

Chapter 709

(House Bill 549)

AN ACT concerning

Maryland Department of Health – Birth Registration – Gestational Carriers

FOR the purpose of requiring a certain person to attach a copy of an order of the court establishing parentage to a certificate of birth under certain circumstances; requiring, for a birth involving a gestational carrier in which parentage is determined by a certain court, that a certain person enter certain information on the forms provided by the Secretary of Health and attach a certain order to the forms; requiring the Division of Vital Records to immediately take certain actions on receipt of certain documents; defining a certain term; and generally relating to birth registration and gestational carriers.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–208 and 4–226(b)(2)
Annotated Code of Maryland
(2019 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

4–208.

(A) IN THIS SECTION, “GESTATIONAL CARRIER” MEANS A WOMAN OTHER THAN AN INTENDED PARENT OR GAMETE DONOR WHO AGREES TO BECOME PREGNANT FOR AN INTENDED PARENT WITH THE INTENTION OF GESTATING AND DELIVERING THE CHILD OF THE INTENDED PARENT.

[(a)] (B) (1) Within 5 calendar days after a birth occurs in an institution, or en route to the institution, or outside an institution with an attending clinician, the administrative head of the institution or a designee of the administrative head, or the attending clinician or a designee of the attending clinician, shall:

- (i) Prepare, on the form that the Secretary provides, a certificate of birth;
- (ii) Secure each signature that is required on the certificate; **[and]**
- (iii) File the certificate; **AND**

(IV) IF APPLICABLE, ATTACH A COPY OF THE ORDER OF THE COURT ESTABLISHING PARENTAGE.

(2) The attending physician, physician assistant, nurse practitioner, nurse midwife, or attending clinician shall provide the date of birth and medical information that are required on the certificate within 5 calendar days after the birth.

(3) The results of the universal hearing screening of newborns shall be incorporated into the supplemental information required by the Department to be submitted as a part of the birth event.

(4) When an individual who is not married gives birth to a child in an institution or outside an institution with an attending clinician, the administrative head of the institution or the designee of the administrative head, or the attending clinician or the designee of the attending clinician, shall:

(i) Provide an opportunity for the child's parents to complete a standardized affidavit of parentage recognizing parentage of the child on the standardized form provided by the Department of Human Services under § 5–1028 of the Family Law Article;

(ii) Furnish to the mother written information prepared by the Child Support Administration concerning the benefits of having the parentage of the child established, including the availability of child support enforcement services; and

(iii) Forward the completed affidavit to the Maryland Department of Health, Division of Vital Records. The Maryland Department of Health, Division of Vital Records shall make the affidavits available to the parents, guardian of the child, or a child support enforcement agency upon request.

(5) An institution, the administrative head of the institution, the designee of the administrative head of an institution, an employee of an institution, the attending clinician, and the designee of the attending clinician may not be held liable in any cause of action arising out of the establishment of parentage.

(6) If the child's mother was not married at the time of either conception or birth or between conception and birth, the name of the child's other parent may not be entered on the certificate without an affidavit of parentage as authorized by § 5–1028 of the Family Law Article signed by the mother and the person to be named on the certificate as the other parent.

(7) If the child's mother was married at the time of either the conception or birth or between conception and birth, the name of the mother's spouse shall be entered on the certificate as the child's other parent.

(8) (I) In any case **THAT DOES NOT INVOLVE A GESTATIONAL CARRIER** in which parentage of a child is determined by a court of competent jurisdiction, the name of the parent who did not give birth to the child and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(II) **IN ANY CASE THAT INVOLVES A GESTATIONAL CARRIER IN WHICH PARENTAGE IS DETERMINED BY A COURT OF COMPETENT JURISDICTION:**

1. **THE FOLLOWING SHALL BE RECORDED ON THE FORMS PROVIDED BY THE SECRETARY:**

A. **AN INDICATION THAT THE DELIVERY OF BIRTH WAS BY A GESTATIONAL CARRIER;**

B. **THE IDENTITY OF THE GESTATIONAL CARRIER;**

C. **ALL RELEVANT MEDICAL INFORMATION REGARDING THE GESTATIONAL CARRIER AND THE DELIVERY; AND**

D. **INFORMATION REGARDING THE INTENDED PARENTS;**

2. **AN ORDER OF THE COURT ESTABLISHING PARENTAGE SHALL BE ATTACHED TO THE FORMS PROVIDED BY THE SECRETARY; AND**

3. **ON RECEIPT OF THE FORMS PROVIDED BY THE SECRETARY AND THE ORDER OF THE COURT ESTABLISHING PARENTAGE, THE DIVISION OF VITAL RECORDS SHALL IMMEDIATELY:**

A. **SEAL THE FORMS PROVIDED BY THE COURT; AND**

B. **REGISTER THE CERTIFICATE OF BIRTH IN ACCORDANCE WITH THE ORDER OF THE COURT.**

(9) If the parent who did not give birth to the child is not named on the certificate of birth, no other information about that parent shall be entered on the certificate.

[(b)] (C) (1) Within 5 calendar days after a birth occurs outside an institution without an attending clinician, the birth shall be verified by the Secretary and a certificate of birth shall be prepared, on the form that the Secretary provides, and filed by one of the following, in the indicated order of priority:

[(1)] (I) The attending individual.

[(2)] (II) In the absence of an attending individual, either parent of the child.

[(3)] (III) In the absence or inability of either parent, the individual in charge of the premises where the birth occurred.

(2) IN ANY CASE THAT INVOLVES A GESTATIONAL CARRIER IN WHICH PARENTAGE IS DETERMINED BY A COURT OF COMPETENT JURISDICTION:

(I) THE PERSON SPECIFIED IN REGULATIONS ADOPTED BY THE DEPARTMENT SHALL RECORD THE FOLLOWING ON THE FORMS PROVIDED BY THE SECRETARY:

1. AN INDICATION THAT THE DELIVERY OF BIRTH WAS BY A GESTATIONAL CARRIER;

2. THE IDENTITY OF THE GESTATIONAL CARRIER;

3. ALL RELEVANT MEDICAL INFORMATION REGARDING THE GESTATIONAL CARRIER AND THE DELIVERY; AND

4. INFORMATION REGARDING THE INTENDED PARENTS;

(II) THE PERSON SPECIFIED IN REGULATIONS ADOPTED BY THE DEPARTMENT SHALL ATTACH AN ORDER OF THE COURT ESTABLISHING PARENTAGE TO THE FORMS PROVIDED BY THE SECRETARY; AND

(III) ON RECEIPT OF THE FORMS PROVIDED BY THE SECRETARY AND ORDER OF THE COURT ESTABLISHING PARENTAGE, THE DIVISION OF VITAL RECORDS SHALL IMMEDIATELY:

1. SEAL THE FORMS PROVIDED BY THE SECRETARY;
AND

2. REGISTER THE CERTIFICATE OF BIRTH IN ACCORDANCE WITH THE ORDER OF THE COURT.

[(c)] (D) (1) When a birth occurs on a common carrier within the United States and the child is first removed from the carrier in this State, the birth shall be registered in this State, and the place where the child is first removed shall be considered the place of birth.

(2) When a birth occurs on a common carrier while in international waters,

air space, or in a foreign country and the child is first removed from the carrier in this State, the birth shall be registered in this State but the certificate shall show the actual place of birth insofar as can be determined.

(3) The certificate shall be filed within 5 calendar days after the child is removed from the carrier.

[(d)] (E) (1) Each parent shall provide his or her own Social Security number on the form provided by the Secretary under this section.

(2) (i) If the parent who did not give birth to the child is not available to provide the parent's Social Security number on the form provided under paragraph (1) of this subsection, the parent shall provide the parent's Social Security number on a form provided by the Secretary for this purpose.

(ii) The form provided under this paragraph shall:

1. State that the form is for the purpose of providing the Social Security numbers of parents, to be included on the portion of the form that remains in the official birth record;

2. Contain a specific reference to this subtitle; and

3. State that the parent's Social Security number shall be provided under penalty of perjury.

(3) The Social Security number as provided by each parent shall be recorded on the portion of the form provided by the Secretary which remains in the official birth record.

(4) The Social Security numbers of the parents may not appear on the portion of the birth certificate issued as proof of birth.

(5) (i) The Secretary shall permit disclosure of the Social Security numbers of the parents only to the Child Support Administration of the Department of Human Services.

(ii) The Child Support Administration may use the Social Security numbers of the parents to:

1. Locate a parent;

2. Establish parentage; and

3. Establish and enforce a child support order under Title 10, Subtitle 1 of the Family Law Article.

[(e)] (F) If, under subsection **[(d)(1)] (E)(1)** of this section, the Social Security number of the parent who did not give birth to the child is not entered on the form provided by the Secretary:

(1) Upon adjudication of parentage, the court shall order the parent to provide the parent's Social Security number to the clerk of court; and

(2) The clerk of court shall send the parent's Social Security number to the Secretary, as provided under § 4–211(f) of this subtitle.

4–226.

(b) (2) A person may not fail to provide a Social Security number or willfully provide a false Social Security number to the clerk of court under **[\§ 4–208(e)] § 4–208(F)** of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.