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Julia H. Powell

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HEALTH

Vital Records: Revise Birth Certificate, Death Certificate, and Disposition Permit Requirements

CODE SECTIONS: O.C.G.A. §§ 31-10-8, -9, -11, -13, -15, -20,
-23, -29 (amended)
BILL NUMBER: HB 269
ACT NUMBER: 346
SUMMARY: The Act revises regulations relating to
vital records including birth certificates,
delayed birth certificates, birth certificates
for adopted children born in a foreign
country, death certificates, permits for
burial, removal and transit of dead bodies,
and amendments to birth certificates.
EFFECTIVE DATE: July 1, 1991

History

Vital Records (VR), an office of the Division of Public Health of the Department of Human Resources (DHR), is responsible for collecting, maintaining, and preserving certificates or reports of birth, death, marriage, divorce, and dissolution of marriage, and data related to these certificates or reports, and for compiling, analyzing, and reporting vital statistics derived from these certificates and reports.¹ VR defines the vital records forms and sets the rules and regulations followed by local registrars to collect and report vital records data.² Although Code sections controlling VR's operations³ were generally workable, there were problems.⁴ While none of the problems were extremely serious, they did prevent VR from functioning as effectively as possible.⁵ One area of concern was that of reporting deadlines: the time frame

1. O.C.G.A. §§ 31-10-1, -2, -3 (1991).

2. Telephone Interview with Tom Wade, Director of Administrative Services Section, Division of Public Health, Department of Administrative Services (Apr. 30, 1991) [hereinafter Wade Interview II].

3. 1982 Ga. Laws 723 (formerly found at O.C.G.A. §§ 31-10-1 to -32 (1985)).

4. Telephone Interview with Tom Wade, (Apr. 17, 1991) [hereinafter Wade Interview I].

5. Telephone Interview with Mike Lavoie, Office of Vital Records, Division of Public Health, Department of Administrative Services (Apr. 11, 1991) [hereinafter Lavoie Interview].

requirements provided in the existing Code sections were difficult for VR's clients to meet.⁶

One of the biggest problems VR faced was in the area of out-of-state adoptions.⁷ Under the Code, when a Georgia birth certificate was issued for an adopted child who was born in another state, the parents could elect to indicate either Georgia or the actual state of birth as the place of birth.⁸ If Georgia were chosen, the Georgia state registrar would send notification of the adoption to the state registrar of the actual state of birth, and request that the actual birth records be sealed in conformity with Georgia law.⁹ The actual state of birth could refuse to seal the records if the statutes of that state did not require that birth records of adopted persons be sealed.¹⁰ HB 269 was introduced in an attempt to eliminate this and other problems relating to out-of-state adoptions.¹¹

HB 269

HB 269 was introduced at the request of the DHR¹² primarily to eliminate problems with maintenance of vital records in the area of out-of-state adoptions.¹³ Although problems existed with several types of vital records other than birth certificates for adoptees, the DHR recommended that the changes to Code sections relating to vital records be divided into two bills, one dealing with changes to birth certificates for adoptees (HB 269) and one dealing with other changes (HB 273).¹⁴ The DHR anticipated that there would be more discussion in the House of Representatives about the proposed modifications relating to birth certificates for adoptees than about the other proposed modifications, and separated the modifications in an effort to ensure that the modifications to other sections of the Vital Records Code would be passed even if the modifications to birth certificates for adoptees were not.¹⁵

As introduced, HB 269 modified three Code subsections applying to birth certificates for adopted persons.¹⁶ The original version of HB 269

6. Wade Interview I, *supra* note 4.

7. *Id.*

8. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-13(e) (1985)).

9. Wade Interview I, *supra* note 4.

10. *Id.*

11. *Id.*

12. Telephone Interview with Rep. E.M. (Buddy) Childers, House District No. 15 (Apr. 9, 1991) [hereinafter Childers Interview].

13. Lavoie Interview, *supra* note 5; Wade Interview I, *supra* note 4.

14. Wade Interview I, *supra* note 4; Childers Interview, *supra* note 12.

15. Wade Interview I, *supra* note 4.

16. HB 269, as introduced, 1991 Ga. Gen. Assem.

would have modified Code section 31-10-13(e) dealing with adopted persons born outside Georgia but not in a foreign country, section 31-10-13(f) dealing with adopted persons born in a foreign country, and section 31-10-14(b) dealing with adopted persons born in Georgia.¹⁷ The bill as passed contained only the modifications to the Code section dealing with adopted persons born in a foreign country and modifications, originally introduced in HB 273,¹⁸ to Code sections dealing with death certificates, burial permits, and birth certificates.

Code section 31-10-13(e) allows adoptive parents of children born outside Georgia to acquire a birth certificate showing Georgia as the state of birth.¹⁹ HB 269 would have modified the section to allow Georgia to handle out-of-state adoptions by forwarding the report of the adoption to the state registrar of the actual state of birth for processing²⁰ and would not have provided for issuance of a Georgia birth certificate.²¹

Code section 31-10-13(f), prior to the passage of HB 269, allowed the state registrar to establish a birth certificate for adopted persons born in a foreign country.²² HB 269 modified the Code to provide that a "Certificate of Foreign Birth" shall be issued only if "the child was not a United States citizen at birth."²³ HB 269 further modified the Code to provide that if the adopted child born in a foreign country is a United States citizen at the time of birth, a "Certificate of Foreign Birth" will not be issued, but the parents will be notified of the "procedure for obtaining a revised birth certificate ... through the United States Department of State."²⁴

Code section 31-10-14(b) allows adoptive parents of children born in Georgia to choose whether the new birth certificate will show the actual place of birth or the residence of the parents at the time of the adopted person's birth.²⁵ HB 269 would have modified the section to require that, if the adoptee was born in Georgia, the actual place of birth be shown.²⁶

As anticipated, discussions within the House Committee of Health and Ecology focused primarily on the modifications to the Code sections dealing with the issuance of Georgia birth certificates for adoptees born

17. *Id.*

18. Wade Interview I, *supra* note 4.

19. O.C.G.A. § 31-10-13(e) (1991).

20. Wade Interview I, *supra* note 4.

21. HB 269, as introduced, 1991 Ga. Gen. Assem.

22. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-13(f) (1985)).

23. O.C.G.A. § 31-10-13(f) (1991).

24. *Id.* The United States Department of State has its own procedures for issuing birth certificates for foreign-born adoptees who are United States citizens. Rather than establishing separate Georgia procedures for handling the same situation, the Code requires that the adoptive parents be referred to the procedures established by the United States Department of State. Wade Interview II, *supra* note 2.

25. O.C.G.A. § 31-10-14(b) (1991).

26. HB 269, as introduced, 1991 Ga. Gen. Assem.

in other states and the place of birth to be shown on revised birth certificates for adoptees born in Georgia.²⁷ Specifically, concerns centered around the effect the proposed revisions would have on an adoptee's ability to identify his natural parents.²⁸ Some representatives felt that the adoptive parents should be allowed to make the decision as provided in the existing Code²⁹ and that adoptees would, therefore, be less likely to identify their natural parents.³⁰ Other representatives believed that the revised Code would make it easier for an adoptee to identify his natural parents, but they wanted it to be easier.³¹ Finally, there was a concern among some representatives that issuing a Georgia birth certificate for an adopted child born out-of-state might invite fraud.³² Since there was no consensus among the committee members as to whether the existing statute or the proposed statute was better, the proposed modifications were dropped from HB 269.³³ HB 269 as recommended by the House Committee on Health and Ecology and as passed by the House of Representatives contained only the modification to the Code section dealing with birth certificates for foreign-born adoptees.³⁴

In the Senate, HB 269 was assigned to the Committee on Health and Human Services. Since HB 269 was passed by the House before HB 273, the provisions of HB 273 were added to HB 269 by the Senate Committee on Health and Human Services to create a single Vital Records Bill.³⁵

In addition to the changes to the Code section relating to birth certificates for adopted children born in a foreign country,³⁶ which were included in Section 4 of HB 269, HB 269 provided minor but important changes to several other Code sections.³⁷ Section 1 of HB 269 modified the Code section dealing with certification to county treasurers of the number of birth and death certificates.³⁸ The Code originally required that the state registrar certify the number of certificates to the county treasurer.³⁹ To reduce the reporting requirements of the state registrar,⁴⁰

27. Wade Interview I, *supra* note 4.

28. Wade Interview II, *supra* note 2.

29. *Id.*; 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-14(b) (1985)).

30. Wade Interview II, *supra* note 2.

31. *Id.*

32. *Id.*

33. Wade Interview I, *supra* note 4.

34. HB 269 (HCS), 1991 Ga. Gen. Assem.

35. Wade Interview I, *supra* note 4.

36. O.C.G.A. § 31-10-13(f) (1991).

37. Lavoie Interview, *supra* note 5.

38. O.C.G.A. § 31-10-8 (1991).

39. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-8(a) (1985)).

40. Wade Interview II, *supra* note 2.

the section was modified to have the local registrar certify the number of birth and death certificates to the county treasurer.⁴¹

Section 2 of HB 269 amended several subsections of the Code section dealing with registration of births.⁴² Prior to the passage of HB 269, it was unclear how a birth en route to an institution should be recorded and such births were handled on a case by case basis.⁴³ The Code now specifies that births en route to an institution will be registered just like births in the institution.⁴⁴

The Code previously required that the attending physician certify the facts of a birth within seventy-two hours after the birth, but did not specify what should be done if the attending physician failed to make such certification in a timely manner.⁴⁵ When physicians failed to make the necessary certification, parents were delayed in getting a birth certificate for their child.⁴⁶ HB 269 modified the Code section to require that the birth certificate be completed by the person in charge of the institution or that person's representative if the physician fails to complete the certificate within seventy-two hours.⁴⁷

Finally, Section 2 of HB 269 modified the subsection specifying the information to be included on the birth certificate.⁴⁸ The subsection formerly indicated that the certificate would "normally . . . include the parent's names."⁴⁹ As a matter of clarification,⁵⁰ the modified Code now requires that the birth certificate "must identify . . . the name of each legal parent . . . and the name of all other persons required by this Code section or by regulation."⁵¹ The same subsection was further modified to put into the Code the standard procedure which had been used when the baby's name had not been selected before the time for registering the birth:⁵² "the birth record shall be registered without the child's name unless a court order provides otherwise."⁵³

Section 3 of HB 269 modified the Code section dealing with delayed birth certificates.⁵⁴ The Code previously provided for a delayed birth certificate to be issued if a birth certificate had not been filed by "June 30 of the year following the actual year of birth."⁵⁵ This wording created

41. O.C.G.A. § 31-10-8(a) (1991).

42. O.C.G.A. § 31-10-9 (1991).

43. Wade Interview II, *supra* note 2.

44. O.C.G.A. § 31-10-9(b) (1991).

45. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-9(b) (1985)).

46. Wade Interview II, *supra* note 2.

47. O.C.G.A. § 31-10-9(b) (1991).

48. O.C.G.A. § 31-10-9(h) (1991).

49. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-9(h) (1985)).

50. Wade Interview II, *supra* note 2.

51. O.C.G.A. § 31-10-9(h) (1991).

52. Wade Interview II, *supra* note 2.

53. O.C.G.A. § 31-10-9(h) (1991).

54. O.C.G.A. § 31-10-11 (1991).

55. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-11(a), (b) (1985)).

problems for VR's administration since the actual time frame for filing a birth certificate varied depending upon when the child was born: for a child born in December, a delayed birth certificate would be filed after only seven months; for a child born in January, a delayed birth certificate would not be filed until after eighteen months.⁵⁶ In order to standardize the time frame for delayed birth certificates to allow one year in all cases, HB 269 modified the Code to provide for filing a delayed birth certificate after the "first birthday" of the child.⁵⁷ The same Code section was further modified to provide that a delayed birth certificate would not be registered for a person who had died.⁵⁸ The matter had not been addressed in previous versions of the Code and VR believed that permitting the registration of delayed certificates of birth for a person who had died might open VR to fraudulent registrations.⁵⁹ Since there is no need for delayed registration of the birth if the person has died,⁶⁰ the Code was modified to prevent the registration.

Section 5 of HB 269 modified the Code section dealing with death certificates.⁶¹ A death certificate must now be filed within five days after the death,⁶² and the medical certification of the cause of death must be completed within seventy-two hours after death.⁶³ Although the previous, shorter time periods were not a serious problem, they were sometimes difficult to meet and the modifications simply provide more time to file the death certificate.⁶⁴

Section 6 of HB 269 modified the Code section dealing with permits for burial, removal, and transit of dead bodies.⁶⁵ The prior version of the Code required an authorization for final disposition regardless of what that final disposition was to be⁶⁶ and required that the authorization be signed and dated by the person in charge of the place of final disposition.⁶⁷ However, there was no need for the authorization, and authorization was not always obtained prior to final disposition.⁶⁸

56. Wade Interview II, *supra* note 2.

57. O.C.G.A. § 31-10-11(a), (b) (1991).

58. O.C.G.A. § 31-10-11(f) (1991).

59. Wade Interview II, *supra* note 2.

60. *Id.*

61. O.C.G.A. § 31-10-15 (1991).

62. O.C.G.A. § 31-10-15(a) (1991). The Code previously required filing within 72 hours after death. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-15(a) (1985)).

63. O.C.G.A. § 31-10-15(c) (1991). The Code previously required certification within 48 hours after death. 1982 Ga. Laws 732 (formerly found at O.C.G.A. § 31-10-15(c) (1985)).

64. Wade Interview II, *supra* note 2.

65. O.C.G.A. § 31-10-20 (1991).

66. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-20(a) (1985)).

67. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-20(e) (1985)).

68. Wade Interview II, *supra* note 2.

Therefore, the subsections of the Code dealing with the authorization were deleted.⁶⁹

A disposition permit is required if the dead body is to be cremated or removed from the state.⁷⁰ Prior versions of the Code had not addressed the availability of disposition permits and had required that the permits be issued by the local registrar.⁷¹ HB 269 modified the Code to require that permits be made available "24 hours a day, seven days a week."⁷² However, by changing "issued by the local registrar"⁷³ to "made available by the local registrar,"⁷⁴ HB 269 allows the registrar to appoint someone else to issue the permit.⁷⁵

Section 6 of HB 269 also modified Code subsections dealing with disinterment/reinterment permits by adding a "hold harmless clause."⁷⁶ In the past, when one family member requested and was granted a disinterment/reinterment permit, another family member who objected to the removal of the dead body might sue the local registrar.⁷⁷ HB 269 grants civil and criminal immunity to a local registrar who, in good faith, issues authorization for disinterment and reinterment.⁷⁸

Section 7 of HB 269 modified the Code section dealing with amendments to vital records.⁷⁹ Prior to HB 269, a court order was required to make any change to year of birth on a birth certificate.⁸⁰ However, the section of the Code was unclear, and getting a court order was time consuming.⁸¹ HB 269 both clarified the Code section and eliminated the requirement for a court order if the year of birth is to be changed by only one year.⁸² However, since making a change of birth year could, for example, make a person eligible for Social Security in advance, the requirement for a court order to change birth year by more than one year was left in the Code.⁸³

Section 8 of HB 269 modified the Code section dealing with the reporting of institutional deaths by allowing the administrator of an institution to appoint a representative to report deaths in the institution to the local registrar.⁸⁴ Since the prior Code section required the

69. O.C.G.A. § 31-10-20 (1991); *compare* 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-20(a), (e) (1985)).

70. O.C.G.A. § 31-10-20(a) (1991).

71. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-20(c) (1985)); Wade Interview II, *supra* note 2.

72. O.C.G.A. § 31-10-20(b) (1991).

73. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-20-20(c) (1985)).

74. O.C.G.A. § 31-10-20(b) (1991).

75. Wade Interview II, *supra* note 2.

76. *Id.*

77. *Id.*

78. O.C.G.A. § 31-10-20(f) (1991).

79. O.C.G.A. § 31-10-23 (1991).

80. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-23(f) (1985)).

81. Wade Interview II, *supra* note 2.

82. O.C.G.A. § 31-10-23(f) (1991).

83. Wade Interview II, *supra* note 2; O.C.G.A. § 31-10-23(f) (1991).

84. O.C.G.A. § 31-10-29(b) (1991).

administrator to make the report,⁸⁵ the modification is a practical change, providing for existing practices.⁸⁶

Although the changes provided by HB 269 were not major changes, they will help VR do a better job.⁸⁷ The changes will make it easier for clients of VR to comply with reporting requirements, including reporting deadlines,⁸⁸ and will bring the statutory requirements in line with the actual practices of VR.⁸⁹

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85. 1982 Ga. Laws 723 (formerly found at O.C.G.A. § 31-10-29(b) (1985)).

86. Wade Interview II, *supra* note 2.

87. Lavoie Interview, *supra* note 5.

88. Wade Interview I, *supra* note 4.

89. *Id.*