

## Administrative Procedures – Final Proposed Rule Filing

**Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Vital Records Rule**

 \_\_\_\_\_, on 10/29/19.  
 (signature) (date)

Printed Name and Title:  
 Martha Maksym  
 Deputy Secretary, Agency of Human Services

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Vital Records Rule**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

19P-067

3. ADOPTING AGENCY:

Department of Health

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Brendan Atwood

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://healthvermont.gov/regs/index.aspx>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Shayla Livingston

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

18 V.S.A. § 5000 (e) and (f), and 3 V.S.A. § 801 (b) (11).

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

18 V.S.A. § 5000 (f) states: "The State Registrar may adopt rules as may be necessary to carry out his or her duties under this part."

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rulemaking will: Provide a pathway through which DOC offenders can more easily obtain a certified birth certificate; expand the types of identification that can be used to obtain a vital record; and establish a process through which a homeless person can more easily obtain a certified birth certificate by working with a homeless services provider.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Today, Vermont offenders and homeless individuals face significant difficulty in obtaining the identification necessary to gain employment, drive a vehicle, and pursue other activities necessary to being a productive Vermont resident. Additionally, the current process for Vermont State employees who require access to birth and death certificates in furtherance of their professional duties (e.g. DCF for matters relating to child custody) is unnecessarily inefficient. This rulemaking addresses each of these issues.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

Final Proposed Coversheet

This rulemaking is targeted specifically at providing inmates, individuals soon to be released from custody, and homeless individuals with a pathway to more easily obtain a birth certificate. It also streamlines requests for vital records by Vermont State employees in furtherance of their professional duties.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Vermont Department of Corrections  
Vermont Coalition to End Homelessness  
State of Vermont employees  
Vermont offenders  
Vermont homeless individuals

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

None.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 10/21/2019

Time: 02:00 PM

Street Address: 108 Cherry Street, Burlington, VT Room 3B

Zip Code: 05401

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Final Proposed Coversheet

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

10/28/2019

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Birth certificates

Death certificates

Vital records

Town Clerk

Inmates

# Administrative Procedures – Adopting Page

## **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Vital Records Rule**

2. ADOPTING AGENCY:

Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

18P010, Vital Records Rule, 3/28/18.

# Administrative Procedures – Economic Impact Analysis

## **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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### 1. TITLE OF RULE FILING:

**Vital Records Rule**

### 2. ADOPTING AGENCY:

Department of Health

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

The Vermont Department of Corrections: This will enable DOC to assist inmates in securing a certified birth certificate.

State of Vermont: This is allow State of Vermont employees to more efficiencly obtain vital records when conducting official business.

## Economic Impact Analysis

Current and former DOC inmates and homeless persons:  
This amendment will allow these populations to more easily acquire a government-issued identification which will minimize barriers to obtain and maintain employment.

### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

None.

### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

None.

### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

None.

### 7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

None.

### 8. COMPARISON:

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

Not enacting these changes would inhibit offenders and the homeless from getting birth certificates.

### 9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

This rule is being implemented consistent with the will of the General Assembly. There will only be a positive economic impact but it is not measurable at this time.



# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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### 1. TITLE OF RULE FILING:

#### **Vital Records Rule**

### 2. ADOPTING AGENCY:

Department of Health

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None .

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None .

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None .

### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None .

### 7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None .

Environmental Impact Analysis

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

There is no impact.

## Administrative Procedures – Public Input

### **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Vital Records Rule**

2. ADOPTING AGENCY:

Department of Health

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The Department involved stakeholders to seek input in the rule, will post the rule on the Department's website and hold a public hearing.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Prior to filing the proposed rule the Department engaged stakeholders to seek input. A public meeting will be held on October 21, 2019. The Rule will be posted for public comment on the Department's website until October 28, 2019:

<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>. Hard copies will be available by contacting the Department at 802-863-7280.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Vermont Department of Corrections

Vermont Town Clerks

Vermont Coalition to End Homelessness

## Vital Records Rule

### 1.0 Authority

This rule is adopted pursuant to 18 V.S.A. § 5000 (e) and (f).

### 2.0 Purpose

The purpose of this rule is to establish the specific requirements for obtaining, creating, storing and disposing of birth and death certificates in Vermont.

### 3.0 Definitions

- 3.1** “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a homeless person for the purposes of obtaining a certified birth certificate. The affidavit must be signed by both the applicant and the homeless services provider.
- 3.2** “Alternate means of identification” means two documents (exempting 3.2.12 and 3.2.13 when only one form of identification is needed) that between them shall contain a current address and a signature of the applicant. Alternate acceptable documents are:
- 3.2.1 Employment Identification Card with photo, accompanied by a pay stub or U.S. Internal Revenue Service W-2 form;
  - 3.2.2 School, university, or college identification card with photo, accompanied by a report card or other proof of current school enrollment;
  - 3.2.3 Federal or state identification issued by departments, bureaus, or agencies of corrections or prisons,
  - 3.2.4 Social Security/Medicare Card that contains the bearer’s signature;
  - 3.2.5 Pilot’s License;
  - 3.2.6 Car registration or title with current address;
  - 3.2.7 U.S. Selective Service Card;
  - 3.2.8 Voter Registration Card;
  - 3.2.9 Filed Federal tax form that contains current address and signatures;
  - 3.2.10 Bank statement, property or utility bill (e.g. gas, water, electric, sewer, phone) with current address;

- 3.2.11 U.S. or state court documents with current address;
  - 3.2.12 Documentation provided by the Vermont Department of Corrections substantiating the identity of the eligible person; or
  - 3.2.13 A valid State of Vermont Employee identification when the application for a birth and/or death certificate is a bona fide request made within the scope of employment with the State.
- 3.3** “Custodian” means any person or entity who maintains official copies of vital records for access and inspection by the public, or any lawful purpose, including the Department of Health, Vermont State Archives and Records Administration and town clerks.
- 3.4** “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):
- 3.4.1 The registrant or his or her spouse, child, parent, sibling, grandparent, or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator; or the legal representative of any of these;
  - 3.4.2 A specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant's legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right; or
  - 3.4.3 In the case of a death certificate only, additionally to:
    - 3.4.3.1 the individual with authority for final disposition as provided 18 V.S.A. § 5227, or a funeral home or crematorium acting on the individual's behalf;
    - 3.4.3.2 the Social Security Administration;
    - 3.4.3.3 the U.S. Department of Veterans Affairs; or
    - 3.4.3.4 the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries.
- 3.5** “Generational identifier” means JR, SR, or numerals to designate the number of generations. Generational identifiers may not take the form of commonly conferred academic honorifics such as, but not limited to: MD, JD, DO, Esq., BA, BS, MA, MS, or PhD, or other designations not commonly used as generational identifiers.
- 3.6** “Homeless”, “homeless individual”, and “homeless person” means the same as defined by [42 USC § 11302](#).
- 3.7** “Homeless services provider” means:
- 3.7.1 A governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a “homeless person” or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.
  - 3.7.2 An attorney licensed to practice law in Vermont and who is representing

a client for whom the request for a certified birth certificate is being made.

3.7.3 A local educational agency liaison for homeless children and youth, or a school social worker.

3.7.4 A human services provider or public social services provider funded by the State of Vermont to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, or public assistance or employment services.

**3.8** “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.

**3.9** “Secure facility” means a building or room equipped with locks or other security devices that does not permit access during non-working or non-business hours.

**3.10** "Valid government-issued identification" means a document that shall contain an expiration date that has not passed, a photograph, a current address, a signature and a unique number or barcode such as a driver's license, or valid passport, assigned to the person. The following forms of government-issued identification are acceptable:

3.10.1 United States issued Driver's License or Identification card;

3.10.2 United States Territories Driver's License or Identification Card;

3.10.3 Tribal Identification Card that contains the bearer's signature;

3.10.4 U.S. Military Identification Card that contains the bearer's signature;

3.10.5 Passport issued by the United States, or by a foreign country recognized by the United States government;

3.10.6 Visa issued by the United States and that is included within a passport and the bearer's signature is on the passport and not on the Visa;

3.10.7 U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or

3.10.8 U.S. Employment Authorization Document / Card (Form I-765 or successor form).

#### **4.0 Documents Needed to Obtain a Birth or Death Certificate**

**4.1** An applicant is required to provide a valid government-issued identification document or alternate means of identification and must present the identification at time of signing the Vermont application for a certified copy of a birth or death certificate.

**4.2** An applicant may establish their identity by providing a minimum of two alternate pieces of documentation (exempting 3.2.12 and 3.2.13 when only one form of identification is needed). The Office of Vital Records may request additional evidence as necessary for the positive identification of the applicant.

**4.3** A homeless individual may establish their identity necessary to be eligible to receive a certified birth certificate by providing a completed Affidavit of

Homeless Status. The Affidavit must be signed by the applicant and the homeless services provider. The Office of Vital Records may request additional documentation as necessary for the positive identification of the applicant.

## **5.0 Applications for Certified Copies of Birth and Death Certificates**

**5.1** The Vermont application for a certified copy of birth or death certificate must be submitted by an eligible party to:

- 5.1.1 the Vermont Office of Vital Records;
- 5.1.2 the Vermont State Archives and Records Administration;
- 5.1.3 a statutorily authorized issuing agent, such as town clerk's office; or
- 5.1.4 a contractor of the State of Vermont that is providing application processing services on behalf of the Vermont Office of Vital Records.

## **7.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees**

**7.1** Town clerks and their designees shall certify a birth or death certificate copy using one of the following methods:

- 7.1.1 Use of a town seal that does not include the town clerk's name, and ensures all documents are signed by either the town clerk, assistant town clerk, or another designated assistant clerk pursuant to state statute; or
- 7.1.2 Use of a town seal that includes the town clerk's name, and ensures all documents using that seal are signed by the town clerk whose name is on the seal.

## **8.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption**

**8.1** The State Registrar may temporarily suspend the requirement for issuing agents to utilize the statewide registration system for the issuance of certified copies of birth and death certificates. The reasons for a temporary suspension are limited to:

- 8.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;
- 8.1.2 A technical event with the statewide registration system that results in the system being inaccessible to issuing agents for a period that exceeds 48 hours.

**8.2** During a period in which a temporary suspension has been issued, the State Registrar shall provide instruction to the issuing agents for the methods to be used to issue and track all certified copies, and for later recording in the statewide registration system when service has been restored.

## **9.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates**

**9.1** Activities to support the creation, storage and issuance of certified copies of Vermont birth and death certificates shall occur in secure, government-operated buildings. The area of the building that houses the Vermont birth and death certificates, and materials utilized to create, modify or access the certificates, and

the computers used to access the statewide registration system, shall meet the following requirements:

- 9.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke or other emergencies;
  - 9.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;
  - 9.1.3 Is a secure facility;
  - 9.1.4 Employee work space is separated from the public, such as by service counter, service window, locked door, or other physical barrier;
  - 9.1.5 Non-employees, such as, but not limited to, visitors, vendors, delivery personnel, and cleaning staff, must identify themselves to the town clerk or their designee, and request access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system, providing a valid and reasonable reason for such access. These non-employees shall be escorted to the designated area. If cleaning is done during nonworking hours, only preapproved cleaning personnel shall be permitted access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system;
  - 9.1.6 All materials used for certification of the birth and death certificates, such as, but not limited to, equipment (computers, printers, town seal), security paper, and any other documents or confidential files/records, shall be locked in a secure area or cabinets accessible only to the town clerk and their designees;
  - 9.1.7 Visitors shall be accompanied when such visitors may have access to the materials used for certification of birth and death certificates, or access to the statewide registration system.
- 9.2** If an existing government-operated building does not have a fireproof safe or vault as specified in 18 V.S.A. § 5001(b), the town clerk shall ensure that these rules are complied with and confirm in writing to the State Registrar that all reasonable precautions and safeguards have been implemented to protect the birth and death certificate materials, the birth and death certificates, and the computer used to access the statewide registration system.
- 9.3** The public shall be allowed access to view or inspect birth and death certificates stored at issuing agent's offices during the standard business hours of the office. Issuing agents may implement reasonable precautions to protect the certificates from potential harm or theft, such as, but not limited to:
- 9.3.1 Monitoring visitors;
  - 9.3.2 Requiring visitors to view/inspect certificates at a designated table or office;
  - 9.3.3 Retrieving only the birth and death certificates requested by the visitor



rather than providing unlimited access to all certificates;

- 9.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or
- 9.3.5 Requiring visitors to show the contents of any bags, briefcases or other storage methods prior to departing the office.

## **10.0 Criteria for Acceptance of Child's Name on Birth Certificates**

**10.1** In order to be valid, names on birth certificates shall:

- 10.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;
- 10.1.2 Not contain symbols other than:
  - 10.1.2.1 Numerals used for generational identifiers;
  - 10.1.2.2 Common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, and periods in generational identifiers or when an initial or abbreviation is used as part of a name; or
  - 10.1.2.3 Special characters that are commonly used, such as accent marks and tildes.
- 10.1.3 Not exceed a total of 50 characters in length for each of First, Middle, and Last Name. The count of maximum allowable characters shall include hyphens, apostrophes, and periods when used as part of the name.
- 10.1.4 Contain a last name.
- 10.1.5 Contain no more than one generational identifier after the last name.

## **11.0 Disposal of Original Birth and Death Certificates**

**11.1** Pursuant to 18 V.S.A. § 5073(d), 18 V.S.A. § 5075(e) and 18 V.S.A. § 5202a(e), “replace and dispose” shall include the following:

- 11.1.1 The custodian of the birth or death certificate confirms they have accurately identified the certificate that is to be removed; and
  - 11.1.1.1 The custodian shreds the certificate using a paper shredder that is in the office of the issuing agent, or places the certificate in a storage container that is used solely for the collection of off-site shredding by a contractor; or
  - 11.1.1.2 The certificate is placed into a recycling container that will be collected by an off-site shredding contractor within 24 hours of the certificate's disposal.

## Vital Records Rule

### 1.0 Authority

This rule is adopted pursuant to 18 V.S.A. § 5000 ~~and 5015(b)(1)(D)~~ (e) and (f).

### 2.0 Purpose

The purpose of this rule is to establish the specific requirements for obtaining, creating, storing and disposing of birth and death certificates in Vermont.

### 3.0 Definitions

**3.1** “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a homeless person for the purposes of obtaining a certified birth certificate. The affidavit must be signed by both the applicant and the homeless services provider.

**3.2** “Alternate means of identification” means two documents (exempting 3.2.12 and 3.2.13 when only one form of identification is needed) that between them shall contain a current address and a signature of the applicant. Alternate acceptable documents are:

3.2.1 Employment Identification Card with photo, accompanied by a pay stub or U.S. Internal Revenue Service W-2 form;

3.2.2 School, university, or college identification card with photo, accompanied by a report card or other proof of current school enrollment;

3.2.3 ~~U. S. Department of Corrections~~ Federal or state identification card issued by departments, bureaus, or agencies of corrections or prisons, accompanied by probation documents or discharge papers;

3.2.4 Social Security/Medicare Card that contains the bearer’s signature;

3.2.5 Pilot’s License;

3.2.6 Car registration or title with current address;

3.2.7 U.S. Selective Service Card;

3.2.8 Voter’s Registration Card;

3.2.9 Filed Federal tax form that contains current address and signatures;

3.2.10 Bank statement, property or utility bill (e.g. gas, water, electric,

- sewer, phone) with current address; ~~or~~
- 3.2.11 U.S. or state court documents with current address; ~~or~~
- 3.2.12 Documentation provided by the Vermont Department of Corrections substantiating the identity of the eligible person; or
- 3.2.13 A valid State of Vermont Employee identification when the application for a birth and/or death certificate is a bona fide request made within the scope of employment with the State.
- 3.3** “Custodian” means any person or entity who maintains official copies of vital records for access and inspection by the public, or any lawful purpose, including the Department of Health, Vermont State Archives and Records Administration and town clerks.
- 3.4** “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):
- 3.4.1 The registrant or his or her spouse, child, parent, sibling, grandparent, or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator; or the legal representative of any of these;
- 3.4.2 A specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant's legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right; or
- 3.4.3 In the case of a death certificate only, additionally to:
- 3.4.3.1 the individual with authority for final disposition as provided 18 V.S.A. § 5227, or a funeral home or crematorium acting on the individual's behalf;
- 3.4.3.2 the Social Security Administration;
- 3.4.3.3 the U.S. Department of Veterans Affairs; or
- 3.4.3.4 the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries.
- 3.5** “Generational identifier” means JR, SR, or numerals to designate the number of generations. Generational identifiers may not take the form of commonly conferred academic honorifics such as, but not limited to: MD, JD, DO, Esq., BA, BS, MA, MS, or PhD, or other designations not commonly used as generational identifiers.
- 3.6** “Homeless”, “homeless individual”, and “homeless person” means the same as defined by [42 USC § 11302](#).
- 3.7** “Homeless services provider” means:
- 3.7.1 A governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a “homeless person” or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.

- 3.7.2 An attorney licensed to practice law in Vermont and who is representing a client for whom the request for a certified birth certificate is being made.
- 3.7.3 A local educational agency liaison for homeless children and youth, or a school social worker.
- 3.7.4 A human services provider or public social services provider funded by the State of Vermont to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, or public assistance or employment services.
- 3.8 “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.
- 3.9 “Secure facility” means a building or room equipped with locks or other security devices that does not permit access during non-working or non-business hours.
- 3.10 "Valid government-issued identification" means a document that shall contain an expiration date that has not passed, a photograph, a current address, a signature and a unique number or barcode such as a driver’s license, or valid passport, assigned to the person. The following forms of government-issued identification are acceptable:
  - 3.10.1 United States issued Driver’s License or Identification card;
  - 3.10.2 United States Territories Driver’s License or Identification Card;
  - 3.10.3 Tribal Identification Card that contains the bearer’s signature;
  - 3.10.4 U.S. Military Identification Card that contains the bearer’s signature;
  - 3.10.5 Passport issued by the United States, or by a foreign country recognized by the United States government;
  - 3.10.6 Visa issued by the United States and that is included within a passport and the bearer’s signature is on the passport and not on the Visa;
  - 3.10.7 U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or
  - 3.10.8 U.S. Employment Authorization Document / Card (Form I-765 or successor form).

**4.0 Documents Needed to Obtain a Birth or Death Certificate**

- 4.1 An applicant is required to provide a valid government-issued identification document or alternate means of identification and must present the identification at time of signing the Vermont application for a certified copy of a birth or death certificate.
- 4.2 An applicant may establish their identity by providing a minimum of two alternate pieces of documentation (exempting 3.2.12 and 3.2.13 when only one form of identification is needed). The Office of Vital Records may request additional evidence as necessary for the positive identification of the applicant.
- 4.3 A homeless individual may establish their identity necessary to be eligible to

receive a certified birth certificate by providing a completed Affidavit of Homeless Status. The Affidavit must be signed by the applicant and the homeless services provider. The Office of Vital Records may request additional documentation as necessary for the positive identification of the applicant.

## **5.0 Applications for Certified Copies of Birth and Death Certificates**

**5.1** The Vermont application for a certified copy of birth or death certificate must be submitted by an eligible party to:

- 5.1.1 the Vermont Office of Vital Records;
- 5.1.2 the Vermont State Archives and Records Administration;
- 5.1.3 a statutorily authorized issuing agent, such as town clerk's office; or
- 5.1.4 a contractor of the State of Vermont that is providing application processing services on behalf of the Vermont Office of Vital Records.

## **7.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees**

**7.1** Town clerks and their designees shall certify a birth or death certificate copy using one of the following methods:

- 7.1.1 Use of a town seal that does not include the town clerk's name, and ensures all documents are signed by either the town clerk, assistant town clerk, or another designated assistant clerk pursuant to state statute; or
- 7.1.2 Use of a town seal that includes the town clerk's name, and ensures all documents using that seal are signed by the town clerk whose name is on the seal.

## **8.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption**

**8.1** The State Registrar may temporarily suspend the requirement for issuing agents to utilize the statewide registration system for the issuance of certified copies of birth and death certificates. The reasons for a temporary suspension are limited to:

- 8.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;
- 8.1.2 A technical event with the statewide registration system that results in the system being inaccessible to issuing agents for a period that exceeds 48 hours.

**8.2** During a period in which a temporary suspension has been issued, the State Registrar shall provide instruction to the issuing agents for the methods to be used to issue and track all certified copies, and for later recording in the statewide registration system when service has been restored.

## **9.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates**

**9.1** Activities to support the creation, storage and issuance of certified copies of Vermont birth and death certificates shall occur in secure, government-operated buildings. The area of the building that houses the Vermont birth and death

certificates, and materials utilized to create, modify or access the certificates, and the computers used to access the statewide registration system, shall meet the following requirements:

- 9.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke or other emergencies;
  - 9.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;
  - 9.1.3 Is a secure facility;
  - 9.1.4 Employee work space is separated from the public, such as by service counter, service window, locked door, or other physical barrier;
  - 9.1.5 Non-employees, such as, but not limited to, visitors, vendors, delivery personnel, and cleaning staff, must identify themselves to the town clerk or their designee, and request access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system, providing a valid and reasonable reason for such access. These non-employees shall be escorted to the designated area. If cleaning is done during nonworking hours, only preapproved cleaning personnel shall be permitted access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system;
  - 9.1.6 All materials used for certification of the birth and death certificates, such as, but not limited to, equipment (computers, printers, town seal), security paper, and any other documents or confidential files/records, shall be locked in a secure area or cabinets accessible only to the town clerk and their designees;
  - 9.1.7 Visitors shall be accompanied when such visitors may have access to the materials used for certification of birth and death certificates, or access to the statewide registration system.
- 9.2** If an existing government-operated building does not have a fireproof safe or vault as specified in 18 V.S.A. § 5001(b), the town clerk shall ensure that these rules are complied with and confirm in writing to the State Registrar that all reasonable precautions and safeguards have been implemented to protect the birth and death certificate materials, the birth and death certificates, and the computer used to access the statewide registration system.
- 9.3** The public shall be allowed access to view or inspect birth and death certificates stored at issuing agent's offices during the standard business hours of the office. Issuing agents may implement reasonable precautions to protect the certificates from potential harm or theft, such as, but not limited to:
- 9.3.1 Monitoring visitors;
  - 9.3.2 Requiring visitors to view/inspect certificates at a designated table or office;

- 9.3.3 Retrieving only the birth and death certificates requested by the visitor rather than providing unlimited access to all certificates;
- 9.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or
- 9.3.5 Requiring visitors to show the contents of any bags, briefcases or other storage methods prior to departing the office.

## **10.0 Criteria for Acceptance of Child’s Name on Birth Certificates**

### **10.1** In order to be valid, names on birth certificates shall:

- 10.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;
- 10.1.2 Not contain symbols other than:
  - 10.1.2.1 Numerals used for generational identifiers;
  - 10.1.2.2 Common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, and periods in generational identifiers or when an initial or abbreviation is used as part of a name; or
  - 10.1.2.3 Special characters that are commonly used, such as accent marks and ñtildes.
- 10.1.3 Not exceed a total of 50 characters in length for each of First, Middle, and Last Name. The count of maximum allowable characters shall include hyphens, apostrophes, and periods when used as part of the name.
- 10.1.4 Contain a last name.
- 10.1.5 Contain no more than one generational identifier after the last name.

## **11.0 Disposal of Original Birth and Death Certificates**

### **11.1** Pursuant to 18 V.S.A. § 5073(d), 18 V.S.A. § 5075(e) and 18 V.S.A. § 5202(a)(e), “replace and dispose” shall include the following:

- 11.1.1 The custodian of the birth or death certificate confirms they have accurately identified the certificate that is to be removed; and
  - 11.1.1.1 The custodian shreds the certificate using a paper shredder that is in the office of the issuing agent, or places the certificate in a storage container that is used solely for the collection of off-site shredding by a contractor; or
  - 11.1.1.2 The certificate is placed into a recycling container that will be collected by an off-site shredding contractor within 24 hours of the certificate’s disposal.



## **INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES**

**Meeting Date/Location:** September 9, 2019, Pavilion Building, 5<sup>th</sup> floor conference room, 109 State Street, Montpelier, VT 05609

**Members Present:** Chair Brad Ferland, Jennifer Mojo, John Kessler, Matt Langham, Steve Knudson, Clare O'Shaughnessy, and Ashley Berliner (via phone)

**Members Absent:** Dirk Anderson and Diane Bothfeld

**Minutes By:** Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the August 9, 2019 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1. 2019 Vermont Fire Service Training Council Rules and Policies, Vermont Fire Service Training Council, page 2
  2. Substance Use Disorder Treatment Certification Rule, Agency of Human Services, Department of Health, page 3
  3. Insurance Regulatory Sandbox; Innovation Waiver Regulation; Department of Financial Regulation, page 4
  4. Rule 3.700 Pole Attachments, Vermont Public Utility Commission, page 5
  5. Vital Records Rule, Agency of Human Services, Department of Health, page 6
  6. Water Supply Rule, Agency of Natural Resources, page 7
- Next scheduled meeting is October 14, 2019 at 2:00 p.m.
- 3:42 p.m. meeting adjourned.



**Proposed Rule: 2019 Vermont Fire Service Training Council Rules and Policies, Vermont Fire Service Training Council**

**Presented by Christopher Corbin, Joseph Benard and Peter Lynch**

Motion made to accept the rule by John Kessler, seconded by Matt Langham, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, page 3, #7: Add a period after the A in 3 V.S.A., and remove the extra spaces between ...( and Administrative Procedures Act)...
2. Proposed Rule Coversheet, pages 3-4, #13-15: Complete.
3. Public Input, page 1, #4: Include a dominate theme of comments if appropriate. Post all explanations publicly. Change the incorrectly spelled word 'rejectd' to 'rejected'.
4. Explanation of Changes to 2019 Proposed Rule:
  - a. Section 4.1: Remove the 's' from 'eliminates' in the first sentence. Change 'broader' to 'broad' in the second sentence. Change ; to , after 'programs' in the last sentence.
  - b. Section 5.5: Add 'put in' between ...'Council to' and 'place recertification'... in the first sentence.
  - c. Section 5.6: Change 'to' to 'the' between ...'who has not met' and 'minimum rectification'... in the first sentence.
5. Replace the January 1, 2007 rule to clean text of the new proposed rule.

DRAFT

**Proposed Rule: Substance Use Disorder Treatment Certification Rule, Agency of Human Services,  
Department of Health  
Presented by David Englander**

Motion made to accept the rule by Steve Knudson, seconded by John Kessler, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #7: Add a period after the 'A' in 18 V.S.A. Change 'provides that' to 'directs' in the second paragraph.
2. Proposed Rule Coversheet, page 3, #9 and #10: Add 'disorder' between 'substance use' and 'treatment'.
3. Proposed Rule Coversheet, page 4, #16: Define ADAP and add 'Substance Abuse'.
4. Adopting Page, page 1, #4: Add a period at the end of the sentence.
5. Economic Impact, page 2, #8: Either strike the last sentence or expand upon the reasoning.

DRAFT

**Proposed Rule: Insurance Regulatory Sandbox; Innovation Waiver Regulation; Department of  
Financial Regulation**

**Presented by Sebastian Arduengo and Jill Rickard**

Motion made to accept the rule by Jen Mojo, seconded by Matt Langham, and passed unanimously except for Steve Knudson who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #6 and #7: Remove the second §.
2. Proposed Rule Coversheet, page 5, #14 and #15: Update to correct dates.
3. Economic Impact Analysis, page 2, #6: Include a statement about the intent of creating an opportunity for potential savings in the future by having more efficient products and services.
4. Incorporation by Reference, page 1, #5: Include a phone number as well.
5. Clean text: Include dates when known.

DRAFT

**Proposed Rule: Rule 3.700 Pole Attachments, Vermont Public Utility Commission  
Presented by Micah Howe and John Gerhard**

Motion made to accept the rule by John Kessler, seconded by Matt Langham, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, pages 2-3, #6: Remove the second §.
2. Proposed Rule Coversheet, pages 4-5, #14 and #15: Complete.
3. Proposed Rule Coversheet, page 5, #16: Add 'Pole Attachments'.
4. Environmental Impact Analysis, pages 1-2, #3-8: Include positive impacts – examples may include: increased broadband leads to increased remote worker opportunities; reduces vehicle miles driven per capita; preserves highway infrastructure; and reduces carbon emissions.
5. Public Input, page 1, #3: Complete.
6. Public Input, page 1, #2: Include scheduled hearings and post on website.

DRAFT

**Proposed Rule: Vital Records Rule, Agency of Human Services**  
**Presented by Brendan Atwood**

Motion made to accept the rule by Steve Knudson, seconded by Jen Mojo, and passed unanimously except for Ashley Berliner who abstained, with the following recommendations:

1. Proposed Rule Coversheet, pages 2-3, #6 and #7: Remove the second §.
2. Proposed Rule Coversheet, page 2, #6: Change first reference to '18 V.S.A. § 5000 (e) and (f), and ...
3. Proposed Rule Coversheet, page 3, #9: In the first sentence after the last comma, change to ...' and pursue other activities essential to being a' .... Change 'Vermont State employees' to 'State of Vermont employees'. Change the capital 'D' to a lowercase 'd' in the word 'delayed'.
4. Proposed Rule Coversheet, page 3, #10: In the first sentence, change the word 'those' to 'individuals'. Change 'State employees' to 'State of Vermont employees'.
5. Proposed Rule Coversheet, page 3, #11: Change 'Vermont State employees' to 'State of Vermont employees'.
6. Economic Impact Analysis, page 1, #3: Include how this will favorably affect State of Vermont employees and anything else that it will have a positive impact on.

DRAFT

**Proposed Rule: Water Supply Rule, Agency of Natural Resources  
Presented by Ellen ParrDoering**

Motion made to accept the rule by John Kessler, seconded by Matt Langham, and passed unanimously except for Ashely Berliner who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 3, #6: Change 'Act 21 of 2019, § 3 (a)' to 'Sec. 3 (a) of Act 21 of 2019'.
2. Proposed Rule Coversheet, page 4, #11: Add 'of those who provide' between ...' and ultimately are paying customers' and 'for the resource'.
3. Proposed Rule Coversheet, page 6, #16: Add 'drinking water' and 'water supply'.
4. Adopting Page, page 1, #4: Add a period at the end of the sentence.
5. Economic Impact Analysis, page 2, #3: Include a statement about due to the fact that this is very early in the approach, there is minimal experience thus far to estimate costs for ongoing maintenance.
6. Economic Impact Analysis, page 5, #9: Explain in more detail.
7. Public Input, page 2, #4: Include website address and phone number.

DRAFT

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Michael K. Smith, SECRETARY  
MARTHA MAKSYM, DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Jim Condos, Secretary of State

**FROM:** Michael K. Smith, Secretary, Agency of Human Services *MKS*

**DATE:** Monday, October 28, 2019

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Deputy Secretary of Human Services Martha Maksym as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3 V.S.A. § 801 et seq.

Cc: Martha Maksym