

# PUBLIC HEALTH DEPARTMENT[641]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 144.3, the Iowa Department of Public Health hereby amends Chapter 95, “Vital Records: General Administration,” Iowa Administrative Code.

These amendments clarify restrictions on creating an alternative system for the registration of vital statistics, remove restrictions regarding obtaining vital records from the county level and clarify that the intent of rule 641—95.2(144) is to prohibit the establishment of another official system of registration of vital statistics—not to prohibit, for example, the routine publication of vital records information such as births in the local newspaper.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2821C** on November 23, 2016. A public hearing was held on December 14, 2016, in Room 518, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa. Comments were received by e-mail.

The Department received nine public comments supporting the amendments. The comments were received from genealogists from within the state of Iowa, the State Archivist and the Freedom of Information Council. The comments were supportive of the proposed changes as the changes align with the authority given under Iowa Code chapter 22, “Examination of Public Records (Open Records).” The Department received one public comment questioning additional changes. The Department received three public comments stating concerns regarding the proposed amendments. The comments were from the Iowa County Recorders Association, the Iowa State Association of Counties and a retired county recorder. The comments from the Iowa County Recorders Association and the former county recorder centered on integrity of the vital record at the county level and concerns regarding fraud and identity theft. The Iowa State Association of Counties supported the letter written by the Iowa County Recorders Association.

After consideration of the comments and discussion with legal counsel, the following changes were made from the amendments published under Notice:

- In renumbered subrule 95.7(3), the words “or at the direction of the state registrar” were stricken from the introductory paragraph of the subrule, and the words “issued by the county registrar” were added to paragraph “a” of the subrule;
- Subrule 95.10(2) was stricken in its entirety, and the remaining subrules were renumbered accordingly.

The State Board of Health adopted these amendments on January 11, 2017.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 144.

These amendments will become effective March 8, 2017.

The following amendments are adopted.

ITEM 1. Amend rule 641—95.2(144) as follows:

**641—95.2(144) Vital records and statistics.** There is established a division in the department which shall install, maintain, and operate the system of vital statistics throughout the state. No official system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments shall be maintained in the state or any of its political subdivisions other than the one provided for in Iowa Code chapter 144, including, but not limited to, a system maintained by any agency or private entity.

**95.2(1)** No person shall prepare or issue any certificate which purports to be an original certified copy or a copy of a certificate of birth, death, fetal death, adoption, marriage, dissolution, or annulment ~~or any subset of the data items taken from a certificate~~ except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

**95.2(2)** ~~A vital record, index, or subset of data shall not be maintained in any other system or manner except as provided for in Iowa Code chapter 144 and authorized by the state registrar.~~

~~95.2(3)~~ **95.2(2)** The state registrar and the county registrar shall not maintain or issue copies of any vital record of an event occurring outside the state registrar's or county registrar's jurisdiction except as provided for in Iowa Code chapter 144 and authorized by the state registrar.

~~95.2(4)~~ To protect the integrity of vital records and to ensure their proper use, no vital record, index, or subset of data shall be posted to the World Wide Web or published in any other manner except as provided for in Iowa Code chapter 144 and pursuant to subrule 95.10(3) or as authorized by the state registrar.

ITEM 2. Amend rule 641—95.7(144) as follows:

**641—95.7(144) General public access of vital records in the custody of the county registrar.** A vital record may be in the custody of the county registrar if the event occurred in that county and the record is not excluded by statute or definition for purposes of confidentiality.

**95.7(1)** There shall be public access and the right to inspect ~~in person~~ all vital records in the custody of the county registrar after they the vital records are purged of confidential information pursuant to rule 641—95.11(144). The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22 for events which occurred in that county.

~~95.7(2)~~ Electronic devices, including but not limited to scanners, cameras, tablets, cellular phones or laptops, shall not be used to secure images or copies from county vital records. Laptops or like devices may be allowed only for purposes of typing information into a genealogy software program or electronic document and as directed by the state registrar or county registrar.

~~95.7(3)~~ **95.7(2)** Information inspected and copied shall not be published or used to establish an index or record of information at any other location official system for the registration of vital statistics except as authorized by Iowa Code chapter 144.

~~95.7(4)~~ **95.7(3)** County registrars may issue uncertified copies of vital records held in the registrars' physical custody or accessible through the electronic statewide vital records system, except those records excluded by statute or at the direction of the state registrar.

*a.* Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted the applicant's own search for the record at the county registrar's office.

*b.* Uncertified copies issued by the county registrar shall be issued on plain white paper and clearly stamped "not for legal purposes." Security paper provided by the state registrar shall not be used to produce records for uncertified copies.

~~95.7(5)~~ County registrars shall not provide specific information from any vital record via telephone, fax, electronic file, Web site, written letter or verbally, except for administrative purposes with the state vital records office.

~~95.7(6)~~ County registrars shall not produce lists of vital records for any agency, private business, or member of the general public.

~~95.7(7)~~ **95.7(4)** For records available in the electronic statewide vital records system, the state registrar shall send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records. The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22.

~~95.7(8)~~ **95.7(5)** For records not available in the electronic statewide vital records system, the state registrar shall send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

ITEM 3. Amend rule 641—95.10(144) as follows:

**641—95.10(144) Search and issuance for genealogy or family history.** The search and issuance of a vital record for genealogy may be requested from the state registrar or county registrar upon written application and payment of the required fee pursuant to paragraph 95.6(1) "a."

**95.10(1)** The state registrar or county registrar may issue certified copies of a vital record for genealogy or family history to an applicant who can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed.

~~**95.10(2)** The county registrar may issue uncertified copies of a vital record for genealogy or family history to any member of the general public except those records excluded by statute or at the direction of the state registrar. Requests for uncertified copies shall be accepted solely through in-person application after the applicant has conducted a search for the record at the county registrar's office.~~

~~**95.10(3)** The state registrar may issue uncertified copies of a vital record for genealogy or family history to an applicant who is conducting genealogical research and can satisfactorily demonstrate a line of direct lineal consanguinity and to aunts, uncles, and cousins not past twice removed if the event occurred 125 years ago or more for birth records and 75 years ago or more for marriage and death records.~~

~~**95.10(4)**~~ **95.10(2)** All certified copies issued for genealogy or family history shall be clearly marked "for genealogical purposes only."

~~**95.10(5)**~~ **95.10(3)** No certified copy shall be issued for genealogy or family history if the registrant is known to be living.

~~**95.10(6)**~~ **95.10(4)** If, after the search is conducted, no record is on file, the state registrar or county registrar shall issue a "notification of record search" on certified paper, and the fee for the search shall be retained pursuant to paragraph 95.6(1) "a."

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/1/17.