



Ohio Revised Code

Section 3705.15 Registration of unrecorded birth - correction of birth record.

Effective: June 3, 2014

Legislation: House Bill 95 - 130th General Assembly

Whoever claims to have been born in this state, and whose registration of birth is not recorded, or has been lost or destroyed, or has not been properly and accurately recorded, may file an application for registration of birth or correction of the birth record in the probate court of the county of the person's birth or residence or the county in which the person's mother resided at the time of the person's birth. If the person is a minor the application shall be signed by either parent or the person's guardian.

(A) An application to correct a birth record shall set forth all of the available facts required on a birth record and the reasons for making the application, and shall be verified by the applicant. Upon the filing of the application the court may fix a date for a hearing, which shall not be less than seven days after the filing date. The court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The application shall be supported by the affidavit of the physician or certified nurse-midwife in attendance. If an affidavit is not available, the application shall be supported by the affidavits of at least two persons having knowledge of the facts stated in the application, by documentary evidence, or by other evidence the court deems sufficient.

The probate judge, if satisfied that the facts are as stated, shall make an order correcting the birth record, except that in the case of an application to correct the date of birth, the judge shall make the order only if any date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record is consistent with the corrected date of birth. If supported by sufficient evidence, the judge may include in an order correcting the date of birth an order correcting the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record.

(B) An application of a person whose registration of birth is not recorded, or has been lost or destroyed, must comply with division (A) of this section. Upon the filing of the application the court may fix a date for a hearing, which shall be not less than seven days after the filing date. The



court may require one publication of notice of the hearing in a newspaper of general circulation in the county at least seven days prior to the date of the hearing. The probate judge, or a special master commissioner, shall personally examine the applicant in open court and shall take sworn testimony on the application which shall include the testimony of at least two credible witnesses, or clear and convincing documentary evidence. The probate court may conduct any necessary investigation, and shall permit the applicant and all witnesses presented to be cross-examined by any interested person, or by the prosecuting attorney of the county. When a witness or the applicant is unable to appear in open court, the court may authorize the taking of the witness's or applicant's deposition. The court may cause a complete record to be taken of the hearing, shall file it with the other papers in the case, and may order the transcript of the testimony to be filed and made a matter of record in the court. Upon being satisfied that notice of the hearing on the application has been given by publication, if required, and that the claim of the applicant is true, the court shall make a finding upon all the facts required on a birth record, and shall order the registration of the birth of the applicant. The court shall forthwith transmit to the director of health a certified summary of its finding and order, on a form prescribed by the director, who shall file it in the records of the central division of vital statistics.

(C) The director may forward a copy of the summary for the registration of a birth in the director's office to the appropriate local registrar of vital statistics.

A certified copy of the birth record corrected or registered by court order as provided in this section shall have the same legal effect for all purposes as an original birth record.

The application, affidavits, findings, and orders of the court, together with a transcript of the testimony if ordered by the court, for the correction of a birth record or for the registration of a birth, shall be recorded in a book kept for that purpose and shall be properly indexed. The book shall become a part of the records of the probate court.

(D)(1) Except as provided in division (D)(2) of this section, whenever a correction is ordered in a birth record under division (A) of this section, the court ordering the correction shall forthwith forward to the department of health a certified copy of the order containing such information as will enable the department to prepare a new birth record. Thereupon, the department shall record a new birth record using the correct information supplied by the court and the new birth record shall have



the same overall appearance as the original record which would have been issued under this chapter. Where handwriting is required to effect that appearance, the department shall supply it. Upon the preparation and filing of the new birth record, the original birth record and index references shall cease to be a public record. The original record and all other information pertaining to it shall be placed in an envelope which shall be sealed by the department, and its contents shall not be open to inspection or copy unless so ordered by the probate court of the county that ordered the correction.

The department shall promptly forward a copy of the new birth record to the local registrar of vital statistics of the district in which the birth occurred and the local registrar shall file a copy of the new birth record along with and in the same manner as the other copies of birth records in the local registrar's possession. All copies of the original birth record, as well as any and all other papers, documents, and index references pertaining to it, in the possession of the local registrar shall be destroyed. The probate court shall retain permanently in the file of its proceedings such information as will enable the court to identify both the original birth record and the new birth record.

The new birth record, as well as any certified copies of it when properly authenticated by a duly authorized person, shall be prima-facie evidence in all courts and places of the facts therein stated.

(2) If the correction ordered in the birth record under division (A) of this section involves a change in the date of birth of the applicant and the department of health determines that the corrected date of birth is inconsistent with the date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the record, the department shall request that the court reconsider the order and, if appropriate, make a new order in which the dates are consistent. If the court does not make a new order within a reasonable time, instead of issuing a new birth record, the department shall file and record the court's order in the same manner as other birth records and make a cross-reference on the original and on the corrected record.

(E) The probate court shall assess costs of registering a birth or correcting a birth record under this section against the person who makes application for the registration or correction.