

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING ON  
RULE I pertaining to certificates of ) PROPOSED ADOPTION  
nonviable birth )

TO: All Concerned Persons

1. On January 12, 2024, at 3:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/88560018635?pwd=dGdPeHA5QzIXbFFUS3k4N2Jrb2haZz09>, meeting ID: 885 6001 8635, and password: 752327; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 885 6001 8635, and password: 752327. Find your local number: <https://mt-gov.zoom.us/j/88560018635>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on December 29, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhus, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov).

3. The rule as proposed to be adopted provides as follows:

NEW RULE I CERTIFICATE OF NONVIABLE BIRTH (1) Upon request by either parent made in accordance with the requirements of 50-15-209, MCA, and this rule, the department will issue a certificate of nonviable birth.

(2) All requests for issuance of a certificate of nonviable birth must be made by completing the department's Application for Certificate of Nonviable Birth (version 1.0) form, which the department adopts and incorporates by reference. The form is available electronically at [www.dphhs.mt.gov/vitalrecords/vitalrecordsforms](http://www.dphhs.mt.gov/vitalrecords/vitalrecordsforms) or by contacting the Office of Vital Records at P.O. Box 4210, Helena, MT, 59604, 406-444-2685.

AUTH: 50-15-209, MCA  
IMP: 50-15-209, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing adoption of NEW RULE I to implement the requirements of House Bill (HB) 213 passed during Montana's 68th Legislative Session. HB 213 creates a certificate of nonviable birth and establishes a process for the department to issue the certificate upon request by either parent made within 60 days of the nonviable birth. Under HB 213, requests for issuance of a certificate of nonviable birth must be made on a form prescribed by the department through rule. The adoption of NEW RULE I is necessary to implement HB 213 and to establish by rule the form required to be completed by a parent to request issuance of a certificate of nonviable birth. A copy of the proposed form referenced in the rule is available electronically at [www.dphhs.mt.gov/vitalrecords/vitalrecordsforms](http://www.dphhs.mt.gov/vitalrecords/vitalrecordsforms).

### Fiscal Impact

There is no anticipated fiscal impact associated with this proposed rulemaking.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov), and must be received no later than 5:00 p.m., January 19, 2024.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above.

8. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply. The primary bill sponsor was notified by email on September 11, 2023.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Charles T. Brereton  
Charles T. Brereton, Director  
Department of Public Health and Human  
Services

Certified to the Secretary of State December 12, 2023.