



TRANSLATION

(Senate Bill No. 1182)

LAW

To adopt the “Law Prohibiting Public and Private Entities from Retaining, Storing, or Holding Certified Copies of Birth Certificates” [*Ley para prohibir la retención, archivo y custodia de copias certificadas de certificados de nacimiento a entidades públicas y privadas*], establish penalties for violations of said Law; set a timeframe for the invalidation or cancellation of birth certificates [*sic--certified copies of birth certificate?*] issued prior to July 1, 2010; and amend Articles 2 and 38 of Law No. 24 of April 22, 1931, as amended, known as the “Law on Vital Statistics” [*Ley del Registro Demográfico*] of Puerto Rico, for purposes of prohibiting any public or private entity from obtaining certified copies of birth certificates if so requested, as well as for purposes of providing for a procedure to be followed in the absence of vital statistics certificates, and for other purposes.

EXPLANATORY STATEMENT

There has been widespread use in Puerto Rico of birth certificates for common transactions that should not require certified birth certificates. Birth certificates are very commonly submitted to establish entitlement to certain benefits and services, such as school enrollment, employment applications, driver’s licenses, voting cards, loans for major purchases, and signing children up for sports, religious activities, and so on.

Information furnished by the Office of Management and Budget reveals that 860,698 certified copies of birth certificates were issued by the Office of Vital Statistics in 2008. These birth certificates are kept at schools, public offices, municipalities, churches, and private entities, generating reams of certified documents, often without proper safekeeping procedures or without restrictions on access, and in some cases, these documents have simply been abandoned.

As a result of such easy access to this very private class of document, criminals often steal significant numbers for criminal purposes, such as identity theft or passport fraud. This situation is extremely troubling. For example, a person who unlawfully secures a United States passport by fraudulent means can use it not only to freely travel abroad and enter the United States, but also to facilitate criminal conduct of all types, for example, fraudulently obtaining immigration benefits, narcotics trafficking, credit procurement, terrorism, and the trafficking of women and children.

According to the U.S. Department of State's Bureau of Diplomatic Security, situations in which the birth certificates of Puerto Ricans have been used are the source of approximately 40 percent of the 8,000 cases of passport fraud it has investigated. The reason is very simple: there are too many certified copies of birth certificates in circulation that are easily accessible to criminals.

It is clear, therefore, that we are dealing with a problem that threatens the security and well-being of all Puerto Ricans. Accordingly, it is necessary to establish measures to reduce the inherent risk associated with the extensive use and retention of birth certificates for common transactions for which certified birth certificates should not be required.

THE LEGISLATIVE ASSEMBLY OF PUERTO RICO HEREBY

DECREES:

Article 1. Title

The Law Prohibiting Public and Private Entities from Retaining, Storing, or Holding Certified Copies of Birth Certificates [*Ley para prohibir la retención, archivo y custodia de copias certificadas de certificados de nacimiento a entidades públicas y privadas*] is hereby adopted.

Article 2. Definitions

- (a) Vital Statistics Office: Shall mean the General Vital Statistics Office of Puerto Rico, established within the Puerto Rico Department of Health, which shall be responsible for the registration, collection, holding, safekeeping, amendment, and certification of vital statistics records; the collection of other information needed by this part [*sic—perhaps Office?*]; and activities pertaining thereto, including the tabulation, analysis, and publication of vital statistics.
- (b) Certified copy of birth certificate: Refers to the document furnished by the Secretary of Health or his/her designee, pursuant to Article 38 of Law No. 24 of April 22, 1931, as amended, known as the *Ley del Registro Demográfico* of Puerto Rico;
- (c) Entity: Includes, but is not limited to, any individual, public or private legal entity, agency, municipality, instrumentality, organization, association, church, business, public or private school, public or private sports or

recreational association, and for-profit or not-for-profit institution. This term shall be broadly interpreted;

- (d) Party concerned: Shall mean the registrant if he/she is 18 years of age or older, his/her father, mother, legal representative, legal conservator, or guardian, or the heirs of the registrant. It shall also mean any minor who in turn is the father or mother of a minor child for whom the issuance of records relating both to his/her person and to his/her minor child is authorized. "Party concerned" shall also mean the party indicated by order of the court.

Article 3. Prohibition

It is prohibited for any public or private entity that is not the party concerned as defined in Article 2(d) of this Law to retain, hold, store, or have in its possession any certified copy of a birth certificate issued by the Vital Statistics Office which any person has been required to submit in order to comply with a given entity's procedures.

The text of this prohibition shall be clearly and conspicuously included on any certified copy of a birth certificate issued by the Vital Statistics Office.

Article 4. Submission of Certified Copy of Birth Certificate

When, for any purpose whatsoever, a certified copy of a birth certificate is needed, it shall be sufficient to submit the certified copy of the birth certificate issued by the Vital Statistics Office of Puerto Rico. It shall be permitted, for recording purposes, to retain, hold, or store a photocopy, in electronic or digital form, of the certified copy of the birth certificate, on which it may be certified, in the same copy retained, that this is a true and accurate copy of the certified copy of the birth certificate. However, no certified

copy of a birth certificate as that term is defined in this Law shall ever, under any circumstances, be retained.

Article 5. Penalties and Liability for Harm

Any entity that acts contrary to the provisions hereof shall be guilty of a misdemeanor [*delito menos grave*].

In addition, any entity shall be held civilly liable for the totality of the harm suffered by any party concerned that occurs as a result of the violation of the provisions of this Law.

Article 6. Invalidation or cancellation of certified copies of birth certificates

All certified copies of birth certificates issued prior to July 1, 2010, shall be void and without any effect whatsoever for any purpose for which they were requested as of the above date or 15 days from their date of issuance, whichever occurs later. This provision shall not be construed as cancelling any action initiated prior to the expiration date provided for in this Article validly using a certified copy, issued prior to July 1, 2010, of a birth certificate.

Article 7. Article 2 of Law No. 24 of April 22, 1931, as amended, known as the known as the *Ley del Registro Demográfico* of Puerto Rico, is hereby amended to read as follows:

“Article 2. Definitions

As used in this part:

- (1) Vital Statistics Office – Shall mean the General Vital Statistics Office of Puerto Rico, established within the Puerto Rico Department of Health, which shall be responsible for the registration, collection, holding,

safekeeping, amendment, and certification of vital statistics records; the collection of other information needed under this part [*sic*]; and activities pertaining thereto, including the tabulation, analysis, and publication of vital statistics.

(2) [...]

[...]

(12) Party concerned. Shall mean the registrant if he/she is 18 years of age or older, his/her father, mother, legal representative, legal conservator, or guardian, or the heirs of the registrant. It shall also mean any minor who in turn is the father or mother of a minor child for whom the issuance of records relating both to his/her person and to his/her minor child is authorized. "Party concerned" shall also mean the party indicated by order of the court.

(13) Transcriptions and/or certifications in electronic or digital format: Refers to reproductions or copies of birth, death, or marriage records or entries registered in Puerto Rico with the Puerto Rico Office of Vital Statistics, which shall have the same legal validity or effect as certified copies of any such records or entries the Secretary of Health may issue pursuant to Article 38 of Law No. 24 of April 22, 1931, as amended."

Article 8. Article 38 of Law No. 24 of April 22, 1931, as amended, known as the Law on Vital Statistics of Puerto Rico, is hereby amended to read as follows:

“Article 38. Certified Copies of Certificates

A. Requests for Certified Copies of Certificates

At the request of a concerned party, the Secretary of Health, or his/her designee, shall provide a certified copy of any birth, marriage, or death certificate that has been entered and recorded in the General Register pursuant to the provisions of this Law. The concerned party shall submit a request for a certified copy of a birth certificate, to include the following information:

- (a) the name and address of the concerned party;
- (b) the relationship between the concerned party and the person named on the certificate;
- (c) the reason or purpose for requesting the certified copy of the birth certificate;
- (d) the information needed to locate the information [certificate].

The requester shall pay the amount specified in the pertinent regulations for the issue and certification of the certified copy of the birth certificate. Payment shall be made via purchase of revenue stamps for each request, and these stamps shall be affixed to the certificate issued, along with the word “*Despachado*” or “Issued” and the date of issue.

B. Electronic Transcripts of Birth Certificates

Federal or state government agencies, including the courts, may obtain free of charge, but without cost to the Government of Puerto Rico, electronic transcripts of all recorded birth, marriage, and death certificates, if they are to be used for official purposes.

These electronic transcripts shall be issued directly by the Vital Statistics Office to the state or federal agency or court.

C. *Prima Facie* Evidence

Following certification by the Secretary of Health, or by his/her designee, a copy of the record of any birth, marriage, or death certificate and electronic transcripts issued pursuant to the previous section, shall constitute *prima facie* evidence before all courts of the information contained therein.

D. Prohibition on Furnishing Certified Copies of a Birth Certificate

Any concerned party who has obtained a certified copy of a birth certificate is prohibited from transferring custody of that document to any person or public or private entity that so requests it.

If a certified copy of a birth certificate is needed for any reason, a certified copy of the birth certificate issued by the Vital Statistics Office of Puerto Rico shall suffice. A photocopy or digital or electronic copy of the certified copy of a birth certificate may be retained, stored, or held, and the copy may include the certification that it is a true and accurate copy of the certified copy of the birth certificate. However, under no circumstances shall the certified copy of the birth certificate be retained.

E. Document Search and Payment of Fees

Even if no certified copy is issued, concerned parties shall pay for the search for any document or information in the Department of Health's files. Payment shall be in the amount established in the regulations and made in the form of revenue stamps for every hour or fraction thereof spent searching for the document or information. The revenue

stamps purchased shall be affixed to a note stating that no document was found, and the request shall include the word “*Despachado*” and the appropriate date.

In addition, the Secretary of Health shall maintain a record of all revenue stamps purchased for certified copies and denials issued by him or his/her designee. The funds collected for this service shall be included in the Department of Treasury Special Fund and shall be allocated to the Vital Statistics Office budget for operating costs.

F. Missing Birth Certificate

If at any time after the birth of a person, a certified copy of the record of that birth is needed for any purpose and, after the files have been searched by the Secretary of Health or by one of his/her delegatee, it appears that the birth was not registered as required, the Secretary of Health shall immediately request that the person responsible for making such a statement and for submitting the certificate for registration do so to the appropriate District Vital Statistics Office. This certificate shall be as complete as possible depending on the amount of time that has passed since the birth in question. Any sworn statements or other documents that the Secretary of Health deems necessary shall be filed along with the certificate. If the person originally responsible for submitting the certificate, then refuses to do so in a timely manner, he or she shall face appropriate legal proceedings. If the person responsible for submitting the certificate has died or cannot be found, the person requesting the certified copy of the record may submit the birth certificate along with any sworn statements or other documents the Secretary of Health deems necessary. These shall be filed in the Department, and a certified copy of the certificate shall be issued to the requestor, following payment as previously described.

G. Missing Marriage Records

If at any time following a marriage, a certified copy of the marriage record is needed for any purpose and, after the files have been searched by the Secretary of Health or by his/her designee, it appears that the marriage has not been registered pursuant to the provisions herein, the concerned party shall contact the court of first instance in the jurisdiction where the marriage occurred to request an order to have the appropriate person at the Vital Statistics Office register the marriage. To obtain this order, the concerned party must file a petition with the court, swear to his or her claim under oath, and include any relevant documentation in support of the petition. Upon receipt of the petition, the court shall order that public notice be published in a Puerto Rican newspaper of general circulation for a period of 15 days [but] at least once per week. Together with the court filing, the petitioner shall submit a copy of the petition and all documentation to the Attorney General's Office. Any person with an interest in the matter may intervene in the proceeding.

Ten days after notification is published in a newspaper of regular circulation and submission of all evidence to the Attorney General's Office, and if that office or any concerned party has not raised any objection, the court shall review and decide upon the merits of the petition, without the need for a hearing. However, the court may hold a hearing if it deems necessary and shall issue the pertinent documentation in that regard. A certified copy of the proceeding shall be sent to the Secretary of Health to facilitate the registration of the marriage. The court decision shall be based on evidence that the marriage took place, the legal standing [*capacidad*] of the bride and groom, and the authority of the person who performed the marriage.

H. Missing Death Records

If at any time after human remains have been buried, a certified copy of the death certificate of that person is needed for any purpose, and the file search by the Secretary of Health or his or her representatives shows that said death as not been registered as required, the concerned party shall contact the court of first instance where the death occurred and petition for an order to have the appropriate person at the Vital Statistics Office register the death. To obtain this order, the concerned party must submit a petition to the court, attesting to the claim under oath and including any relevant documentary evidence in support of the petition. Simultaneous with filing the petition, the petitioner shall submit a copy of the petition and other documentary evidence to the Attorney General's Office. Ten days after delivery and notification of the Attorney General's Office, and if it has not raised any objection, the court shall review and decide on the merits of the petition, without the need for a hearing. If deemed appropriate, the relevant document shall be issued as soon as possible, and a certified copy shall be sent to the Secretary of Health for registration of the death. The court's decision must be based on accurate evidence that the death took place.

I. Court-ordered Registration

Any registration of birth, marriage, or death ordered by a court with the appropriate jurisdiction shall include the word '*Tardía*' or 'Delayed.' ”

Article 9. The prohibition mentioned in this Law against retaining a certified copy of a birth certificate shall enter into effect immediately. Any previous legislative or

regulatory provisions that order or allow for retention of a certified copy are hereby immediately repealed.

Article 10. This Law shall enter into force on January 1, 2010.