

This rule was filed as 7 NMAC 2.3.

TITLE 7 HEALTH
CHAPTER 2 VITAL STATISTICS
PART 3 PUTATIVE FATHER REGISTRY

7.2.3.1 ISSUING AGENCY: Department of Health, Public Health Division, Bureau of Vital Records and Health Statistics.
[10/31/96; Recompiled 10/31/01]

7.2.3.2 SCOPE: These regulations provide a process to protect the parental rights of fathers who affirmatively assume responsibility to children they have fathered and to expedite the adoption of children whose biological fathers have not assumed responsibility for their children. A listing in the registry does not replace or supersede the acknowledgment of paternity provisions of the vital statistics regulations (7 NMAC 2.2) [now 7.2.2 NMAC].
[10/31/96; Recompiled 10/31/01]

7.2.3.3 STATUTORY AUTHORITY: The regulations set forth here are promulgated by the secretary of health by the authority of Sections 24-1-3, 24-1-5 and 9-7-6 and implements the Putative Father Registry (Section 32A-5-20 NMSA 1978) and shall be known as the Putative Father Registry Regulations.
[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.4 DURATION: Permanent.
[10/31/96; Recompiled 10/31/01]

7.2.3.5 EFFECTIVE DATE: 10-31-96, unless a later date is cited at the end of a Section or Paragraph.
[10-31-96; Recompiled 10/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

7.2.3.6 OBJECTIVE: These regulations are promulgated pursuant to statute for the purpose of installing, maintaining and operating the putative father registry. The purpose of the putative father registry is to protect the parental rights of fathers who affirmatively assume responsibility for children they may have fathered and to expedite adoption of children whose biological fathers are unwilling to assume responsibility for their children by registering with the putative father registry or otherwise acknowledging their children. The registry does not relieve the obligation of mothers to identify known fathers. The registry does not replace the filing of an acknowledgment of paternity.
[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.7 DEFINITIONS: As used in these regulations:
A. "Bureau" means the bureau of vital records and health statistics, which was formerly and in statute referred to as the vital statistics bureau. (Vital Statistics Act, Section 24-14-1 et sequens NMSA 1978 as amended)
B. "Putative father registry" is a registry of the fathers who affirmatively assume or who have been ordered by the court to assume responsibility for children they have fathered and whose names and other information have been entered into the registry pursuant to Section 32A-5-20 NMSA 1978.
C. "State registrar" means the person appointed under Section 24-14-4 NMSA 1978 of the Vital Statistics Act to fulfill the duties defined in Section 24-14-5 of the Act.
[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.8 LOCATION OF THE REGISTRY AND AUTHORITY FOR ITS OPERATION: The putative father registry shall be located in the bureau. The state registrar shall be responsible for its installation, operation and maintenance.
[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.9 WHO SHALL BE ENTERED INTO THE REGISTRY: The names, addresses and other required information of only the following persons shall be recorded in the registry:

- A. any person adjudicated by a court of this state to be the father of a child; or
- B. any person who has filed with the registry, before or after the birth of a child out-of-wedlock, a notice of intent to claim paternity of the child; or
- C. any person who has filed with the registry an instrument acknowledging paternity; or
- D. any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, when a certified copy of the court order has been filed with the registry.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.10 WHO SHALL NOT BE ENTERED INTO THE REGISTRY: Persons filing an affidavit of paternity with the bureau under the provisions of the Vital Statistics Act or any other legislation or regulations promulgated therefor will not be recorded in the registry unless they meet the requirements set forth in Section 9 [now 7.2.3.9 NMAC] or specifically request their inclusion in the registry under Sections 9.2 - 9.4 [now Subsections B - D of 7.2.3.9 NMAC] of the regulations governing the putative father registry. Requestors must provide all information required by these regulations on a form provided for that purpose by the state registrar.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.11 FILING AN ACKNOWLEDGMENT OF PATERNITY WITH BUREAU DOES NOT ENTER NAME INTO PUTATIVE FATHER REGISTRY: Persons filing an acknowledgment of paternity with the bureau under the Vital Statistics Act and regulations promulgated for the Act will not be entered into the putative father registry unless they meet the requirements set forth in Section 9.2 - 9.4 [now Subsections B - D of 7.2.3.9 NMAC] of these regulations and provide the requisite information described in Section 12 [now 7.2.3.12 NMAC].

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.12 HOW TO FILE WITH THE REGISTRY: The following must be provided to the bureau by/for a person who is to be entered into the registry:

- A. For a father who is being entered as a result of a court order, a certified copy of a court order from a court of competent jurisdiction ordering the inclusion of the father's name in the registry and the information called for in Section 12.3 [now Subsection C of 7.2.3.12 NMAC].
- B. For affirmative requests from persons requesting inclusion in the registry, a signed notarized statement on a form provided by the bureau that he wishes to be entered into the registry and the information specified in Section 12.3 [now Subsection C of 7.2.3.12 NMAC] shall be provided.
- C.
 - (1) The putative father's full name, complete address and complete telephone number; and
 - (2) The putative father's date of birth and place of birth, including state and county; and
 - (3) The date (or expected date) of birth of the child for whom the registrant is affirmatively assuming responsibility, the place (or expected place) of birth of the child and (if born) the child's full name; and
 - (4) The full maiden name of (and any other name which may be used by) the mother of the child, her date and place of birth if known and last known full address of the mother; and
 - (5) Other information as required by the state registrar to make retrieval of the information possible and to serve the ends for which the registry was created.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.13 CHANGE OF ADDRESS NOTIFICATION AND FORM: It is the responsibility of the person filing with the registry to notify the bureau of any change of address on a form or in a format required by the bureau. All requested information necessary to link the addressee with the child shall be provided.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.14 REVOCATION OF INTENT TO CLAIM PATERNITY: Any father who has filed a notice of intent to claim paternity with the registry (but not fathers entered as a result of a court order) may revoke his notice at any time by communicating his intent in writing to the registry on the form prescribed by the state registrar. Upon receipt by the registry of the notarized notice of revocation, the notice of intent to claim paternity shall be removed from the registry and deemed never to have been registered. Court orders finding paternity and

acknowledgments of paternity filed under the Vital Statistics Act shall not be affected by this regulation (Section 24-14-1 et sequens).
[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.15 SEARCH OF THE REGISTRY: FOR OTHER AGENCIES, COURTS, DEPARTMENTS, PETITIONER'S ATTORNEY OR MOTHER OF THE CHILD:

A. The department shall, upon request, provide the names and addresses of fathers listed with the registry to any court of competent jurisdiction, department that by law is authorized to take actions affecting the child's health safety or welfare, agency, the petitioner's attorney or the mother of the child.

B. The information shall not be divulged to any other person, except upon order of the court for good cause shown.

C. If the registry has not received a notice of intent to claim paternity or an acknowledgment of paternity, the department shall provide a written statement to that effect to the person making the authorized inquiry.

D. A search of the registry is not a search of records maintained under the Vital Statistics Act. Information relating to acknowledgments of paternity or court ordered paternities filed before July 1, 1993 under the Vital Statistics Act (Chapter 24-14-1 et seq. NMSA 1978) will not be a part of this search and information regarding these paternities shall not be released under these regulations. Acknowledgments of paternity filed after July 1, 1993 which are not accompanied by an affirmative request for inclusion in the registry and court ordered paternities which do not contain the information required by these regulations will not be included in the registry.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.16 FORMS: Forms required to install, maintain and operate the registry will be developed solely by the bureau. The forms are the property of the bureau. Forms will be made available upon request to the bureau of vital records and health statistics, New Mexico department of health, P. O. Box 26110, Santa Fe, New Mexico 87502 or at any subsequent address where the registry is maintained.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.17 FEES: There shall be no fee charged for registering or revoking the intent to claim paternity of a child nor shall there be any charge for individual forms requested by a prospective registrant.

A. The fees for the search of the registry shall be as follows:

(1) Fee for a normal search and reply: The fee for a normal search of the registry, completed within 10 working days of receipt if all information required to located therecord has been provided, will be twelve dollars (\$12.00.)

(2) Fee for an expedited search: The fee for an expedited search, which will be competed within two working days, will be thirty-five dollars (\$35.00). The cost of any credit card processing fee, overnight delivery charge, fax service, cost of additional information search or other service provided will be added to the thirty-five dollars (\$35.00) fee.

B. Other fees: Any other fees required to install, maintain or operate the registry shall be established by the state registrar. Such fees shall be charged pursuant to a list of fees published on or before July 1st of each year.

C. Payment of fees: Payment of fees or estimated fees shall be made prior to the search of the registry, release of information or other service for which a fee is established. Fees may be paid by any method acceptable to the state registrar of vital records.

D. A service charge of \$25.00 shall be imposed upon the maker of any dishonored check. No service shall be provided to any person or firm who has uncollectible obligations or who has failed to pay for prior services while those obligations to the state attorney general or any other party for collection at her discretion.

E. Fees collected in the provision of this service shall be paid to the bureau of vital records and health statistics. These fees shall be used to install, maintain and operate the registry and will be deposited into a bureau revenue account established for that purpose.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.18 PENALTIES: Any person who intentionally and unlawfully releases information from the putative father registry to the public or makes any other unlawful use of the information in violation of the provisions of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

[9/7/94, 10/31/96; Recompiled 10/31/01]

7.2.3.19 OTHER LAW AND REGULATIONS: These regulations are subject to the provisions of the department of health's regulations governing the promulgation of regulations, regulations and statutes governing public access to department records and the Vital Statistics Act.

[9/7/94, 10/31/96; Recompiled 10/31/01]

HISTORY OF 7.2.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: DOH 94-07 (PHD), Regulations Governing Putative Father Registry, 9/7/94.

History of Repealed Material: [RESERVED]