

(S. B. 1182)

(No. 191)

(Approved December 22, 2009)

AN ACT

To adopt the “Act to Prohibit the Retention, Keeping on Record, and Keeping under Custody of Certified Copies of Birth Certificates by Public and Private Entities”; to establish penalties for infringing such Act; to provide for the invalidation or nullity term for birth certificates issued before July 1, 2010; to amend Sections 2 and 38 of Act No. 24 of April 22, 1931, as amended, known as the “Vital Statistics Registry Act of Puerto Rico,” in order to prohibit that custody over certified copies of birth certificates be surrendered to any public or private entity requesting such copies and to provide for the procedures to be followed if Vital Statistics Registry certificates are not available; and for other purposes.

STATEMENT OF MOTIVES

Puerto Rico has fallen into the practice of extensively using birth certificates for regular transactions which should not call for certified birth certificates. Quite often, birth certificates are submitted so as to justify the right to certain benefits and services, such as school enrollment, job applications, driver’s licenses, voter registration cards, loans for major purchases, enrollment in children sports activities, religious activities, etc. According to information furnished by the Office of Management and Budget, the Vital Statistics Registry issued 860,698 certified copies of birth certificates in 2008. These certified birth certificates are kept at schools, agencies, municipalities, churches, and private entities, which accounts for a

great accumulation of certified documents for which oftentimes no proper custody is provided, no restricted access is established, and are even left unattended.

Consequently, the easy availability of such certificates has given rise to the larceny en masse of these privileged documents by criminals who intend to perpetrate a criminal act of any sort, such as identity theft or passport fraud, which situation is highly distressing. For example, a person who unrightfully obtains a United States passport by fraudulent means is able to use it not only to travel abroad and enter the United States freely, but also to use it to engage in all kinds of criminal acts, such as the fraudulent obtainment of immigrant benefits, drug trafficking, the obtainment of credit, terrorism, and trafficking in women and children.

According to the Diplomatic Security Service of the Department of State of the United States of America, out of the eight thousand (8,000) cases of passport fraud investigated by such unit, nearly forty percent (40%) arise from the use of birth certificates from Puerto Rican people. Unfortunately, the number of passport fraud cases whereby Puerto Rican birth certificates are used is on the rise. The reason is quite simple: there are too many certified copies of birth certificates in circulation, which are readily accessible to criminals.

It is therefore evident that this situation poses a threat against the safety and the welfare of all Puerto Ricans. It is only fitting to establish measures to reduce the risks entailed in the extensive use and retention of birth certificates for common transactions which should not call for the use of certified birth certificates.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Title.—

The “Act to Prohibit the Retention, Keeping on Record, and Keeping under Custody of Certified Copies of Birth Certificates” is hereby adopted.

Section 2.—Definitions.—

(a) Vital Statistics Registry.—Shall mean the General Registry of Vital Statistics of Puerto Rico established in the Department of Health of Puerto Rico, which shall be charged with the registry, compilation, custody, conservation, amendment and certification of vital records; the compiling of other reports required by this part; other related activities, including the tallying, analysis, and publication of vital statistics.

(b) Certified Copy of Birth Certificate.—The document furnished by the Secretary of Health or the person authorized by him/her under Section 38 of Act No. 24 of April 22, 1931, as amended, known as the “Vital Statistics Registry Act of Puerto Rico.”

(c) Entity.—Includes, but is not limited to, any natural person, public or private juridical person, agencies, municipalities, instrumentalities, organizations, associations, churches, businesses, public or private schools, public or private recreational or sports associations, and for-profit or nonprofit institutions. This term is to be interpreted broadly.

(d) Interested Party.—Shall mean the registered person if age eighteen (18) or older, or the father, mother, legal representative, legal custodian or guardian, or heirs of the registered person. It shall also mean any minor who is, in turn, the parent of a minor, for whom the issue of certificates pertaining to his/her person or his/her child is authorized. “Interested party” shall also be any entity so designated by a Court order.

Section 3.—Prohibition.—

All public or private entities, other than the interested party as defined under Section 2(d) of this Act, are hereby prohibited from retaining, keeping, keeping on their records, or keeping under their custody any certified copies of birth certificates issued by the Vital Statistics Registry of which the submittal has been required from any person as part of the procedures to be followed at such entities.

The text of this prohibition shall be included, clearly and conspicuously, in all certified copies of birth certificates issued by the Vital Statistics Registry.

Section 4.—Presentation of Certified Copies of Birth Certificates.—

For any purposes requiring certified copies of birth certificates, the presentation of such certified copies of birth certificates issued by the Vital Statistics Registry of Puerto Rico shall suffice. For record purposes, it is hereby allowed to retain, keep under custody or keep on record photocopies, in electronic or digital format, of the certified copies of birth certificates, which copy retained shall attest that the same is a true and exact copy of the certified copy of the birth certificate. However, by no means and under no circumstance shall certified copies of birth certificates, as defined in this Act, be retained.

Section 5.—Penalties and Liability for Damages.—

Any entity engaging in actions contrary to the provisions set forth herein shall incur a misdemeanor.

Furthermore, any entity shall be held civilly liable for the total damages caused to any interested party that have arisen as a consequence of infringing the provisions of this Act.

Section 6.—Invalidation or Nullity of Certified Copies of Birth Certificates.—

All certified copies of birth certificates issued before July 1, 2010, shall be null and shall have no effect whatsoever for any purpose for which the same were requested as of the aforementioned date or fifteen (15) days after their date of issue, whichever date is the latest. This provision shall not be interpreted to void any procedures initiated prior to the expiration date provided for in this Section, for which certified copies of birth certificates issued before July 1, 2010, are being validly used.

Section 7.—Section 2 of Act No. 24 of April 22, 1931, as amended, known as the “Vital Statistics Registry Act of Puerto Rico,” is hereby amended to read as follows:

“Section 2.—Definitions.—

When used in this part:

(1) Vital Statistics Registry.—Shall mean the General Registry of Vital Statistics of Puerto Rico established in the Department of Health of Puerto Rico, which shall be charged with the registry, compilation, custody, conservation, amendment and certification of vital records; the compiling of other reports required by this part; other related activities, including the tallying, analysis, and publication of vital statistics.

(2) ...

...

(12) Interested Party.—Shall mean the registered person if age eighteen (18) or older, or the father, mother, legal representative, legal custodian or guardian, or heirs of the registered person. It shall also mean any minor who is, in turn, the parent of a minor, for whom the issue of

certificates pertaining to his/her person or his/her child is authorized. 'Interested party' shall also be any entity so designated by a Court order."

(13) Electronic or Digital Transcripts and/or Certifications.—The reproductions or copies of birth, death, and marriage certificates or reports recorded in Puerto Rico at the Vital Statistics Registry of Puerto Rico, which shall have the same legal value or effect as the certified copies of such certificates or reports as the Secretary of Health may issue pursuant to Section 38 of Act No. 24 of April 22, 1931, as amended.

Section 8.- Section 38 of Act No. 24 of April 22, 1931, as amended, known as the "Vital Statistics Registry Act of Puerto Rico," is hereby amended to read as follows:

"Section 38.- Certified Copies of Certificates

A. Petition of Certified Copies of Certificates

At the request of the interested party, the Secretary of Health or the person authorized by him/her shall issue a certified copy of any birth, marriage or death certificate that has been recorded and registered in the General Registry pursuant to the provisions of this Act. The interested party shall complete an application for a certified copy of the birth certificate which shall include the following:

- (a) name and address of the interested party
- (b) existing relation between the interested party and the person whose birth certificate is requested
- (c) reason or motive for which a certified copy of the birth certificate is requested.
- (d) any data necessary for searching the information.

The petitioner shall pay for the issue and certification of certified copies of birth certificate the fee established through regulations to such effect by means of internal revenue stamps, thus canceling the total sum thereof and attaching them to the certificate so issued and imprinting on the application the word “Released” and the corresponding date for the issue and certification of the certified copy of the birth certificate.

B. Electronic Transcripts of Birth Certificates

The agencies of the Federal or the Commonwealth Government, including the Courts, may obtain free of charge, but without any cost for the Government of Puerto Rico, electronic transcripts of all birth, marriage, and death certificates registered when they are to be used for official purposes.

These electronic transcripts shall be issued directly by the Vital Statistics Registry to the Federal or Commonwealth agency or Court.

C. *Prima Facie* Evidence

A copy of the record of any birth, marriage or death, after being certified by the Secretary of Health or the person authorized by him/her, and the electronic transcripts issued as provided by the subsection above shall be *prima facie* evidence of the facts stated therein before any Court of Justice.

D. The Surrender of a Certified Copy of the Birth Certificate is Prohibited

Surrendering the custody of a certified copy of a birth certificate obtained by any interested party to any person or public or private entity requiring the same is hereby prohibited.

In the event that a certified copy of the birth certificate is required, the presentation of a certified copy of the birth certificate issued by the Vital Statistics Registry shall suffice. There shall be allowed to retain, keep under custody or keeping on record a photocopy, in electronic or digital format, of

the certified copy of a birth certificate, which copy retained shall attest that the same is a true and exact copy of the certified copy of the birth certificate. However, by no means and under no circumstances shall the certified copy of the birth certificate be retained.

E. Document Search and Payment of Fees

Any party interested in searching any document or information in the records of the Department of Health, when no certified copy is issued, shall pay the fee established through regulations by means of internal revenue stamps which shall be fully cancelled by having them attached to the negative note issued, stating the word "Released" and the corresponding date, for every hour or fraction thereof employed in searching for such document or information.

Provided, further, that the Secretary of Health shall keep a record of any internal revenue stamps cancelled on account of certified copies and negative notes issued by him/her or his/her duly authorized representatives. The sums thus collected shall be covered into a Special Fund in the Department of the Treasury and shall be destined to the budget of the Vital Statistics Registry for operating expenses.

F. Unregistered Births

If at any time after the birth of a person, a certified copy of the record of such birth should be required for any purpose, and if, after the files have been searched by the Secretary of Health or his/her representatives, it is found that said birth was never registered in accordance with the provisions of this part, the Secretary of Health shall then immediately require the person responsible for making said declaration and presenting the certificate for its registration, to present as complete a certificate as possible as the time elapsed since said birth may allow to the keeper of the Registry of the

corresponding District. There shall be filed with said certificate all such affidavits and other documents as the Secretary of Health may deem necessary, and the person responsible for said violation shall be prosecuted, as required by this part, if he/she refuses to present said certificate promptly. In case the person responsible for the presentation of the certificate has died or cannot be found, the person requesting the certified copy of the record may present said birth certificate, together with such affidavits or other documents as may be required by the Secretary of Health, all of which shall be filed in the Department, and a certified copy of the certificate shall then be issued to the applicant, upon payment of the hereinbefore mentioned fees.

G. Unregistered Marriages

If at any time after the performance of a marriage, a certified copy of the record thereof should be required for any purpose, and after the files have been searched by the Secretary of Health or his/her representatives, it is found that said marriage was never registered in accordance with the provisions of this part, the interested party shall resort to the Part of the Court of First Instance in which the marriage was performed, for an order to the effect that the recording of said marriage be made by the keeper of the Vital Statistics Registry. In order to obtain said order, the interested party shall file a petition with the Court explaining his/her request, under oath, accompanied by proper documentary evidence to support his/her petition. After filing the petition, the Court shall direct the publication of a notice for public knowledge in a newspaper of general circulation in Puerto Rico for a period of fifteen (15) days and at least once a week. The petitioner shall remit to the Department of Justice a copy of the petition and all the documentary evidence, simultaneously with its filing. Any person interested in the matter may participate in the proceedings.

If after ten (10) days from the date of publication of the notice in a newspaper of general circulation, and service of notice and remittance of any and all proof to the Department of Justice, it or any party interested has not raised any objection on the matter, the Court shall deliberate and resolve the petition on its merits without need for holding a hearing, or shall hold it, in its discretion, if deemed advisable, and shall issue the corresponding writ.

A certified copy thereof shall be remitted to the Secretary of Health for the purpose of recording said marriage. The decision of the Court of First Instance shall be based on attesting evidence of the performance of the marriage, the fitness of the contracting parties and the authority of the person who performed the marriage.

H. Unregistered Deaths

If at any time after the interment of the remains of a human being, a certified copy of the death certificate of said person should be required for any purpose, and if, after the files have been searched by the Secretary of Health or his/her representatives, it is found that said death was never registered in accordance with the provisions of this part, the interested party shall resort to the Part of the Court of First Instance in which the death occurred, to request an order to the effect that the registration of said death be made by the keeper of the Vital Statistics Register. For the purpose of obtaining said order, the interested person shall file a petition with the Court explaining his/her request, under oath, accompanied by the proper documentary evidence in support of his/her petition. The petitioner shall remit to the Department of Justice a copy of the petition and other documentary evidence, simultaneously with its filing. If after ten (10) days of the remittance and notice to the Department of Justice, it has not raised any objection, the Court shall deliberate and resolve the petition on its merits

without the need for holding a hearing, if it deems it advisable, and within the shortest time possible shall issue the proper writ, and a certified copy of same shall be remitted to the Secretary of Health for the purpose of recording said death. The decision of the Court of First Instance shall be based on attesting evidence of the death.

I. Registration Ordered by the Court

Any birth, marriage or death registration ordered by a court with competent jurisdiction shall bear the word “Belated.”

Section 9.- The prohibition contained in this Act on retaining a certified copy of the birth certificate shall take effect immediately. Any provision of law or regulations previously in effect which orders or allows for the retention of a certified copy is hereby repealed immediately.

Section 10.- This Act shall take effect on January 1, 2010.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 191 (S. B. 1182)** of the **2nd Session of the 16th Legislature** of Puerto Rico:

AN ACT to adopt the “Act to Prohibit the Retention, Keeping on Record, and Keeping under Custody of Certified Copies of Birth Certificates by Public and Private Entities”; to establish penalties for infringing such Act; to provide for the invalidation or nullity term for birth certificates issued before July 1, 2010; to amend Sections 2 and 38 of Act No. 24 of April 22, 1931, as amended, known as the “Vital Statistics Registry Act of Puerto Rico,” in order to prohibit that custody over certified copies of birth certificates be surrendered to any public or private entity requesting such copies and to provide for the procedures to be followed if Vital Statistics Registry certificates are not available; and for other purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 1st day of February of 2010.

Solange I. De Lahongrais, Esq.
Director