

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

February 8, 2022
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 174, Chapter 4 of the Nebraska Administrative Code (NAC) – *Regulations Governing Amendment of Marriage and Dissolution of Marriage Records*. The proposed changes remove duplicate statutory, unnecessary, and inconsistent language from the regulations; update terminology; update formatting; and renumber the regulatory chapter.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments in person or by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.



TO: Executive Board
Room 2108 State Capitol
Legislative Council

FROM: Marge Respeliars, Paralegal I
Legal Services
Department of Health and Human Services (DHHS)

DATE: December 27, 2021

RE: Notice of Rulemaking under Neb. Rev. Stat. § 84-907.06

The Department of Health and Human Services (DHHS) will be holding a public hearing on amending the following regulations:

TITLE: 174 Vital Records
CHAPTER: 4 Regulations Governing Amendment of Marriage and Dissolution of Marriage Records

These regulations are scheduled for public hearing February 8, 2022.

The purpose of this hearing is to receive comments on proposed changes to Title 174, Chapter 4 of the Nebraska Administrative Code (NAC) – *Regulations Governing Amendment of Marriage and Dissolution of Marriage Records*. The proposed changes remove duplicate statutory, unnecessary, and inconsistent language from the regulations; update terminology; update formatting; and renumber the regulatory chapter.

The following items are enclosed for your referral to the chair of the relevant standing committee of the Legislature:

1. A copy of the notice of public hearing;
2. A copy of the proposed regulations;
3. A copy of the Policy Pre-Review Checklist; and
4. The estimated fiscal impact of this rulemaking action on state agencies, political subdivisions or persons being regulated.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 174	Prepared by: Sarah Bohnenkamp
Chapter: 4	Date prepared: 10/4/2021
Subject: Regulations governing amendment of marriage and dissolution of marriage records	Telephone: 402-471-0915

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 174 VITAL RECORDS

CHAPTER 4 REGULATIONS GOVERNING AMENDMENT OF MARRIAGE AND
DISSOLUTION OF MARRIAGE RECORDS

4-001. SCOPE OF REGULATIONS: A marriage or dissolution of marriage record filed with the Department of Health and Human Services ~~Finance and Support~~ (hereafter Department) may be amended only in accordance with the provisions of these regulations. For purposes of these regulations, record of marriage includes an abstract of marriage as provided in Nebraska Revised Statute (Neb. Rev. Stat.) § 71-601.01. Amendment of incomplete or erroneous information on records of marriage or dissolution may be made upon presentation of the same kinds and numbers of documents required to amend birth and death certificates. ~~A record of marriage or dissolution of marriage amended under these regulations will have a properly dated reference placed on the face of the record and will state that it is amended.~~

4-002. APPLICATION FOR AMENDMENT: Application for amendment of a marriage record must be made by ~~the husband, wife, a spouse~~ or by the county court required to file the record with the Department. Application for amendment of a dissolution of marriage record must be made by a plaintiff or by the clerk of the district court required to file the record with the Department.

4-003. AMENDMENT OF OBVIOUS ERRORS: Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on marriage or dissolution of marriage records may be made by the Department within the first year after the date of the event, either upon its own observation, upon query, or upon request of a person with a direct and tangible interest in the record. ~~When such additions or minor amendments are made by the Department, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change, will be made on the reverse side of the record in such a way as not to become a part of the record. The record will not be marked amended.~~

~~Amendment of obvious errors to an electronically generated certificate will be accomplished electronically by completing the item in any case where the item was left blank on the certificate or by replacing the initial information with the corrected information. With all amendments of obvious errors, the electronic registration system will maintain an internal record of the actual information completed or replaced and the name of the individual who made the amendment. The face of the certificate will not note the item number and item corrected. The record will not be marked amended.~~

~~4-004. EVIDENCE REQUIRED:.~~ All other amendments to a marriage or dissolution of marriage record made during the first year unless otherwise provided in these regulations must be supported by (a) an affidavit setting forth information to identify the record, the incorrect data as it is placed on the record, and the correct data as it should appear; and (b) one item of documentary evidence supporting the amendment. ~~Records amended by this procedure will be marked amended.~~

~~4-005. APPLICATION FOR AMENDMENT MADE AFTER A YEAR:.~~ Application for an amendment to a marriage or dissolution of marriage record made one year or more after the event, unless otherwise provided in these regulations, must be supported by (a) an affidavit setting forth information to identify the record, the incorrect data as it is listed on the record, and the correct data as it should appear; and (b) two or more items of documentary evidence which support the alleged facts and which were established at least five years prior to the date of application for amendment or within seven years of the date of the event.

~~4-006. EVALUATION OF EVIDENCE:.~~ ~~The Department will evaluate all evidence submitted for an amendment to a marriage or dissolution of marriage record and when it finds reason to question its validity or adequacy, it may reject the amendment and will advise the applicant of the reasons for this action.~~

~~4-0067. REQUIREMENTS FOR ADDITIONAL AMENDMENT:.~~ When an entry on a marriage or dissolution of marriage record has been amended, that entry will not be amended again unless it can be shown that the first amendment was made through mistake.

~~4-008. METHOD OF AMENDMENT:.~~ ~~Marriage or dissolution of marriage records will be amended as provided in Chapter 10 of this Title, governing the method of amending certificates and reports.~~

~~4-0079. FEES:.~~ The fees charged by the Department for the making of amendments to marriage or dissolution of marriage records ~~will be~~ are identical to those charged for the making of amendments to birth or death records.