

HISTORICAL DIVISION[223]

Adopted and Filed

Rule making related to public records and fair information practices

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

Legal Authority for Rule Making

This rule making is adopted 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 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.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 23, 2019, as **ARC 4721C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on November 27, 2019.

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.

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).

Effective Date

This rule making will become effective on January 22, 2020.

The following rule-making actions are adopted:

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.

[Filed 11/27/19, effective 1/22/20]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/18/19.