

223—3.9(17A,22) Availability of records.

3.9(1) *General records.* Records in the state archives are open for public inspection unless otherwise provided by rule or law as designated by the transferring agency. Records in the state archives are open for copying unless, in the opinion of the custodian, reproduction by photocopying would adversely affect the physical condition of the records or there are legal considerations that prohibit copying.

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. Unless otherwise required by law, any confidential record in an agency shall retain its confidential record status after its transfer to the state archives.

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.

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