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LAWS PROVIDING A METHOD FOR JUDICIAL  
DETERMINATION OF PLACE AND DATE  
OF BIRTH

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Report to Joint Holdover Committee  
Pursuant to Request



Legislative Reference Bureau  
Territory of Hawaii  
October, 1944

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OF PLACE AND DATE OF BIRTH

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LAWS PROVIDING A METHOD FOR JUDICIAL DETERMINATION  
OF PLACE AND DATE OF BIRTH

Although adequate birth registration laws and procedures have been urged and have been in effect in most states and jurisdictions for many years, recent requirements have made proper proof of place and time of birth a matter of great importance to the individual. Today a large number of situations and transactions concerning the individual in a very vital way require legal evidence of place and time of birth. To mention the more important of these;

Proof of the fact of birth is needed:

- a. For proving parentage
- b. For inheritance of property
- c. For settlement of insurance
- d. For legal dependency
- e. For establishing identity
- f. For tracing ancestry

Proof of the date of birth is needed:

- a. For entrance to school
- b. For first-work permit
- c. For automobile license
- d. For right to vote
- e. For right to marry
- f. For establishing age of consent or liability
- g. For right to enter civil service
- h. For holding public office
- i. For entering military service
- j. For social security benefits to blind, dependent children and aged.

Proof of place of birth is needed:

- a. For passports

- b. For immigration and emigration
- c. For establishing citizenship<sup>/1</sup>

Every state and the Territory of Hawaii today have compulsory birth and death registration laws, establishing machinery for the collection and recording of birth statistics and placing a responsibility, enforceable by penalty provisions, upon physicians, midwives, parents and others, for the registration, within a specified time, of the information required on standard birth registration forms. Great progress has been made within the last twenty years toward the goal of complete birth registration in all states and registration areas, and a few states and the Territory of Hawaii have attained a commendably high degree of completeness in this respect, as will be seen by the table of completeness of birth registration on the following page. With the high percentage of racial mixtures in Hawaii, and the rural character of much of her territory, the high percentage of completeness of birth registration in Hawaii in comparison with states on the mainland is doubly commendable.

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<sup>/1</sup>. Physicians' Handbook on Birth and Death Registration (Ninth Edition), U. S. Department of Commerce, Bureau of the Census, 1943, p. 18.

Table 1

BIRTH REGISTRATION

The Percentage of the Completeness of Birth Registration in the  
United States by State: December, 1939, through March, 1940,  
and for the Territory of Hawaii, 1943<sup>/2</sup>

<u>Area</u>	<u>Percentage of Completeness</u>	<u>Area</u>	<u>Percentage of Completeness</u>
UNITED STATES	92.5		
Alabama	85.2	Montana	97.6
Arizona	84.4	Nebraska	96.9
Arkansas	75.9	Nevada	96.2
California	98.0	New Hampshire	98.7
Colorado	89.8	New Jersey	99.0
Connecticut	99.4	New Mexico	86.4
Delaware	97.4	New York	98.9
District of Columbia	97.9	North Carolina	86.1
Florida	89.9	North Dakota	94.7
Georgia	81.3	Ohio	95.2
<u>HAWAII</u>	<u>97.7<sup>/3</sup></u>	Oklahoma	84.8
Idaho	95.0	Oregon	97.1
Illinois	95.0	Pennsylvania	97.0
Indiana	96.5	Rhode Island	98.8
Iowa	94.6	South Carolina	77.6
Kansas	95.5	South Dakota	95.4
Kentucky	89.2	Tennessee	80.4
Louisiana	86.1	Texas	86.5
Maine	96.1	Utah	96.6
Maryland	97.1	Vermont	97.3
Massachusetts	98.9	Virginia	91.9
Michigan	97.8	Washington	97.8
Minnesota	99.3	West Virginia	86.5
Mississippi	89.8	Wisconsin	96.9
Missouri	90.2	Wyoming	95.6

<sup>/2</sup>. Robert F. Lenhart, "Completeness of Birth Registration," American Journal of Public Health, June 1943, p. 685.

<sup>/3</sup>. Hawaii percentage based upon letter from U. S. Bureau of the Census, Division of Vital Statistics, to Y. Z. Chong, Territorial Registrar-General, 1943.

The fact remains, however, that one hundred per cent complete registration has not been attained in any jurisdiction and is probably impossible of attainment. Even under the supervision of vigilant central departments of vital statistics registration, it is estimated by the Bureau of the Census that in 1940, the year in which the check was made of completeness of birth registration referred to in Table 1, there were in the United States approximately 200,000 births not recorded.<sup>/4</sup>

Recent State Legislation Providing for Judicial Determination of Date and Place of Birth.

During the 1943 legislative sessions at least eleven states passed legislation, most of it having emergency effect, providing a means whereby persons either born in or resident in the state could have the facts pertaining to their birth judicially determined by petition to a court of competent jurisdiction in the state. These laws are designed to supplement, rather than to replace existing birth registration laws in the respective states, and have as their primary purpose providing an alternative method of birth registration in cases where existing laws are insufficient, and particularly in the case of persons whose birth is not a matter of record with the Bureau of Vital Statistics. Even where there is provision for delayed registration of births by the Registrar of Vital Statistics in the state, these procedures are often inadequate because (a) they sometimes apply only for the registration of persons within one year after birth (as in Hawaii); and (b) as administrative determinations, they are sometimes not recognized or accorded "full faith and credit" in other jurisdictions, as would be the case with a judicial decree of the state courts.

The principal provisions of recent state laws providing for judicial determination of birth are summarized in Table 2. Most of the laws provide that a person either born in the state or resident in the state, whose birth is not registered

(Continued on Page 7.)

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<sup>/4</sup>. Robert F. Lenhart, "Completeness of Birth Registration," American Journal of Public Health, June 1943, p. 689.

Table 2

DIGEST OF PROVISIONS FOR JUDICIAL DETERMINATION  
OF TIME AND PLACE OF BIRTH, SELECTED STATES, 1943

STATE	CITATION	COURT TO WHICH APPLICATION MADE	FILING FEES	EVIDENCE REQUIRED	EFFECT OF COURT ORDER	RESIDENCE REQUIREMENT
Illinois	Laws 1943, p. 1012	County Court		Affidavit of Petitioner	Prima facie evi- dence in any court of the state or before any dept., etc.	Resident of state one year, not born in state.
Oregon	Laws 1943, ch. 118	Circuit Court	\$1.00	Affidavit of Petitioner	Orders registra- tion by State Registrar	Resident of state or born in state.
Alabama	Laws 1943, Act 118, pp. 119-121	Probate, Circuit or other like court	\$2.50	Affidavit of Petitioner	Orders registra- tion by State Registrar	Born in state or of legal residents of state.
California	Laws 1943 ch. 12-13	Superior Court of county of birth or of residence	\$3.00	Affidavit of Petitioner or person interested	Orders registra- tion by State Registrar	Birth or residence in state.
Montana	Laws 1943, ch. 16	District Court of county	\$2.00	Affidavit of Petitioner and specified information as to parent- age, etc.	Order filed with Bureau of Vital Statistics	Any U.S. citizen (by birth or natu- ralization) who is resident of the state for one year.

STATE	CITATION	COURT TO WHICH APPLICATION MADE	FILING FEES	EVIDENCE REQUIRED	EFFECT OF COURT ORDER	RESIDENCE REQUIREMENT
North Dakota	Laws 1943, ch. 272	District Court of county	\$5.00 and cost of pub- lication of notice	Affidavit of Petitioner and specified information as to parent- age, etc.	Order shall be accorded full faith and credit as any other judgment of court	Any U.S. citizen (by birth or natu- ralization), resi- dent of the state for one year.
Oklahoma	Laws 1943, p. 152, S. 2	County Court		Affidavit of Petitioner	Judgment binding on all agencies of the state. Certified copy to be issued by State Registrar	Any resident of the state.
Uniform Act	Uniform Vital Statistics Act, Sec. 21A, 8/18/42, pp. 10-11			Verified petition	Same as certifi- cates of birth issued by Bureau of Vital Statis- tics	Person born or resident in the state.

with the Bureau of Vital Statistics, may petition to the county court to have these facts judicially determined. The petition is to be accompanied by affidavits, and in some cases other documentary and supporting evidence which will prove to the satisfaction of the court the place and time of birth of the applicant. Notice of this petition is served upon the District Attorney, public notice is published and a hearing is held, in which persons supporting or opposing the petition may be heard. Generally a nominal filing fee of \$1.00 to \$5.00 is charged the petitioner.

One or both of two general procedures are followed in regard to the effect of the court decree. Either the court determines, according to the evidence presented before it, the place and time of birth, and certifies these facts by a decree which is to be accepted as prima facie evidence of the facts by other courts or departments in the state and thereby must be accorded "full faith and credit" by the courts of other states as provided in the U. S. Constitution;<sup>45</sup> or the court certifies these facts and directs the State Bureau of Vital Statistics, or appropriate registration agency, to issue a certificate of birth, in which case the certificate so issued has the same effect as a birth certificate originally and regularly issued by the Registrar. In both cases the effect of the court decree is to afford an adequate remedy for persons whose birth might not otherwise be properly recorded.

Evidence required for the petition is generally an affidavit properly sworn to by the petitioner or a person beneficially interested in the existence of the record of birth, and supporting evidence as to citizenship, residence in the state, place and time of birth, and parentage. Some of the state laws provide that the petitions may be filed by any resident of the state whose birth is not otherwise recorded, whether or not his birth is alleged to have occurred in the state, while other states permit the petitions to be filed only in the case of persons born in

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<sup>45</sup>. Constitution of the United States, Art. IV, Sec. 1. By Act of March 27, 1804 (2 Stat. 298), Congress extended the rights under this clause to the public acts, records, judicial proceedings, etc., of the Territories of the United States and countries subject to its jurisdiction.

the state. Illinois provides that the process may be used only by persons whose birth did not occur in the state.

Provisions of the Uniform Vital Statistics Act

In order to encourage the enactment of uniform birth and death registration laws in all of the states and territories, the United States Bureau of the Census, Division of Vital Statistics, which collects and publishes vital statistics of the states but has no federal jurisdiction to compel registration by the states, drafted the provisions of a model registration act and in 1907 recommended its adoption, in substance, by the states.<sup>/6</sup> Later (1939) this draft was revised and submitted to the National Conference of Commissioners on Uniform State Laws,<sup>/7</sup> which in turn recommended its adoption by the states. The latest revision of this draft (1942) contains a provision for judicial determination of the facts of place and time of birth as an alternative to the registration procedures regularly provided in the earlier drafts. This provision is as follows:

SECTION 21A. (COURT PROCEDURE TO ESTABLISH DATE AND PLACE OF BIRTH AND PARENTAGE.)

(1) Any person born or residing in this state may petition any court of record of the (county) in which he resides or was born for an order establishing a public record of the time and place of his birth and his parentage. The petition shall be verified by him and shall allege the facts which he claims entitle him to such an order. The court shall fix the time and place of hearing the petition. At least 10 days before the hearing, notice thereof shall be mailed to the (district attorney) of the (county) and to the (state bureau of vital statistics) and shall be published once in a newspaper of general circulation in the (county). Proof of the mailing and publication shall be filed at the hearing. The oral testimony shall be

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<sup>/6.</sup> Physicians' Handbook on Birth and Death Registration (Ninth Edition), U. S. Department of Commerce, Bureau of the Census, 1943, p. 77.

<sup>/7.</sup> Among the agencies which cooperated in the development of the revised draft were the Social Security Board, U. S. Public Health Service, Children's Bureau, American Medical Association, American Bar Association, American Association of State and Provincial Registration Executives, and State and Territorial health officers.

transcribed and together with the other proofs shall be filed in the proceeding.

(2) If the court is satisfied from the evidence received at the hearing of the truth of the allegations of the petition and of the facts as to the time and place of the petitioner's birth and of his parentage, and that he resides in the (county) or was born there, the court shall make and enter an order reciting the jurisdictional facts and determining the time and place of the petitioner's birth and the names of his parents, and any other facts deemed relevant by the court.

(3) The order or a certified copy thereof may be recorded in the office of the (register of deeds) of the (county) and in the office of the (state bureau of vital statistics).

(4) The order, the record thereof, and certified copies of the order or of the records shall be evidence of the truth of their contents and be admissible as proof thereof at all times and places the same as certificates of birth mentioned in section 16.

Although most of the states and the Territory of Hawaii have enacted laws which provide in substance for the procedures recommended in the Uniform Vital Statistics Act, only three states have adopted the Uniform Act as such.<sup>/8</sup>

#### Existing Hawaii Birth Registration Laws

Two general methods are provided at the present time by which certificates of birth to residents of Hawaii may be issued. One of these is provision for registration by the Registrar-General under the Department of Health in a manner substantially similar to that used in most states and similar in most essentials to the procedures recommended by the Bureau of the Census. The other is provision authorizing the Secretary of the Territory to issue what are called "Certificates of Hawaiian Birth" in cases where applicants have not been registered with the Bureau of Vital Statistics.<sup>/9</sup> A brief digest of these two provisions follows:

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<sup>/8</sup>. As of May, 1943, these are the states of Wyoming, Tennessee and Oregon. Book of the States, 1943-44, p. 131.

<sup>/9</sup>. Full text of these laws, as amended, are found in Appendix A and B of this report.

Registration by the Bureau of Vital Statistics

Chapter 53 of the Revised Laws of Hawaii, as amended,<sup>/10</sup> provides for the creation of a Bureau of Vital Statistics in the Department of Health of the Territory, and for the appointment of a director of the bureau who is Registrar-General. The Department (Board) of Health may also designate deputy-registrars for judicial districts of the Territory. It is the general function of the Bureau of Vital Statistics to provide forms, collect and maintain the custody of records and file statistics of births, deaths and marriages in the Territory. Under this law it is made the duty of physicians, midwives, parents, etc., to record within ten days<sup>/11</sup> record of births and information required on standard birth certificate forms. Provision is also made for late registration. If it appears that a person has not been registered, the Registrar-General shall require of physicians, parents, etc., the filing of needed information accompanied by the affidavit of at least two other persons. In the case of late registration, however, the Registrar-General shall not receive or permit to be filed any certificate of birth not offered within one year after the date of birth.

By amendment to this chapter in 1943 provision is also made for the issuance of new or supplemental birth certificates in the case of adoption or legitimation of children. In these cases the new or amended certificate shows the name of parents, age, sex, and date of birth of the child while, to avoid the stigma of illegitimacy upon the child, the original is sealed to be opened only upon court order in proper cases.<sup>/12</sup> This amendment is in accordance with the practice of a

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<sup>/10.</sup> Revised Laws of Hawaii, 1935, Secs. 1470-1494. See Appendix A.

<sup>/11.</sup> An older territorial law (Laws 1860, p. 32, s. 7) provides that the father or mother of any child shall report the name or names of the child to the registrar of births for the district in which the child was born, within three months after the birth of the child. Revised Laws of Hawaii, 1935, sec. 4667.

<sup>/12.</sup> Laws 1943, Series A-44.

large number of states in recent years and in accordance with recommendations of health and welfare authorities.

#### Certificates of Hawaiian Birth

In order to provide a birth record for persons who may not possess a certificate of birth issued by the Bureau of Vital Statistics, the Secretary of the Territory is authorized "whenever satisfied that any person was born within the Hawaiian Islands (to) cause to be issued to such person a certificate showing such fact."<sup>/13</sup> Applications are to be by sworn petitions and the Secretary is authorized to make such regulations respecting the form of application and certificates, the method of proof, kind of evidence, the time, manner, and place of hearing, and other matters as may to him appear necessary.

It is the practice of the office of the Secretary of the Territory to issue Hawaiian Birth Certificates only to persons five years of age or older.<sup>/14</sup> This practice is followed because the certificates carry with them, for purposes of identification, pictures of the registrant, and it is believed that pictures of children under the age of five have little value in establishing the identity of the bearer of the certificate.

Little difficulty has been encountered in the refusal of other agencies to recognize Hawaiian Birth Certificates once they have been issued or renewed. The Secretary, however, is frequently asked to verify the information contained in the certificates, and doubt has been expressed that the certificates are accorded generally the "full faith and credit" accorded to judicial decrees of the courts of the Territory. In passing upon the legal effect of Hawaiian Birth Certificates issued

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<sup>/13.</sup> Revised Laws of Hawaii, 1935, Secs. 7610-7614. For full text of law see Appendix B.

<sup>/14.</sup> Secretary of Hawaii, Regulations Governing the Issuance of Certificates of Hawaiian Birth, Nov. 8, 1935, Rule 4.

by the Secretary under a provision similar to the present law, the United States District Court for Hawaii called "unsound" the contention that these certificates "amounted to a judgment or determination that the person named in them was of Hawaiian birth and, therefore, a United States citizen, which cannot be collaterally impeached in the absence of evidence of fraud." /15

### Summary

These existing Hawaii laws provide satisfactory relief for most cases in giving official evidence of place and time of birth in Hawaii to those who might need such evidence for the purposes set forth on page one of this report. However, even under the two provisions which now exist for the issuance of birth certificates, there could still arise cases in which these laws might be inadequate. These cases could arise from the following facts:

1. The birth registration procedures and records of the Bureau of Vital Statistics, although high in percentage of completeness, do not cover every case of birth in the Territory of Hawaii.
2. Provision for delayed registration by the Bureau of Vital Statistics applies only within one year after the date of birth.
3. Hawaiian Birth Certificates are issued by the Secretary of the Territory only to persons five years of age or older.
4. Hawaiian Birth Certificates, although they might be recognized for all Territorial purposes, might not be given the recognition of a court decree in respect to persons appearing before the courts and agencies of states and of the United States Government.

The arguments for and against the adoption by Hawaii of a provision for judicial determination of place and time of birth, similar to the Uniform Act

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/15. Matter of Su Yen Hoon, U. S. District Court for Hawaii, Reports, Vol. 3, p. 610. Sept. 10, 1910.

and those laws which appear in the Appendix to this report, may be summarized briefly as follows:

On behalf of such adoption, it is stated:

1. That it is in the interests of uniformity with recent state legislation and is recommended by the National Conference of Commissioners on Uniform State Laws.
2. That the advantages of the provision are contingent and could arise under circumstances not foreseen at the present time.
3. That such a law changes no existing requirements or obligations for registration of births, but adds a new alternative method.

Arguments advanced in opposition to the adoption of such a provision are as follows:

1. These judicial procedures would place an additional administrative burden upon the courts. Under these laws, the function of the court would necessarily be limited to certification of the facts presented before it. As a judicial body the court is without facilities for an independent investigation of cases such as is conducted by the Secretary of the Territory at the present time prior to the issuance of Hawaiian Birth Certificates.
2. The number of persons affected is probably not large and should diminish year by year through the process of registration of new births by the Bureau of Vital Statistics.
3. It is pointed out that certificates of Hawaiian Birth are refused only in the case of persons who are unable to offer satisfactory proof that their birth occurred in the Territory. Under the provisions cited, the court could do no more than this.

Possible Alternatives

Short of the adoption of provisions for a method of judicial determination of the place and time of birth, a number of the cases in which it could be expected that the procedure would be used might be eliminated by one or both of the following alternatives:

1. Amendment of the Delayed Birth Registration Law or revision of the Rules of the Secretary of the Territory in regard to the issuance of Hawaiian Birth Certificates so that no gap would appear in the age groups of those eligible to apply for one or the other.
2. Provision for a method of appeal to the courts of the Territory in the case of persons claiming error in the action of the Secretary in refusing the issuance of a Certificate of Hawaiian Birth.

A P P E N D I X

## Appendix A

BIRTH, DEATH, AND MARRIAGE REGISTRATION LAWS  
TERRITORY OF HAWAIIRevised Laws of Hawaii, 1935, as amended

## CHAPTER 53. VITAL STATISTICS: BIRTHS, DEATHS, MARRIAGES

Section 1470. BOARD, REGISTRAR, REGISTRAR GENERAL, DEFINED. Wherever used in this chapter: "board" shall mean the board of health of the Territory, unless the context shall indicate some other meaning; "registrar" shall mean the registrars of births, deaths and marriages, who shall be appointed by the board; and "registrar general" shall mean the registrar general of births, deaths and marriages, who shall be appointed by the board and whose principal office shall be kept in the city and county of Honolulu. (L. 1896, c. 50, s. 2; am. L. 1913, c. 86, s. 1; R. L. 1925, s. 1211.)

Section 1470 A. BUREAU OF VITAL STATISTICS; DIRECTOR AND ASSISTANTS. There shall be a bureau in and maintained by the board of health called the bureau of vital statistics. The director of the bureau of vital statistics shall be the registrar general and the office of the registrar general shall be the office of the bureau and it shall be equipped with a fire-proof vault and filing cases for the permanent and safe preservation of all records provided for and made under this chapter. All official records made and returned under this chapter shall be filed and preserved at the office of the bureau by the said director.

The director of the bureau shall have general supervision over the bureau. He shall be a competent statistician and shall not engage in any other occupation or business. It shall be his duty to prepare all forms and blanks and the necessary detailed instructions for uniformly carrying out the provisions and objects of this chapter and he shall procure the full and prompt registration of all births, deaths or marriages as provided by this chapter. He shall exercise such other powers and perform such other duties as may from time to time be delegated to or required of him by the board.

Statistics in respect to births, marriages, deaths, burials, cremations and such other comparative statistics and information as may be deemed of value to scientists, the medical profession, the general public and an aid in the maintenance of good health conditions shall be compiled by the registrar general and may be published by the board in such manner and at such times as the board may deem proper.

The board shall appoint a deputy statistical clerk, who shall be a competent statistician, and shall perform such acts and duties as shall from time to time be required by the director of the bureau or the board. The compensation of the deputy statistical clerk shall be fixed by the board.

The board may appoint and fix the compensation of such other clerical assistants as may be necessary to carry out the provisions of this chapter and to preserve old records made and returned under this chapter. (Added by Laws, 1937, Series A-39; approved April 28, 1937, S. B. 267, Act 86.)

## REGISTRARS AND RECORDS

Section 1471. REGISTRAR'S APPOINTMENT. The Board is directed to appoint a registrar of births, deaths and marriages in and for each judicial district in the Territory. The board may, in its discretion, subdivide any district, if the public convenience requires it, and appoint a registrar for each of such subdivisions. (L. 1896, c. 50, s. 3; R. L. 1925, s. 1212.)

Section 1471 A. APPOINTMENT OF DEPUTY REGISTRARS. The board is directed to appoint one or more deputy registrars of births, deaths, and marriages in and for each judicial district in the Territory and in each subdivision of a district in which a registrar is appointed. A deputy registrar, under the supervision of the registrar, shall have all the duties and powers of a registrar. (Added by Laws, 1943, Series A-43; approved April 19, 1943, S. B. 104, Act 37.)

Section 1472. NO PAY WHEN. If any physician, sheriff, deputy sheriff, magistrate or assessor is appointed a registrar, it shall become a part of his official duties to perform the duties of registrar without further compensation. (L. 1896, c. 50, s. 21; R. L. 1925, s. 1213.)

Section 1473. RECORDS KEPT. It shall be the duty of each registrar, except the registrar for the Honolulu district on duty in the office of the registrar general, to keep in proper books used solely for such purpose a full and complete record of all the births, deaths and marriages which take place in the district of which he is the registrar. (L. 1896, c. 50, s. 4; R. L. 1925, s. 1214; am. L. 1933, c. 29, s. 1.)

Section 1474. BIRTHS AND DEATHS. Each registrar shall enter in his record, in respect of each birth and death in his district all the facts required to be contained in the certificate of birth provided in section 1486, if it be a birth, and all the facts required to be contained in the certificate of death provided in section 1489, if it be a death. (L. 1896, c. 50, s. 6; R. L. 1935, s. 1474; am. L. 1939, c. 151, s. 1.)

Section 1475. MARRIAGES. Each registrar shall enter in his record, in respect of each marriage occurring in his district, all the facts required to be contained in the certificate of marriage provided in section 1491. (L. 1896, c. 50, s. 7; R. L. 1935, s. 1475; am. L. 1939, c. 151, s. 2.)

Section 1476. RECORDS SENT TO REGISTRAR GENERAL. It shall be the duty of each registrar to transmit to the registrar general between the first and fifth days of each month, and in such form and manner as the registrar general may require, all original certificates of births, deaths and marriages registered by each such registrar during the preceding month. If there are no such registrations, each registrar shall so report the fact to the registrar general in such form and manner as the registrar general may require. (L. 1896, c. 50, s. 9; am. L. 1909, c. 131, s. 1; am. L. 1913, c. 86, s. 2; R. L. 1925, s. 1218; am. L. 1931, c. 67, s. 1.)

Section 1477. BOARD TO FURNISH BLANKS, ETC. The board shall cause all blanks and record books which may be necessary or proper for carrying out the objects of this chapter to be prepared, and shall furnish the same to the registrars and other officers in this chapter provided for, free of charge. (L. 1896, c. 50, s. 10; R. L. 1925, s. 1219.)

Section 1478. FILING RECORDS. It shall be the duty of the registrar general to file the records of births, deaths, and marriages received from the several registrars, and as soon as practicable, bind the same in compact form in the manner hereinafter provided. The records of births, deaths and marriages shall each be kept and bound separately in chronological order. (L. 1896, c. 50, s. 17; am. L. 1909, c. 131, s. 2; am. L. 1913, c. 86, s. 3; am. L. 1919, c. 68, s. 1; R. L. 1925, s. 1220.)

Section 1478 A. AMENDMENTS TO BIRTH RECORDS. In case of the adoption of any person, the registrar general, upon receipt of a certified copy of the adoption decree shall prepare a supplementary birth record in the new name of the adopted person, and seal and file the original record of birth with certified copy of the adoption decree attached thereto. Upon receipt of a certified copy of a court order of annulment of adoption, the registrar general shall restore the original record to its original place in the files. In the case of the legitimation of any child by subsequent marriage of its parents, the registrar general, upon receipt of a certified copy of the marriage certificate of the parents, together with a statement of the husband acknowledging paternity, shall prepare a new record of birth in the new name of the child so legitimated. The evidence upon which the new record was made, and the original record, shall be sealed and filed.

The sealed records made in accordance with the provisions hereinabove contained may be opened only upon order of a court of competent jurisdiction. (Added by Laws, 1943, Series A-44; approved May 17, 1943, H. B. 252, Act 217.)

Section 1479. PHOTOSTATIC OR TYPEWRITTEN COPIES OF RECORDS. The registrar general is authorized and directed to prepare typewritten or photostatic copies of such records, record books, certificates and other documents on file in his office, which by reason of age, usage or otherwise are in such condition that they can no longer be conveniently consulted or used without danger of serious injury or destruction thereof, and to certify to the correctness of such copies. Such typewritten or photostatic copies shall be competent evidence in all courts of the Territory with like force and effect as the original. (L. 1933, c. 186, pt. of s. 1.)

Section 1480. RECORDS; INSPECTION; CERTIFICATES; CHARGES. Except as the board may otherwise provide under section 1493, all records by this chapter directed to be kept shall, during business hours, be open to the inspection of the public. If the board shall, by rule or regulation prescribed under section 1493, close such records to the inspection by the public, then, upon request, the board or registrar general shall furnish to any person requesting information a certificate as to the existence or non-existence of any record of the birth, death or marriage of any person and if a record exists, permit any person making the request to examine such record. No charge shall be made for any such certificate, but if a search of the records is made, fees shall be charged as in section 1484 provided. The certificate shall be prima facie evidence in any court of the fact or facts therein contained. (L. 1896, c. 50, s. 18; R. L. 1935, s. 1480; am. L. 1941, c. 45, s. 1.)

Section 1481. REPORTS TO COUNTY CLERKS. The registrar general shall within ten days after the end of each month deliver, or forward by mail, to the county clerk of each county or city and county a list of the names of all citizens of twenty-one years of age or over whose deaths have been recorded in the bureau of vital statistics during such month. Such list shall set forth such portion of the information contained in the death record of each citizen whose death is so reported as will be of assistance to the county clerk in his identification. (L. 1933, c. 67, pt. of s. 2.)

Section 1482. CERTIFIED COPIES OF RECORDS OF BIRTH, STILLBIRTH, MARRIAGE AND DEATH; CERTIFICATIONS OF BIRTH; EVIDENCE; FEE. 1. Subject to the provisions of section 1487, and subject to the conditions and exceptions hereinafter provided, the registrar general shall furnish to any person applying for the same a certified copy of the record of any birth, stillbirth, marriage or death contained in any of the records kept under or by virtue of this chapter; provided, however:

- (a) That a certified copy of the record of birth shall be issued only upon order of a court of competent jurisdiction, or upon a specific request for such certified copy by the person, if of legal age, or by a parent or other lawful representative of the person, to whose birth the record relates, except that the registrar general may issue a certified copy of a birth record or certification of birth as may be necessary for official use upon the request of a department, agency or officer of any territorial, state or federal government or subdivision thereof; and
- (b) That in all other proper cases of requests for certification as to the birth record of any person, the registrar general shall issue a certification of birth, which shall contain only the name, sex, date of birth and place of birth of the person to whom it relates and none of the other data on the record of birth; provided, further, that the registrar general may inquire as to the reason for any such request, and may refuse such request if certification does not appear to be necessary or required for a proper purpose.

2. Such certified copy of a record of birth, stillbirth, marriage or death, or certification of birth, when properly certified by the registrar general, shall be prima facie evidence of the facts therein stated, in all courts, and places, and in all actions, proceedings or applications, judicial, administrative or otherwise; and any such certification of birth shall be accepted with the same force and effect with respect to the facts therein stated as the original birth record or a certified copy thereof. For any such certified copy the sum of one dollar shall be charged and paid and accounted for to the treasury of the Territory; provided, however, that the registrar general shall furnish free of charge a certified copy of any of said records to any department, agency, or officer of any territorial, state or federal government or subdivision thereof, or to representatives of the consular corps, or to any domestic or foreign corporation, association or organization not operated for profit which engages in public charity; and provided, further, that the registrar general upon application of the parent or guardian of any child, shall certify, free of charge, whenever the same is required for the admission of any child to a public or private school or for the purpose of securing employment for such child, as to the name, date and place of birth of such child as shown upon the aforesaid records kept under or by virtue of this chapter; provided, further, that the director of the census of the United States or any of his assistants, acting in their official capacity, may obtain, free of charge, transcripts of the said records of births, stillbirths and deaths. (L. 1896, c. 50, s. 19; am. L. 1913, c. 86, s. 4; am. L. 1929, c. 107, s. 1; am. L. 1932, 2d, c. 10, s. 1; R. L. 1935, s. 1482; am. L. 1937, c. 196, s. 1; am. L. 1943, c. 217, s. 1.)

Section 1483. FEE FOR AMENDING CERTIFIED COPIES. The registrar general shall charge a fee of twenty-five cents for amending any certified copy of births, deaths or marriages, which fees shall be deposited monthly with the territorial treasurer as government realizations. (L. 1933, c. 186, pt. of s. 1.)

Section 1484. FEE FOR INSPECTING RECORDS. The registrar general shall

charge a fee of fifty cents per hour or fractional part of an hour of time of search of records made at the request of any person desiring information contained in the office of the registrar general, which fees shall be deposited monthly with the territorial treasurer as government realizations; provided, however, that no charge shall be made for searching such records for any municipal, state, territorial or federal office, representative of any consular corps, or any social or welfare society. (L. 1933, c. 186, pt. of s. 1.)

#### COLLECTION OF STATISTICS

Section 1485. REGISTRAR TO INVESTIGATE, PROSECUTE. It shall be the duty of each registrar in and for his district, not only to compile the information furnished to him by the persons who by this chapter are directed to furnish him with information, but himself to investigate and procure and record the information directed to be recorded. It shall also be the duty of each registrar to prosecute or cause to be prosecuted any person who shall violate or fail to observe or perform any of the requirements of this chapter, or any of the rules and regulations made and published by the board under or by virtue of this chapter. (L. 1896, c. 50, s. 8; R. L. 1925, s. 1223.)

#### REPORTS OF REGISTRARS

Section 1486. REGISTRATION OF BIRTHS BY PHYSICIAN, MIDWIFE, PARENT, ETC., WITHIN TEN DAYS. Within ten days after the date of each birth, there shall be filed with the registrar of births, deaths, and marriages of the district in which the birth occurred, a certificate of such birth, which certificate shall be upon the standard form of the bureau of the census approved by the American Public Health Association, with a view to procuring a full and accurate report with respect to each item of information as hereinafter provided.

In each case where a physician or midwife was in attendance upon the birth of any child, or was called upon in connection with the birth, it shall be the duty of the physician or, if unattended by a physician, of every midwife, to file in accordance herewith the certificate herein contemplated.

In each case where there was no physician or midwife in attendance upon the birth, it shall be the duty of the father, or, if the father be absent from the Territory at the time of the birth, or not living, or, if the child be illegitimate, then it shall be the duty of the mother of such child, or householder, manager or superintendent of a public or private institution, each in the order of responsibility, within ten days after the date of such birth, to report to the local registrar the fact of such birth.

The certificate of birth shall contain the following items, which are declared necessary for the legal, social and sanitary purposes subserved by registration records:

The place and date of birth, full name of child, if named; the sex, whether twin, triplet or other plural birth, and the number of each child in order of birth; whether legitimate or illegitimate; the full name of the parents, their residence, color or race, age, birthplace and occupation; the number of children born to the mother and the number stillborn, or any other information which may be required to make the certificate complete; the certification of attending physician or midwife as to attendance at birth, including the statement of the date and hour of birth and whether the child was born alive or stillborn, and, if stillborn, the cause of

the stillbirth. (L. 1896, c. 50, s. 12; R. L. 1925, s. 1224; am. L. 1931, c. 67, s. 2.)

(Father or mother must report names of children within three months after birth; s. 4667; see s. 4529, legitimation.)

#### REPORTS OF REGISTRARS

Section 1487. LATE REGISTRATION. At any time within one year after the date of birth, if it shall appear to the registrar or the registrar general that any birth occurring in the Territory was not registered within thirty days of the date of such birth, the registrar or registrar general shall require the applicant, or person making application for the registration or a certified copy of a record of birth, to cause the physician or midwife in attendance upon the birth, who failed or neglected to file a certificate thereof, to file at once with the local registrar a certificate of such birth, in as complete form as the lapse of time will permit, and to pay a fee of five dollars, which shall be transmitted to the registrar general by the local registrar and accounted for together with the regular fee required for a certified copy of the certificate of birth thus filed. With such certificate there shall be filed not less than two affidavits by credible witnesses as to the correctness of the statements set forth in any such birth certificate.

If the physician or midwife responsible for the certificate be deceased or cannot be located or, if the birth was unattended by physician or midwife, then the father or mother, householder, manager or superintendent of a public or private institution, or other person having knowledge of the facts, may file such certificate of birth with the registrar general, together with not less than two affidavits as to the correctness of the statements made in any such certificate, and the registrar general shall file the same without payment of the registration fee and shall issue a certified copy of such certificate upon application and payment of the fee prescribed for a certified copy of a record of birth, death or marriage.

The registrar or the registrar general shall not receive or permit to be filed or registered any certificate of birth or affidavits not offered for such receipt, filing and registration within one year after the date of birth.

The registrar general shall not furnish a certified copy of any late registration birth record registered prior to July 1, 1931. (L. 1931, c. 67, pt. of s. 3; R. L. 1935, s. 1487; am. L. 1937, c. 77, s. 1.)

Section 1488. RECORDS TO BE KEPT BY HOSPITALS. Superintendents, doctors, managers or other persons in charge of hospitals or lying-in institutions, public or private, to which women resort for confinement, shall keep records containing all the data required by the form of birth certificate herein provided for, and in addition shall keep such other records or data as may be required by law or the circumstances of the case.

All hospitals, lying-in institutions, physicians and midwives shall register with the secretary of the board of health. (L. 1931, c. 67, pt. of s. 3.)

(Gun shot wounds, reports, s. 1202.)

Section 1489. DEATHS, REPORTED BY. It shall be the duty of every owner or, if the building or premise is leased or occupied or in charge of another, of the lessee or occupier or person in control or in charge of any such building or premises, in or upon which the death of any person shall take place, to report such death immediately to the registrar of the district in which the death took place. The report shall include, so far as the same are known to such person or persons,

all of the facts required to be contained in the certificate of death hereinafter provided.

It shall be the duty of every physician or surgeon who shall attend, or be called upon in connection with the death of any person, to report such death immediately to the registrar of the district in which the death took place. The report shall include all of the facts required to be contained in the certificate of death hereinafter provided.

There shall be a standard certificate of death, the form and contents of which shall be prescribed by the board, and it shall be the duty of the registrar to make out said certificate when the report of death is from a source other than an attending physician or surgeon; and when the report of death is by an attending physician or surgeon said certificate shall be made out and signed by such physician or surgeon. (L. 1896, c. 50, s. 13; am. L. 1929, c. 107, s. 2; R. L. 1935, s. 1489; am. L. 1939, c. 151, s. 3.)

Section 1490. REPORT OF DEATH; BY OTHERS WHEN. It shall be the duty of every minister who shall officiate at the burial of any deceased person, of every undertaker or other person who shall have charge of the burial of a deceased person, of every superintendent, physician, surgeon, manager, or other person in control or in charge of any hospital, of every midwife, of every public health officer, and of every relative of any deceased person, to give to the registrar of the district in which a death has taken place, all information of knowledge he may have concerning said deceased, whenever the registrar, or the registrar general shall request and in such manner and on such forms as the board may prescribe. (L. 1896, c. 50, s. 14; R. L. 1935, s. 1490; am. L. 1939, c. 151, s. 4.)

Section 1491. MARRIAGES, REPORTED BY. It shall be the duty of every person legally authorized to perform the marriage ceremony to immediately report every marriage ceremony, performed by him, to the registrar of the district in which such marriage takes place, setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the board. (L. 1896, c. 50, s. 15; R. L. 1935, s. 1491; am. L. 1939, c. 151, s. 5.)

Section 1492. ISSUANCE OF LICENSES, REPORTED BY. It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the registrar of the district in which the license is issued, setting forth all facts required to be stated in such manner and on such form as the board may prescribe. (L. 1896, c. 50, s. 16; R. L. 1935, s. 1492; am. L. 1939, c. 151, s. 6.)

Section 1493. REGULATIONS BY BOARD. The board shall have the full supervision of the carrying out of this chapter, and shall have the right to direct any or all of the registrars or other officers in this chapter provided for to keep other records and statistics than those in this chapter provided for; and shall also have the right and authority to make all rules and regulations which, in the discretion of the board, are necessary for more effectually securing the registration of full and accurate information concerning births, deaths and marriages. The board may also make reasonable rules and regulations with reference to the custody, preservation, and disposition, and the use, inspection, examination and publicity of the records, record books, certificates and other documents by this chapter or by the board directed to be kept, and of copies thereof, as it may deem necessary for the preservation and protection of such records, record books, certificates and other documents, and the copies thereof, or as it may deem proper and in the public

interest; provided, however, that no rule or regulation shall in anywise affect the issuing and furnishing of certified copies and other certificates as provided for in this chapter. Such rules and regulations shall, after approval by the governor, have the force and effect of and shall be law. (L. 1896, c. 50, s. 11; R. L. 1935, s. 1493; am. L. 1941, c. 45, s. 2.)

Section 1494. PENALTY. Any person who shall violate, or who shall fail to observe or perform, any of the requirements of this chapter or any requirement of any rule or regulation made and published by the board under or by virtue of this chapter, or who shall knowingly make a false statement of any fact to be recorded as in this chapter provided, shall, upon conviction thereof, be fined a sum not to exceed fifty dollars. (L. 1896, c. 50, s. 20; am. L. 1903, c. 8, s. 2; R. L. 1925, s. 1230; am. L. 1929, c. 107, s. 3.)

## Appendix B

PROVISIONS FOR ISSUANCE OF HAWAIIAN BIRTH CERTIFICATESRevised Laws of Hawaii, 1935, as amended

## CHAPTER 247. CERTIFICATES OF HAWAIIAN BIRTH: IMMIGRATION AND LABOR

Section 7610. ISSUANCE; PROCEDURE. The secretary of the Territory may, whenever satisfied that any person was born within the Hawaiian Islands, cause to be issued to such person a certificate showing such fact. The secretary, with the approval of the governor, may make such regulations respecting the form of application and certificates, the method of proof, kind of evidence, and time, place and manner of hearing, and all other matters and circumstances connected with such application, proof and hearing, as to him may appear necessary, and such regulations, when so approved and published once a week for three successive weeks in a newspaper of general circulation published in the Territory, shall have the force of law, and such publication shall be deemed legal notice to all persons. The secretary shall furnish the form of such applications and certificates. All applications shall be by sworn petition, in which the party shall set forth the facts upon which the application rests.

The secretary of the Territory, or his secretary, or such other person as he may designate and appoint from his office, may examine, under oath, any applicant or person cognizant of the facts regarding any application, and for that purpose he may administer oaths, subpoena and compel the attendance of witnesses and the production of books and papers, punish for contempts and, generally, exercise the same authority with regard to his special jurisdiction as is, by law, conferred on district magistrates. (L. 1911, c. 96, s. 1; am. L. 1923, c. 246, s. 1; R. L. 1925, s. 196; am. L. 1927, c. 202, s. 1.)

Section 7611. PERJURY. Any applicant or any person, who shall give or offer any false testimony, oral or written, under oath, in support or respect of any application for a certificate under the provisions of section 7610, shall be deemed guilty of perjury and shall be punishable accordingly. (L. 1911, c. 96, s. 2; R. L. 1925, s. 197.)

Section 7612. CERTIFICATES PRIMA FACIE EVIDENCE. Any certificate of Hawaiian birth heretofore issued under or by virtue of any law of the Territory, or which may be issued in conformity with the provisions of this chapter, shall be prima facie evidence of the facts therein stated. (L. 1911, c. 96, s. 3; R. L. 1925, s. 198.)

Section 7613. SPECIAL FUND. There is appropriated from the general revenues of the Territory the sum of three thousand five hundred dollars, which shall, together with the fees accruing under section 7614, constitute a special fund for the payment of all expenses incurred in the execution of the provisions of this chapter. (L. 1933, c. 206, s. 1.)

Section 7613 A. REFUNDABLE FEES TRANSFERRED TO SPECIAL FUND; CLAIMANTS REIMBURSED. The sum of One Hundred and Five Dollars (\$105.00) representing fees deposited with the secretary of the Territory by applicants for Hawaiian birth certificates and which has since prior to 1920 been carried as a special deposit and is now on deposit in the Bishop National Bank of Honolulu in the name of "Charles M. Hite, Secretary of Hawaii" shall be transferred to the "Special Fund"

provided for in section 7613, provided, however, upon proof furnished by any claimant satisfactory to the secretary of the Territory of the ownership of any part of the one hundred and five dollars (\$105.00) transferred to the Special Fund, the secretary of the Territory may reimburse the claimant the amount of his deposit from any monies in the Special Fund. (Added by L. 1937, Series D-156, Act 21.)

Section 7614. FEES. Fees shall be charged in connection with the issuance of such certificates as follows: For the filing of each application for a certificate, a fee of five dollars; for certified copies of such certificates a fee of one dollar for each such certificate, and a charge of fifty cents for each one hundred words or portion thereof contained in such certificate; provided, however, that such fees shall not be charged in connection with the issuance of such certificates to children under the age of sixteen years who are permanent inmates of homes or institutions in the Territory which are supported in whole or in part by public charity or taxation. All such fees collected shall be paid into the special fund created by section 7613. (L. 1911, c. 96, s. 4; am. L. 1921, c. 30, s. 1; am. L. 1923, c. 246, s. 2; R. L. 1935, s. 7614; am. L. 1935, c. 149, s. 1.)

Section 3850. HAWAIIAN BIRTH CERTIFICATES. All certificates of Hawaiian birth issued under and by the department of commerce and labor of the United States shall be held and deemed to be prima facie evidence of the facts therein stated before all territorial courts and registration boards. (L. 1909, c. 16, s. 1; R. L. 1925, s. 2613.)

Appendix C

OREGON LAWS, 1943, CHAPTER 118

(S. B. 8)

AN ACT

To provide an alternate method for registering births and giving the circuit courts jurisdiction to make findings and orders relating to registration of births of residents of the state of Oregon and persons born in the state of Oregon; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OREGON:

Section 1. Any person who is a resident of or who was born in the state of Oregon, and whose birth is not of record with the state registrar or of public record in any state of the United States, may file a verified petition with the clerk of the circuit court of any county of this state setting forth as nearly as is known to the petitioner the time and place of such petitioner's birth and the name and residence and birthplace of his or her father, and the name and residence and birthplace and maiden name of his or her mother, and stating that no public record of such birth exists. A filing fee of one dollar (\$1) shall be paid to the clerk of the court at the time of the filing of such petition. Forms of petitions prepared by the secretary of state shall be furnished the petitioner by the clerk of the court upon request without charge.

Section 2. Prior to filing such petition the petitioner shall serve upon the district attorney of the county wherein such petition is filed a copy of such petition and the district attorney shall accept service upon the original thereof.

Section 3. At any time after five days after such petition is served and filed the petitioner may appear in person or by attorney before the court in which such petition is filed and present to the court such evidence as is available in support of the statements of such petition. The district attorney may appear at such hearing and examine witnesses produced and may submit proof in support of or in objection to such petition.

Section 4. Upon the hearing of such petition the court, if satisfied that the facts therein stated are supported by substantial evidence, shall make findings with respect to the time and place of the birth of such petitioner and the parents of such petitioner, and shall order that such birth be registered with the state registrar. Any change in the name of any such petitioner between the time of birth and the time of filing of such petition shall not be cause for refusing to make such findings and order, but any change of name shall be noted in the findings.

Section 5. The order for the registration of such birth shall be properly signed in duplicate by the judge, and one copy thereof shall be entered in the journal of the court, and the other copy thereof, bearing the seal of the court, shall be transmitted by the clerk to the state registrar, who shall register the same in the records of the state board of health. A certified copy of such record, when issued either by the clerk of the court or the state registrar, shall be prima facie evidence in all courts and places of the facts stated therein. Certified copies shall be furnished by the clerk of the court or the state registrar at a fee of fifty (50) cents each.

Section 6. It hereby is adjudged and declared that existing conditions are such that this act is necessary for the immediate preservation of the public peace, health and safety; and an emergency hereby is declared to exist, and this act shall take effect and be in full force and effect from and after its passage.

Approved by the governor February 20, 1943.

Filed in the office of the secretary of state February 20, 1943.

## Appendix D

OKLAHOMA STATUTES, 1943 SUPPLEMENT  
Sections 601 and 602, pp. 142-143

## ESTABLISHING PLACE OF BIRTH, PARENTAGE AND AGE (NEW)

Section 601. RESIDENTS WHOSE BIRTH, ETC., NOT RECORDED--PETITION--EVIDENCE--JUDGMENT. Any resident of the State of Oklahoma, whether born in the State of Oklahoma, or elsewhere, whose birth, age, parentage and place of birth has not been recorded in the office of the State Commissioner of Health, may have the record of such information entered in the following manner: Such applicant may appear before a County Judge in the County of which he is a resident and file his verified petition in writing which said petition shall state the time and place of his birth and his parentage and such other facts as he deems pertinent; That said petition shall be filed in the office of the Court Clerk and given a number in the probate files thereof; That thereupon the said applicant shall produce all the evidence he has in his possession, which may consist of personal testimony, affidavits and records and if the said County Judge shall be satisfied with the proof offered, he shall make and enter a judgment establishing the time and place of birth, the age and the parentage of the applicant, which said judgment shall be final and conclusive of all the facts therein adjudged and binding upon all agencies in the State of Oklahoma. (L. 1943, p. 152, section 1.)

Section 602. FILING CERTIFIED COPY--ISSUANCE OF CERTIFIED COPY. That a certified copy of said judgment and order may be filed in the office of the State Commissioner of Health and a certified copy of the same shall be issued by the State Registrar of Vital Statistics in the same manner as now provided by law in all cases when registration has been entered under the laws now in force. (L. 1943, p. 152, section 2.)

## Appendix E

LAWS OF ALABAMA, 1943, ACT 118, pp. 119-121

No. 118)

(H. 113--Sightler

## AN ACT

To provide for court procedure to establish the facts of birth; to prescribe the method of giving notice of such court proceedings and to confer jurisdiction of such matter on the probate courts, circuit courts, or courts of like jurisdiction; to fix the amount of court costs to be charged and to provide for the filing and recording of a certified copy of the decree of said court in the office of the judge of probate of said county; and also in the office of the Registrar of Vital Statistics of Alabama; and to provide for the issuance of delayed certificates of birth based on said decree of court in the method provided by Title 22, Section 42, Code of 1940.

## BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. That any person born in this State, or in a foreign country of parents who were legal residents of the State at the time of his or her birth, may petition the probate court, circuit court, or other court of like jurisdiction, of any county in which he or she resides or was born for an order establishing a public record of the time and place of his or her birth and of his or her parentage after it has been determined that the birth was never registered and that he or she cannot meet the standard requirements for filing a delayed certificate of birth as set forth in Title 22, Section 39 of the Code of Alabama. The petition shall be verified by the party filing the same and it shall allege the facts which he or she claims entitle him or her to such an order. The court shall fix the time and place of hearing the petition at least ten days before the hearing. Notice thereof by the clerk or register of said court shall be mailed to the solicitor of the county and to the State Registrar of Vital Statistics, and such clerk or register shall post a copy of said notice at the court house door in the county. Proof of mailing and posting such notice shall be filed at the time of hearing by a certificate of such clerk or register that said notice has been given as herein provided. The evidence shall be taken by oral testimony, or taking of such testimony by filing interrogatories as now prescribed by law for taking testimony in other cases pending in equity, and when taken orally shall be transcribed and, together with such other proof as may be offered, shall be filed in the proceedings. If on hearing said petition the court is satisfied from the evidence received at the hearing of the truth of the allegations of the petition and of the facts as to the time and place of petitioner's birth and of his parentage and that he resides in the county or was born there the court shall make and enter an order reciting the jurisdictional facts and determining the time and place of the petitioner's birth and names of his parents and any other facts deemed relevant by the court. A certified copy of the court decree shall be recorded in the office of the probate judge of the county and in the office of the State Registrar of Vital Statistics. Such copy shall be furnished by the register or clerk of said court. If the decree of the court is in favor of the petitioner then upon receipt of the court order by the State Registrar, he shall prepare a delayed certificate of birth in proper form setting forth the facts of birth as stated in the court order. Said delayed certificate of birth shall then become a permanent record in the custody of the State Registrar and certified copies may be issued by him in accordance with Section 42 of Title 22 of the Code of Alabama. A record so established and certified copies thereof shall be evidence of the truth of their content and be admissible as proof thereof at all times and places the same as

certificates of birth stipulated in Section 39 of Title 22 of the Code of Alabama.

Section 2. That costs involved in all matters provided in this Act be limited as follows: (a) The clerk or register of the circuit court or other court of like jurisdiction or the probate judge be allowed maximum costs of \$2.50. (b) That no State trial tax shall be imposed or collected in said cause. (c) The probate judge is allowed a fee of fifty cents (\$.50) for recording a certified copy of the court decree.

Section 3. That all laws or parts of laws which are inconsistent with the provisions of this Act are hereby repealed.

Section 4. That this Act shall be effective and in force from and after its passage and approval by the Governor.

Approved June 8, 1943.

Appendix F

LAWS OF CALIFORNIA, 1943

CHAPTER 12

AN ACT TO AMEND SECTIONS 10600, 10602, 10603, 10604, and 10607 OF THE HEALTH AND SAFETY CODE, RELATING TO PROCEEDINGS TO ESTABLISH RECORDS OF BIRTH, DEATH OR MARRIAGE, DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

Section 1. Section 10600 of the Health and Safety Code is amended to read:

10600. If any birth, death, or marriage, occurring in this State:

- (a) Was not at the time it occurred required by law to be registered; or
- (b) Was not registered in conformity with the provisions of law in effect at the time it occurred by the filing of the proper certificate with the local registrar within a period of one year from the date of the event or if such record has been filed but thereafter lost or destroyed, any person beneficially interested in establishing of record the fact of and the time and place of, such birth, death, or marriage may file with the county clerk a verified petition for an order judicially establishing the fact of, and the time and place of the birth, death, or marriage in either of the following courts:
  - (1) The superior court of the county in which the birth, death or marriage is alleged to have occurred.
  - (2) The superior court of the county in which the person whose birth or marriage it is sought to establish is residing; or, if such person has died, the superior court of the county in which such person was domiciled at the date of death.

Section 2. Section 10602 of said code is amended to read:

10602. At least five days before the date of the hearing, a copy of the petition shall be served upon the district attorney of the county in which the petition is filed, together with a notice of the time and place of the hearing and he may appear at the hearing and oppose the making of the order.

Section 3. Section 10603 of said code is amended to read:

10603. Upon the filing of the petition a hearing shall be fixed by the clerk and at the convenience of the court set at a time not less than 5 nor more than 10 days after the filing of the petition. The hearing may be held in chambers. The court, for good cause, may continue the hearing beyond the 10-day period.

Section 4. Section 10604 of said code is amended to read:

10604. The fee for filing the petition shall be three dollars (\$3), one dollar (\$1) of which shall go to the law library fund of the county. In counties having more than one superior court judge, the petition may be heard by any judge thereof hearing probate matters, or if a probate department has been designated for hearing probate matters, the clerk shall assign the matter to the probate department for hearing.

Section 5. Section 10607 of said code is amended to read:

10607. The order shall become effective upon a filing of a certified copy (a) with the local registrar of vital statistics of the district in which the birth or death occurred, if it occurred in this State, or in the case of marriage with the county recorder. If the event occurred outside the State, the order shall be filed with the registrar of the district or the county recorder of the county, as the case may be, in which the petitioner resides, and (b) with the State Registrar of Vital Statistics.

Section 6. This act is hereby declared to be an urgency measure necessary for the immediate preservation of public peace, health and safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Documentary proof establishing vital statistics is daily becoming more in demand. These documents are required for use in connection with the armed services of the United States and with employment in the war industries. A simple, inexpensive and expeditious method of establishing the proof of facts of birth, death, and marriage, without expensive costs for fees and services, and which can be presented by the petitioner personally is an urgent necessity.

Approved by Governor February 5, 1943.  
Filed with Secretary of State February 5, 1943.

## Appendix G

LAWS OF MONTANA, 1943, CHAPTER 16

An Act Providing a Means by Which Any Citizen May Have His Birth Date Judicially Determined; Providing for the Notice to Be Given of a Hearing; Giving to the District Courts Jurisdiction Thereof; Providing for an Appeal; and Designating the Fees to Be Paid to the Clerk of Court in Connection Therewith.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. For the purpose of having a judicial determination of the date of birth, any citizen of the United States, either natural born or naturalized, may file with the clerk of the district court of the county of his residence a petition, which petition must be duly verified by the petitioner, and must contain the following:

- a. That the petitioner is a citizen of the United States; that he has resided in the State of Montana for one (1) year last past and in the county in which the action is brought for at least ninety (90) days immediately preceding the commencement of the action; the place of his birth; the names of his parents, together with the place of the birth of each of his parents and their address, if they are living; the name and address of each of his brothers and sisters; if the address of either of the parents or of any of the brothers or sisters are not known, then their last known place of address must be given.
- b. If the petitioner was born outside of the United States then the petition must state whether his parents came to the United States; and if so, where they came and where they resided or reside; whether they or either of them were naturalized within the United States; and if so, when and where such naturalization took place.

Section 2. Upon the filing of this petition with the clerk of the district court an order shall be made by the court or judge thereof fixing the date of the hearing of the petition and directing that notice of such hearing be given as in such order set forth. Notice shall be given by posting in three (3) public places within the county for a period of not less than ten (10) nor more than thirty (30) days as the court, in its discretion, shall determine.

Any citizen of the United States may appear and object to the granting of such petition, but all such objections shall be made in writing.

Section 3. At the time fixed for the hearing of such petition the petitioner must appear and testify. Upon the hearing thereof, affidavits shall be received in evidence and shall have the same force and effect as if the testimony had been taken by deposition. If the court shall be satisfied by competent evidence of the sufficiency of the petition that the applicant is a citizen of the United States; that he has been a citizen of the State of Montana for one (1) year last past and of the county for more than ninety (90) days preceding the filing of the petition, and that the applicant's date of birth is proven, then the court shall render judgment accordingly and that judgment shall constitute conclusive evidence of the date of the birth of the applicant.

Section 4. That the petitioner, upon the filing of the petition, must pay

to the clerk of court a fee of one dollar (\$1.00), and upon the entry of judgment the applicant must pay to the clerk of court an additional fee of one dollar (\$1.00). No charge shall be made for posting of the notices required hereunder. If the applicant shall provide a true copy of the judgment rendered, then the clerk of court must certify the same without additional charge. That the clerk of the court shall certify to two copies of such judgment, and file one with the bureau of vital statistics, state board of health, Helena, Montana, and the other with the county clerk and recorder of the county in which the judgment was obtained.

Section 5. If, upon the hearing of the petition it shall appear that the petitioner is entitled to have judgment entered as herein provided, but that the petition has been filed in the wrong county, then the court shall, by appropriate order, direct that the proceeding be transferred to the proper county.

Section 6. The district courts of this state shall have exclusive jurisdiction to hear and determine all petitions hereunder. Any citizen may appeal from the judgment rendered the same as in civil actions.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 3, 1943.

## Appendix H

LAWS OF NORTH DAKOTA, 1943, CHAPTER 272  
H. B. No. 212--(Hogoboom, Leet, Rohde, Haugen)

An Act providing a means by which any citizen may have his date of birth and place of birth judicially determined; providing for the notice to be given of a hearing; giving to the District Courts jurisdiction thereof; providing for an appeal and designating the fees to be paid to the Clerk of Court in connection therewith, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

Section 1. Any citizen of the United States, either natural born or naturalized, may obtain a proceeding in accordance with this act in the District Court of the county in which he resides for the purpose of having a judicial determination of the date of his birth and the place of his birth.

Section 2. Such proceedings for the purpose of having a judicial determination of the date of birth and place of birth shall be instituted by the filing of a petition, which petition must be duly verified by the petitioner, with the clerk of the District Court of the county in which the petitioner resides, setting forth:

1. That the petitioner is a citizen of the United States;
2. That he has resided in the State of North Dakota for one year last past and in the county in which the action is brought for at least ninety (90) days immediately preceding the commencement of this action;
3. The place and date of birth of the petitioner;
4. If the petitioner was born within the United States of America, whether or not the parents of the petitioner were transient aliens or alien public ministers or consuls;
5. The names of his parents, together with the addresses of his parents, if they are living.
6. If the petitioner was born without the boundaries of the territorial United States of America, facts sufficient to show that the petitioner is a citizen of the United States of America, and the basis upon which citizenship rests.

Section 3. Upon the filing of a petition of the kind described in this act, the clerk of the District Court with whom such petition is filed shall issue a notice under the seal of the said District Court fixing the time and place for the hearing upon such petition. Such notice shall be published in the official newspaper of the county for two successive weeks, the last publication to be at least ten (10) days before the time set for hearing. Proof of the publication required by this section shall be filed in the office of the clerk of the District Court on or before the date set for the hearing on such petition.

Section 4. Any citizen of the United States may appear at the hearing provided for in this act and shall be heard in favor of or in opposition to the petition, but all objections to said petition must be made in writing and be filed with

the Court. Upon the hearing thereof, affidavits, including the affidavit of the petitioner, shall be received in evidence and shall have the same force and effect as if the testimony had been taken by deposition. If, after hearing, the Court shall be satisfied by competent evidence of the sufficiency of the petition that the applicant is a citizen of the United States, that he has been a citizen of the State of North Dakota for one (1) year last past and of the county for more than ninety (90) days preceding the filing of the petition, and that the applicant's date of birth and place of birth are proven, it shall make appropriate finding of fact and conclusions of law and shall order a judgment to that effect and such judgment shall be entered in the office of the clerk of the District Court upon such order. A judgment establishing the date of birth and place of birth of the petitioner shall be entitled to full faith and credit in the same manner as any other judgment of the Courts of this State. If, after hearing, the Court is not satisfied that the date and place of birth have been proven, it shall make appropriate findings of fact and conclusions of law and shall enter an order of judgment denying the petition and a judgment shall be entered upon such order in the office of the clerk of the District Court.

Section 5. That the petitioner, upon the filing of the petition must pay to the clerk of the District Court the fee of five dollars (\$5.00) as a filing fee. That the costs of the publication of the notice required by this act shall be paid by the petitioner. In the event that said judgment shall establish the date and place of birth of the petitioner, the clerk of the Court shall certify a copy of such judgment and file the same with the Division of Vital Statistics, State Department of Health, Bismarck, North Dakota.

Section 6. The District Court of this State shall have exclusive jurisdiction to hear and determine all petitions hereunder. Any citizen may appeal from the judgment rendered herein the same as in civil actions.

Section 7. EMERGENCY. WHEREAS, there is considerable confusion with reference to registration of birth certificates in this State, an emergency is declared to exist and this act shall take effect from and after its passage and approval.

Approved March 9, 1943.

## Appendix I

LAWS OF ILLINOIS, 1943, p. 1012

Section 14c. A person who is a resident of this state, but not born herein and whose birth was not registered in the state, country or territory in which it occurred, or who is unable to secure a certified copy of the record of his birth from such state, country or territory, may establish a record of the time and place of his birth by petition to the County Court of the county of his residence. The petition must be supported by the affidavit of the petitioner that he has resided in the state for the year last past and contain such other pertinent information as may assist the court in reaching a conclusion. After such petition is filed the Clerk of the County Court shall publish notice of the hearing on the petition by one insertion in a newspaper of general circulation in the community wherein the petitioner resides or if there is no such newspaper then by posting such notice in at least five public and conspicuous places. Such publication or posting of notice shall be made at least ten days before the hearing on the petition.

At the hearing on the petition the court shall require proof of publication or posting of notice and require the proof of residence of the petitioner within the state for a year last passed, by two householders of the county. If the testimony and evidence presented to the court is sufficient, the court by decree shall fix the time and place of birth.

A copy of this decree certified by the Clerk of the County Court shall be accepted as prima facie evidence in any court of this state, or before any department, board or other agency of this state, to show the time and place of birth of the individual named therein.

House Bill No. 568.  
Approved July 24, 1943.