

**HISTORICAL DIVISION[223]**

**Notice of Intended Action**

**Proposing rule making related to public records and fair information practices and providing an opportunity for public comment**

The Department of Cultural Affairs hereby proposes to amend Chapter 3, “Public Records and Fair Information Practices,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 303.1A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 22.16 and 144.43(3)“b.”

*Purpose and Summary*

Through this proposed rule making, the State Historical Society of Iowa clarifies what is considered a confidential record; defines “ancient records” and identifies the accessibility of these records; and adds “vital statistics” as a record series covered under rule 223—3.9(17A,22) and identifies when these records become public records.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on November 12, 2019. Comments should be directed to:

Anthony Jahn  
Department of Cultural Affairs  
600 East Locust Street  
Des Moines, Iowa 50319-1006  
Email: [anthony.jahn@iowa.gov](mailto:anthony.jahn@iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.9(2) as follows:

**3.9(2) Confidential records.** The state archives has custody of records which other state agencies have created. An agency which creates records shall identify which records are confidential when transferring those records to the state archives. ~~Any~~ Unless otherwise required by law, any confidential record in an agency shall retain its confidential record status after its transfer to the state archives.

ITEM 2. Adopt the following new subrules 3.9(3) and 3.9(4):

**3.9(3) Ancient records.** Notwithstanding any confidentiality designation by the transferring agency, once any record in the state archives is more than 100 years old, the record shall be available for public examination and copying unless:

- a. The record is ordered to be sealed and is not subject to inspection by any court; or
- b. Federal law, rule, or regulation prohibits disclosure of the record.

**3.9(4) Vital statistics.** Notwithstanding any confidentiality designation, the following vital statistics records in the state archive may be inspected and copied as of right:

- a. A record of birth that is at least 75 years old.
- b. A record of marriage that is at least 75 years old.
- c. A record of divorce, dissolution of marriage, or annulment of marriage that is at least 75 years old.
- d. A record of death or fetal death that is at least 50 years old.