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.8.116 pertaining to Fees for) PROPOSED AMENDMENT
Certification, File Searches, and)
Other Vital Records Services)

TO: All Concerned Persons

1. On August 16, 2024, at 1:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/85789496358?pwd=RurXjP7Wlr0Tgq6nOfcaQBfrhtwi8A.1>, meeting ID: 857 8949 6358, and password: 396358; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 857 8949 6358, and password: 396358. Find your local number: <https://mt-gov.zoom.us/u/ko9nABBWj>.

2. The Department of Public Health and Human Services 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. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on August 2, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.8.116 FEES FOR CERTIFICATION, FILE SEARCHES, AND OTHER VITAL RECORDS SERVICES

(1) The fee for a certified copy (photocopy or computer-produced) of a birth certificate, a fetal death certificate, an acknowledgment of paternity, or a delayed birth registration is ~~\$12~~ \$16.

(2) remains the same.

(3) The fee for an informational copy of a death certificate is ~~\$14~~ \$16 for each copy.

(4) and (5) remain the same.

(6) The fee to process a finalized adoption or a rescission of an adoption is \$25. A certified copy of the new certificate will be provided for a fee of ~~\$12~~ \$16.

(7) The fee to create a birth certificate pursuant to a court order is \$25. A certified copy of the new certificate will be provided for a fee of \$16.

(7) remains the same but is renumbered (8).

~~(8)~~(9) The fee for filing a delayed registration of a vital record is \$25. A certified copy of the delayed certificate will be provided for a fee of ~~\$12~~ \$16.

(10) The fee for establishing a birth certificate due to a home birth is \$25. A certified copy of the certificate will be provided for a fee of \$16.

~~(9)~~(11) The fee for amending or correcting a vital record after one year from the date of filing is ~~\$15~~ \$25. A certified copy of the amended record will be provided to the person requesting the amendment or correction for a fee of ~~\$12~~ \$16.

(10) through (14) remain the same but are renumbered (12) through (16).

AUTH: 50-15-102, 50-15-103, 50-15-111, MCA

IMP: 42-2-218, 50-15-111, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.8.116 to revise fees charged for copies of certain vital records and other types of services provided by the Office of Vital Records (OVR). The fees provided for under this rule were last revised approximately three years ago. Some of the activities performed by OVR involve substantial amounts of staff time, and the fees currently in effect do not cover the actual cost of these activities. The proposed fee increases will shift a greater proportion of the actual cost of the services to the individuals who directly use them.

The current fee for a certified copy of a birth certificate, fetal death certificate, acknowledgement of paternity, or delayed birth registration is \$12. The department is proposing to increase this fee to \$16 per certified copy.

The current fee for an informational copy of a death certificate is \$14. The department is proposing to increase this fee to \$16 per informational copy.

The current fee for amending or correcting a vital record after one year from the date of filing is \$15. The department is proposing to increase this fee to \$25.

There is currently no fee for the creation of a birth certificate arising from a home birth. The majority of the work to gather data to establish a birth certificate following a home birth is performed by OVR rather than hospital staff, birthing centers, or midwives. This collection of data by OVR takes time and requires continued correspondence with the applicant to work to establish the birth certificate. To account for this time, the department is proposing to establish a fee of \$25 for creation of a birth certificate in cases of a home birth.

There is currently no fee for the creation of a birth certificate arising from a court order. Court orders directing the creation of a birth certificate must be reviewed by OVR on an individualized basis to determine what OVR is required to do to implement the order, whether any additional documentation is needed for implementation, and to ensure the order is associated with the correct record at

issue. To account for this time, the department is proposing to establish a fee of \$25 to create a birth certificate arising from a court order.

Fiscal Impact

OVR issues approximately 7,500 certified copies of birth certificates per year, including delayed birth certificates. OVR issues approximately 55 certified copies of acknowledgments of paternity per year. OVR rarely issues certified copies of fetal death certificates and received no requests for issuance of such copies within the past year. The proposed fee increase is \$4 per certified copy, which equates to \$30,220 of additional estimated revenue per year.

OVR processes approximately 3,427 corrections and amendments to vital records each year to which the amendment and correction fee applies. The proposed fee increase is \$10 per vital record amended or corrected, which equates to \$34,750 of additional estimated revenue per year.

OVR establishes approximately 60 birth certificates per year arising from home births. The proposed fee of \$25 equates to \$1,500 of additional estimated revenue per year.

OVR establishes approximately 75 birth certificates per year arising from court orders. The proposed fee of \$25 equates to \$1,875 of additional estimated revenue per year.

The total estimated additional revenue per year is \$67,545. The total estimated number of persons affected annually is 11,117.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., August 23, 2024.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 mailed or delivered to the contact person in 5 above.

8. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at rules.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State July 16, 2024.