

**Department of Health and Human Resources
Bureau for Public Health
Legislative Rule
Title 64, Series 32**

VITAL STATISTICS

BRIEF SUMMARY OF PROPOSED RULE

The proposed rule is a repeal and replacement of the existing Vital Statistics rule last amended in 1991. The proposal mirrors significant changes that were made to the Vital Statistics statute, Article 5, Chapter 16, of the West Virginia Code. HB 4565, passed in the 2006 regular session, was a major revision of the entire Vital Statistics article.

STATEMENT OF CIRCUMSTANCES

Changes in language, the addition of new processes, modifications in methodology and clarification of intent necessitates major modifications of the existing rule. Due to the many changes in the way records are received, shared, maintained and accessed, we have completely rewritten the rule governing vital statistics to comply with the new legislation.

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

No fiscal impact. The proposed rules do not increase or decrease fees, do not implement new programs or delete current ones, and they do not add additional duties over and above the Code changes that call for the promulgation of rules.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Rules will have no fiscal impact. The proposed rules do not increase or decrease fees, do not implement new programs or delete current ones, and they do not add additional duties over and above the Code changes that call for the promulgation of rules.

Date

Agency

Authorized Representative

Department of Health and Human Resources

Martha Yeager Walker
Martha Yeager Walker
Secretary

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 2006

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV DHHR - BPH
Diamond Building, Room 702
Charleston, WV 25301
304-558-2971

LEGISLATIVE RULE TITLE: _____
Title 64, Series 32, Vital Statistics

1. Authorizing statute(s) citation _____
WV State Code §§ 16-1-4 and 16-5-3

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 28, 2006

b. What other notice, including advertising, did you give of the hearing?
Not applicable

c. Date of Public Hearing(s) or Public Comment Period ended:
Public Comment Period end: July 28, 2006 noon

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

following public comment period, July 28, 2006

- f. Name, title, address and **phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

John D. Law, WVDHHR
Ann Spaner BPH
350 Capitol Street, Rm. 702
Charleston, WV 25301-3712
(304) 558-2971
fax (304) 558-1035
annspaner@wvdhhr.org

- g. **IF DIFFERENT FROM ITEM 'f',** please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Gary Thompson, State Registrar
350 Capitol Street, Room 165
Charleston, WV 25301-1798
(304) 558-2931
fax (304) 558-1051
garythompson@wvdhhr.org

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

From: Gary Thompson
To: RPRICE0851@aol.com
Subject: Re: Proposed Rules

Response

Roger,

Thank you.

Gary

>>> <RPRICE0851@aol.com> 7/10/2006 5:03:28 PM >>>

Gary:

Thanks for the Proposed Rules. We will be as active in the passage of the Rules as we were in the passage of the bill.

Thanks again,
Roger

Roger K. Price, Executive Director
West Virginia Funeral Directors Association
815 Quarrier Street, Suite 345
Charleston, WV 25301-2616
Telephone: 304/345-4710
Fax: 304/346-6416
E-mail: RPrice0851@aol.com (<mailto:RPrice0851@aol.com>)
Web site: [_www.wvfda.org_](http://www.wvfda.org) (<http://www.wvfda.org/>)

Comment

From: Vital Registration
To: Harry E. Moran II
Date: 7/24/2006 10:39:49 AM
Subject: Re: Fees

July 24, 2006

Response Dear Mr. Moran,

The justification for raising our fees are as follows:

1) Although we do receive funding through the general revenue fund, a large portion of the funding for our office comes from the sales of certified copies. At one time, we were paying back to the general revenue fund about the same amount as we were receiving. That has changed and we do receive more funds through general revenue, but we had to or we would have not been able to run the program. Not having a vital statistics program is not an option - it is an essential function of all state governments and territories in the United States (world-wide for that matter). Certified copies of vital records are prima facie evidence in courts of law and are held by state government to ensure citizen rights as conferred by the Constitution. They are legal proof of US citizenship, age, legal name, and parentage. Both the certified copies and resulting data are now integral to the operations of many other government agencies including child support enforcement, SSA, medicaid, numerous insurance programs, immunization and cancer registries, and state and national health data agencies.

2) Our fee for certificates had not been increased since 1982. How many other things can you think of that you purchase today that were the same as they were 24 years ago? Not many I would wager. Of the \$5 we were charging for certified copies, \$3 was paid back to the general revenue fund while \$2 was retained for office functions. A stamp costs 39 cents. When you're paying almost 20% of your retained fee just for postage, the rest doesn't go very far. Of the current \$10 fee, \$4 will go back to the general revenue fund, \$5 will be retained to run vital statistics (which should help stave off future need for additional funding from general revenue) and \$1 is to be placed into a non-lapsing vital statistics improvement fund. The last fund's purpose is to fund improvement - it cannot be appropriated for day to day expenses.

3) In comparison to other states, \$5 for a birth certificate was the least expensive in the nation and only 4 other states had death certificates for \$5. See the attached PDF file which shows our fees relative to other states BEFORE the rate increase.

4) Not only have our expenses increased due to sheer inflation, but the complexity of running an integrated and modern vital statistics system has also increased and will continue to increase. For many years, this program was "technology-starved" with only modest improvements made. Converting a system with millions of paper records into the digital era is often a daunting task. In some areas, we are playing "catch up". This additional funding will pay for that.

Sincerely yours,

Gary L. Thompson
State Registrar of Vital Statistics
(304) 558-0155

Comment

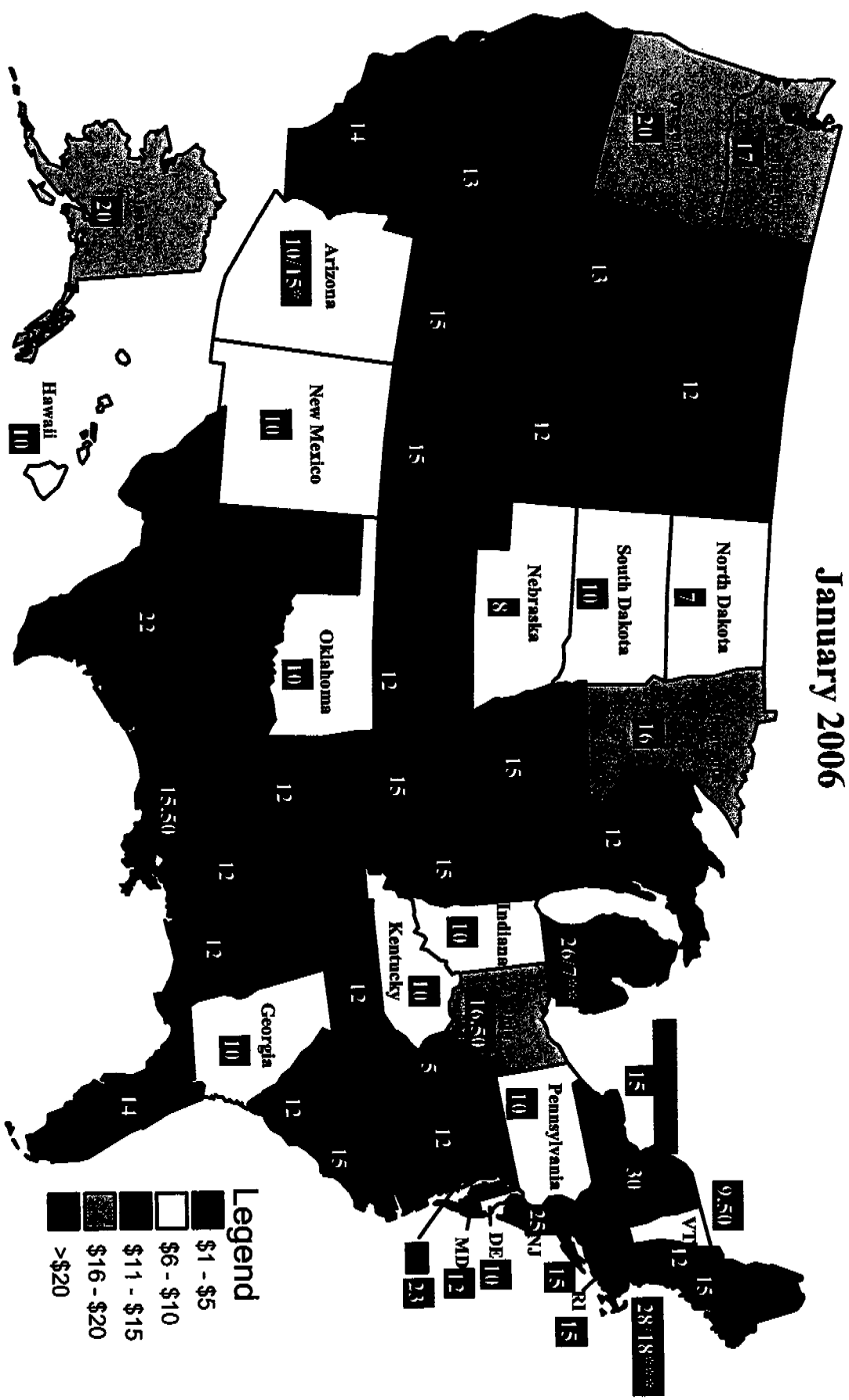
>>> "Harry E. Moran II" <hemoran@charter.net> 7/22/2006 4:30:42 PM >>>
How can you justify a 100% increase in fees for birth and death certificates? After all, our taxes pay for your organization and its work. Why do we have to pay twice for the same work?

Harry Moran

Elkview, WV

CC: Brandy Byrnside; Dan Christy

Fees for First Copies of Birth Records by State January 2006



* Arizona - \$10.00 if born after 1990, \$15.00 if born before 1990.

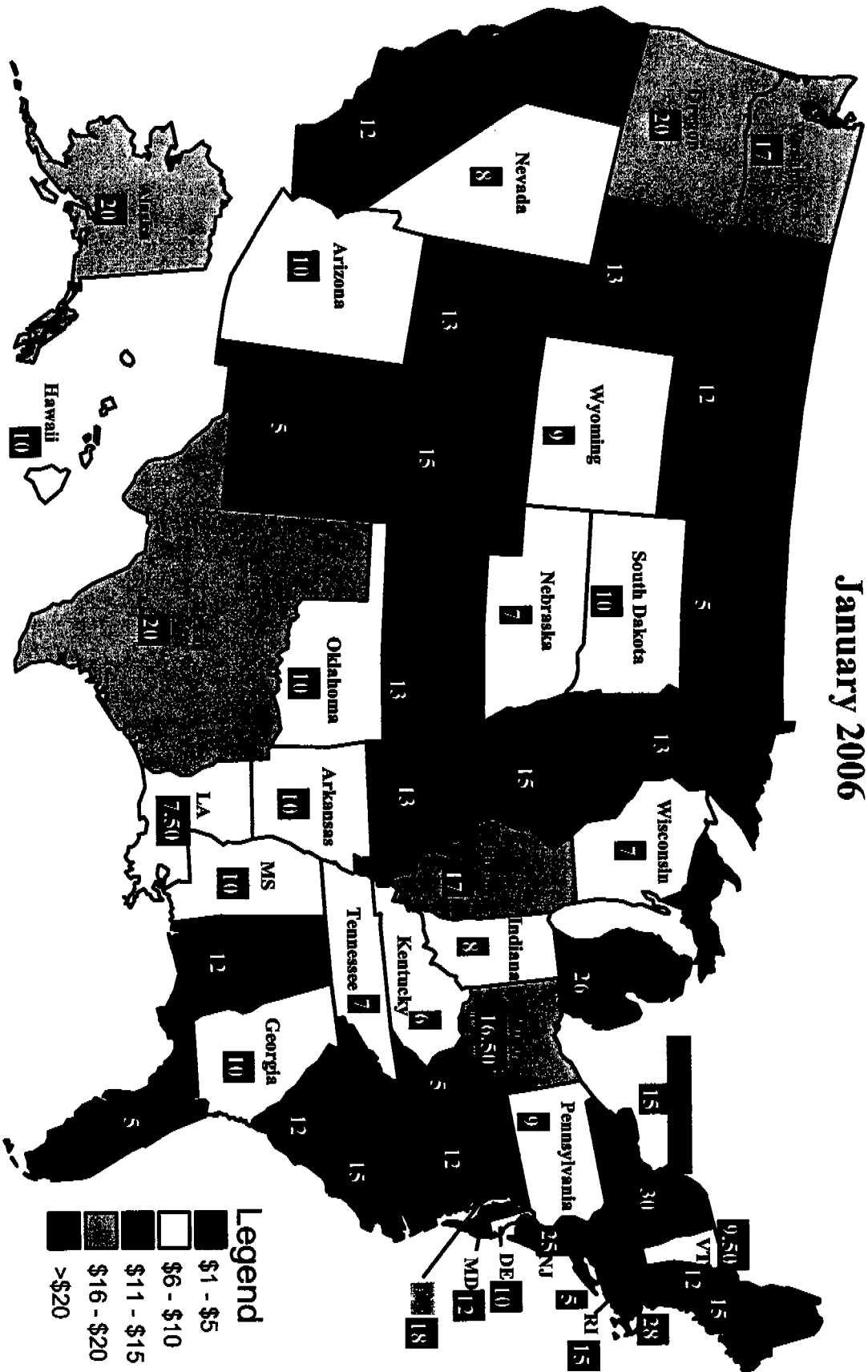
** Michigan - \$7.00 for senior citizens ordering a copy of their own birth certificate.

*** Massachusetts - \$28.00 by mail, \$18.00 for walk-ins.

Legend

- \$1 - \$5
- \$6 - \$10
- \$11 - \$15
- \$16 - \$20
- >\$20

Fees for First Copies of Death Records by State January 2006



Legend

- \$1 - \$5
- \$6 - \$10
- \$11 - \$15
- \$16 - \$20
- >\$20

From: Gary Thompson
To: Jim McKay
Date: 7/28/2006 10:44:29 AM
Subject: Re: Comment on Rule 64-CSR-32

July 28, 2006

Response Dear Mr. McKay,

Thank you for your comment on Proposed Rule 64-CSR-32.

Gary L. Thompson,
State Registrar of Vital Statistics

Confidentiality Notice: This message, including any attachments, is for the sole use of the individual or entity named above. The message may contain confidential health and/or legally privileged information. If you are not the above-named recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately and destroy all copies of the original message.

Comment >>> Jim McKay <jimmckay@adelphia.net> 7/28/2006 10:03:42 AM >>>
I apologize for sending this late. For some reason the message bounced back to me when I emailed it yesterday.

Gary,

As I mentioned when we met earlier this month, I am interested in commenting and supporting the creation of Heirloom Birth Certificates with proceeds benefiting the West Virginia Children's Trust Fund as established in Chapter 5, Article 26, Section 6 of the Code of West Virginia (5-26-6).

The Children's Fund was established for the sole purpose of awarding grants, loans and loan guaranties for child abuse and neglect prevention activities, and gifts, bequests or donations to the Children's Fund, in addition to appropriations to the fund, are deposited in the state treasury in a special revenue account.

The cost of child abuse and neglect to children and families, communities and the State of West Virginia is staggering, both in terms of the human toll and financial costs to society, which are estimated at \$94 billion per year nationally, and therefore we should explore all options to increase our investment in preventing child abuse and neglect from occurring.

As you know, seventeen states have already established ¹Heirloom² or ³Commemorative² Birth Certificates with proceeds used to benefit state Children's Funds and fund child abuse prevention activities, providing an additional sustainable source of funding for their efforts. Also, on January 19, 2006, the Governor's Cabinet on Children and Families met and formally endorsed the concept and requested that ³the Department of Health and Human Resources and State Registrar of Vital Statistics dedicate proceeds from the sale of "Commemorative" or "Heirloom" Birth Certificates to the Children's Fund and take appropriate action to implement such a

program².

Therefore I want to register my support for the creation of Heirloom Birth Certificates in West Virginia with proceeds benefiting the Children's Trust Fund so that additional funding can be provided to worthwhile programs that prevent child abuse and neglect across West Virginia.

If you have any questions, please let me know.

Thank you very much!

Jim McKay
1519 Powell Court
Huntington, WV 25701

(304) 697-3641

TITLE 64
LEGISLATIVE RULE
BUREAU FOR PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

FILED
JUL 28 P 2:52

SERIES 32
VITAL STATISTICS

OFFICE WEST VIRGINIA,
SECRETARY OF STATE

§64-32-1. General.

1.1. Scope. -- This legislative rule complements WV Code §16-5-1 et seq., the State Vital Statistics Law.

1.2. Authority. -- W V Code §§16-1-4 and 16-5-3.

1.3. Filing Date. -- June , 2006.

1.4. Effective Date. --

1.5. Repeal of Former Rule - This legislative rule repeals and replaces Vital Statistics, 64CSR 32, filed April 16, 1991 and effective May 1, 1991.

§64-32-2. Duties of State Registrar.

2.1. Media, Forms, Certificates, Electronic Data Files;

2.1.a. All forms, certificates, records, electronic data files, and reports used in the system of vital statistics are the property of the Bureau and shall be surrendered to the State Registrar upon demand. The forms prescribed and distributed by the State Registrar for reporting vital statistics shall be used only for official purposes. Only those forms furnished or approved by the State Registrar shall be used in the reporting of vital statistics or in making copies. Electronic data records will be accepted only when standards set by the State Registrar are met and with the prior approval of the State Registrar before transmission..

2.2. Requirements for Preparation of Certificates;

2.2.a. All forms, certificates, and reports relating to vital statistics must either be typewritten or printed legibly in black, unfading

ink, or stored on electronic media approved by the State Registrar. All signatures required shall be entered in unfading ink or stored electronically. Unless otherwise directed by the State Registrar, no certificate shall be complete and correct and acceptable for registration:

2.2.a.1. That does not contain the certifier's name typed or printed legibly under his or her signature;

2.2.a.2. that does not supply all items of information called for or satisfactorily account for their omission;

2.2.a.3. that contains alterations or erasures;

2.2.a.4. that does not contain handwritten signatures or the approved electronic equivalent as required;

2.2.a.5. that is marked "copy" or "duplicate";

2.2.a.6. that is a carbon copy;

2.2.a.7. that is prepared on an improper form;

2.2.a.8. that contains improper or inconsistent data;

2.2.a.9. that contains items completed with pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet or modifications thereof;

2.2.a.10. that contains given names or surnames written with symbols that have no phonetic standing on their own other than numerals used for generational identifiers or common punctuation such as

hyphens for hyphenated names, apostrophes used as part of a given name or surname, commas to separate surnames from generational identifiers, and periods in generational identifiers or when an initial or abbreviation is used as part of a name.

2.2.a.11. that contains an indefinite cause of death which denotes only symptoms of disease or conditions resulting in disease; or

2.2.a.12. that is not prepared in conformity with rules or instructions issued by the State Registrar.

2.3. Designation of Local Registration Offices

2.3.a. The State Registrar shall determine whether offices other than the section of vital statistics are needed in West Virginia to aid in the efficient administration of the system of vital statistics. Such determination shall be based on an evaluation of the most efficient method to meet the needs of the people of West Virginia with respect to the establishment and operation of the system of vital statistics.

2.3.b. If the State Registrar determines that additional offices are necessary, such offices shall be designated only with the approval of the Bureau. The duties and responsibilities may be assigned to currently existing offices or special branch offices of the section of vital statistics may be established in those areas where they are deemed necessary, or a combination of existing offices and branch offices may be used. In all cases where existing offices are utilized, the employees of such shall be subject to the control of the State Registrar when they are performing functions relating to the system of vital statistics.

2.3.c. The State Registrar shall appoint a local registrar for each local registration office so designated. The local registrar shall, with the approval of the State Registrar, appoint one or more deputy local registrars of vital statistics. The deputy registrar shall perform the duties of the local registrar in the absence or incapacity of such local registrar and shall perform such other duties as may be

prescribed. The State Registrar may remove a local registrar or deputy local registrar for cause.

2.3.d. The State Registrar shall delegate such duties and responsibilities to such offices as he or she deems necessary to ensure the efficient operation of the system of vital statistics. These may include any or all of the following:

2.3.d.1. The receipt and processing of records of birth and death and reports of fetal death occurring within the registration district. This would include the receipt of these records and reports from the person responsible for their filing, checking them for accuracy and completeness, and forwarding them to the section of vital statistics at intervals prescribed by the State Registrar.

2.3.d.2. Maintenance of all birth and death records received for filing. These records are considered to be in the custody of the State Registrar and are subject to the same requirements regarding disclosure as are records in the possession of the State Registrar. Records maintained by a local registration office shall be surrendered to the State Registrar upon demand.

2.3.d.3. Issuance of certified copies of birth and/or death records. The records from which the certified copies are issued shall be those maintained in the local registration office or shall be provided by the section of vital statistics. All forms and procedures used to issue the copies shall be provided or approved by the State Registrar. If it is deemed appropriate and feasible, any such office may be provided access to all birth and/or death records in this State.

2.3.d.4. Acting as the agent of the State Registrar in their designated area and providing assistance to physicians, hospitals, funeral directors, and others in matters related to the system of vital statistics.

2.3.d.5. Performing such other duties as may be prescribed by the State Registrar.

2.3.e. The State Registrar, with the approval of the Bureau, shall determine the

responsibilities and duties of each office independently.

§64-32-3. Birth Registration for Out-of-Institution Birth -Documentary Evidence.

3.1. When a birth occurs in this State outside of a hospital or institution, and the birth certificate is filed before the first birthday, additional evidence in support of the facts of birth may be required.

3.2. A certificate for the birth shall be completed and filed upon presentation of the following evidence by the individual responsible for filing the certificate:

3.2.a. Evidence of pregnancy, such as but not limited to:

3.2.a.1. Prenatal record, or

3.2.a.2. a statement from a physician or other health care provider qualified to determine pregnancy, or

3.2.a.3. a home visit by a public health nurse or other health care provider, or

3.2.a.4. other evidence acceptable to the State Registrar.

3.2.b. Evidence that the infant was born alive, such as but not limited to:

3.2.b.1. A statement from the physician or other health care provider who saw or examined the infant, or

3.2.b.2. an observation of the infant during a home visit by a public health nurse, or

3.2.b.3. other evidence acceptable to the State Registrar.

3.2.c. Evidence of the mother's presence in West Virginia on the date of the birth, such as but not limited to:

3.2.c.1. If the birth occurred in the mother's residence,

3.2.c.1.A. a driver's license, or a government-issued identification card, which includes the mother's current residence on the face of the license/card, or

3.2.c.1.B. a rent receipt that includes the mother's name and address, or

3.2.c.1.C. any type of utility, telephone, or other bill that includes the mother's name and address, or

3.2.c.1.D. other evidence acceptable to the State Registrar.

3.2.c.2. If the birth occurred outside of the mother's place of residence, and the mother is a resident of West Virginia, such evidence shall consist of:

3.2.c.2.A. A notarized affidavit from the tenant of the premises where the birth occurred, that the mother was present at those premises at the time of the birth, and

3.2.c.2.B. evidence of the affiant's residence similar to that required in section 3.2, and

3.2.c.2.C. evidence of the mother's residence in the State similar to that required in section 3.2, or

3.2.c.2.D. other evidence acceptable to the State Registrar.

3.2.c.3. If the mother is not a resident of West Virginia, such evidence must consist of clear and convincing evidence acceptable to the State Registrar.

§64-32-4. Infants of Unknown Parentage; Foundling Registration.

4.1. The report for an infant of unknown parentage shall be registered on a current certificate of live birth and shall:

4.1.a. Have "foundling" plainly marked in the top margin of the certificate;

4.1.b. show the required facts as determined by approximation and have parentage data left blank; and

4.1.c. show the name and title of the custodian in lieu of the attendant.

4.2. When a report has been placed in a special file as provided by subsection d, section thirteen, article five, chapter sixteen of state code, the State Registrar may inspect such information for purposes of properly administering the system of vital statistics.

§64-32-5. Delayed Registration of Birth.

5.1. Delayed Certificate of Birth Form

5.1.a. All certificates registered one year or more after the date of birth are to be registered on a delayed certificate of birth prescribed and furnished by the State Registrar.

5.2. Who May Request the Registration of a Delayed Certificate of Birth

5.2.a. Any person born in this State whose birth is not recorded in this State, his or her parent or guardian, or any other person age 18 years or over acting for the registrant and having personal knowledge of the facts of birth may request registration of a delayed certificate of birth, subject to these rules and instructions issued by the State Registrar.

5.2.b. Each application for a delayed certificate of birth shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if such person is age 18 years or over and is competent to sign and swear to the accuracy of the facts stated therein; otherwise the application shall be signed and sworn to by one of the parents of the registrant, his or her guardian, or any other person age 18 years or over having personal knowledge of the facts of birth.

5.3. Facts to be Established for a Delayed Registration of Birth

5.3.a. The minimum facts which must be established by documentary evidence shall be the following:

5.3.a.1. The full name of the person at the time of birth;

5.3.a.2. the date of birth and State of birth;

5.3.a.3. the full maiden name of the mother; and

5.3.a.4. the full name of the father; except that if the mother was not married either at the time of conception or birth the name of the father shall not be entered on the delayed certificate except as provided in section 5.4 .

5.4. Delayed Registration Following a Legal Change of Status

5.4.a. When evidence is presented reflecting a legal change of status by adoption, legitimation, paternity determination, or acknowledgment of paternity, a new delayed certificate may be established to reflect such change.

5.4.b. The existing certificate and the evidence upon which the new certificate was based shall be placed in a special file. Such file shall not be subject to inspection except upon order of a court of competent jurisdiction or by the State Registrar for purposes of properly administering the system of vital statistics.

5.5. Documentary Evidence - Requirements

5.5.a. To be acceptable for filing, the name of the registrant at the time of the birth and the date and place of birth entered on a delayed certificate of birth shall be supported by at least:

5.5.a.1. A hospital record created at the time of birth, or two pieces of acceptable documentary evidence, if the record is filed within 10 years after the date of birth; or

5.5.a.2. three pieces of acceptable documentary evidence, if the record is filed 10 years or more after the date of birth.

5.5.b. Facts of parentage shall

be supported by at least one document.

5.6. Documentary Evidence - Acceptability

5.6.a. The State Registrar shall determine the acceptability of all documentary evidence submitted.

5.6.a.1. Documents presented, including but not limited to census, hospital, church, and school records, must be from independent sources and shall be in the form of the original record or a duly certified copy or a signed statement from the custodian of the record or document. Documents must have been established at least one year prior to the date of application.

5.6.a.1.A.

Affidavits of personal knowledge are not acceptable as evidence to establish a delayed certificate of birth unless the registrant is at least 10 years of age and the affidavit is signed by one of the parents.

5.6.a.2. All documents submitted in evidence:

5.6.a.2.A. for persons age 10 years or over, except for affidavits of personal knowledge, must have been established at least 10 years prior to the date of application, or within 3 years of the date of birth; and

5.6.a.2.B. for persons under 10 years of age, must be dated at least one year prior to the date of application or within the first year of life.

5.7. Abstraction of Documentary Evidence

5.7.a. The State Registrar, or his or her designated representative, shall abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. This description shall include:

5.7.a.1. The title or description of the document;

5.7.a.2. the name and

address of the custodian;

5.7.a.3. the date of the original filing of the document being abstracted; and

5.7.a.4. all birth facts required by subsection 5.3 contained in each document accepted as evidence.

5.7.b. All documents submitted in support of the delayed birth registration shall be returned to the applicant after review except for an affidavit of personal knowledge if submitted as documentation.

5.8. Verification by the State Registrar

5.8.a. The State Registrar, or his or her designated representative, shall verify:

5.8.a.1. That no prior birth certificate is on file for the person whose birth is to be recorded;

5.8.a.2. that he or she has reviewed the evidence submitted to establish the facts of birth; and

5.8.a.3. that the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the document.

5.9. Dismissal After 1 Year

5.9.a. Applications for delayed certificates which have not been completed within one year from the date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the State Registrar shall so advise the applicant and all documents submitted in support of such registration shall be returned to the applicant.

§64-32-6. Certificates of Birth Following Adoption, Legitimation, Paternity Determination, and Paternity Acknowledgment.

6.1. Legitimation

6.1.a. If the natural parents marry after the birth of a child, a new certificate of birth shall be prepared by the State Registrar

for a child born in West Virginia upon receipt of a sworn acknowledgment of paternity signed by the natural parents of said child together with a certified copy of the parents' marriage record. However, if another man is shown as the father on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.

6.2. Court Determination of Paternity

6.2.a. A new certificate of birth shall be prepared by the State Registrar for a child born in West Virginia upon receipt of a certified copy of a court determination of paternity, together with a request from the natural mother or person having legal custody of said child or at the direction of the court that determined paternity that such new certificate be prepared. If the surname of the child is not decreed by the court, the request for the new certificate shall specify the surname to be placed on the certificate.

6.3. Acknowledgment of Paternity

6.3.a. A new certificate of birth shall be prepared by the State Registrar for a child born out of wedlock in this State upon receipt of a sworn acknowledgment of paternity signed by both parents and a written request by both parents that the child's surname be changed on the certificate. However, if another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or following adoption.

6.4. In lieu of preparing a new birth certificate under the provisions of sections 6.1, 6.2, and 6.3, the original certificate may be altered provided that the fact of alteration is not obvious on the face of the certificate.

6.5. New Certificate

6.5.a. The new certificate of birth prepared after adoption, legitimation, court determination of paternity, or acknowledgment of paternity shall be on the form in use at the time of its preparation and shall include the following items and such information necessary to complete the certificate:

6.5.a.1. The name of the child;

6.5.a.2. the date and city and/or county of birth as transcribed from the original certificate;

6.5.a.3. the names and personal particulars of the adoptive parents or of the natural parents, whichever is appropriate;

6.5.a.4. the name of the attendant, printed or typed;

6.5.a.5. the birth number assigned to the original birth certificate; and

6.5.a.6. the original filing date.

6.5.b. The information necessary to locate the existing certificate and to complete the new certificate shall be submitted to the State Registrar on forms prescribed or approved by him or her.

6.6. Existing Certificate to Be Placed in a Special File

6.6.a. After preparation of the new certificate, the existing certificate and the evidence upon which the new certificate was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a court of competent jurisdiction or by the State Registrar for purposes of properly administering the system of vital statistics or as otherwise provided by State law.

§64-32-7. Death Registration.

7.1. Acceptance of Incomplete Death Certificate

7.1.a. If all the information necessary to complete a death certificate is not available within the time prescribed for filing of the certificate, the funeral director or person acting as such shall file the certificate with all information that is available and satisfactorily account for all the items that are omitted. In all cases the medical certification must be provided by the person responsible for such certification. If the cause of death is unknown or pending

investigation, the cause of death shall be shown as such on the certificate. The person providing the medical certification of cause of death also shall authorize the final disposition of the body.

7.1.b. A supplemental report providing the personal information omitted from the original certificate shall be filed by the funeral director or person acting as such with the State Registrar as soon as possible, but in all cases within 30 days of the date the death occurred.

7.1.c. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the State Registrar within 30 days. If extended time is needed to get information, the State Registrar shall be notified. The State Registrar may provide for an extension not to exceed 60 days.

7.1.d. The supplemental report(s) shall be made a part of the existing death certificate. Such report(s) shall be considered amendment, and the death certificate shall be marked "Amended."

7.2. Hospital or Institution May Assist in Preparation of Certificate

7.2.a. When a death occurs in a hospital or other institution and the death is not under the jurisdiction of the State Medical Examiner or designee or county medical examiner or county coroner, the person in charge of such institution, or his or her designated representative, may initiate the preparation the death certificate as follows:

7.2.a.1. Place the full name of the decedent and the date, time, and place of death on the death certificate and obtain from the attending physician the medical certification of cause of death; or

7.2.a.2. place the full name of the decedent and the date, time, and place of death on the death certificate and obtain the pronouncing physician's attestation.

7.2.a.3. Present the partially completed death certificate to the funeral director or person acting as such.

§64-32-8. Delayed Registration of Death .

8.1. The registration of a death after the time prescribed by statute and rules shall be registered on the current certificate of death form in the manner prescribed below:

8.1.a. If the attending physician or State Medical Examiner or designee or county medical examiner or county coroner at the time of death and the attending funeral director or person who acted as such are available to complete the certificate of death, it may be completed without additional evidence and filed with the State Registrar. For those certificates filed one year or more after the date of death, the physician or State Medical Examiner or designee or county medical examiner or county coroner and the funeral director or person who acted as such must state in accompanying affidavits that the information on the certificate is based on records kept in their files.

8.1.b. In the absence of the attending physician or State Medical Examiner or designee or county medical examiner or county coroner and the funeral director or person who acted as such, the certificate may be filed by the next of kin of the decedent and shall be accompanied by two documents which identify the decedent and his or her date and place of death.

8.2. In all cases, the State Registrar may require additional documentary evidence to prove the facts of death.

8.3. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate

§64-32-9. Disposition of Reports of Fetal Death and Induced Termination of Pregnancy.

9.1. Reports of induced termination of pregnancy are statistical reports only. The State Registrar is authorized to dispose of such reports when all statistical processing of the reports has been accomplished. However, the State Registrar may establish a file of such reports so they will be available for future statistical and research projects. Such file shall be retained for as long as the State Registrar deems necessary and it shall then be destroyed. The file may be maintained by photographic, electronic, or other means as determined by the

State Registrar, in which case the original report from which the photographic, electronic, or other file was made shall be destroyed.

9.2. The provisions of this regulation shall also apply to all records or reports of fetal death or induced termination of pregnancy filed prior to the adoption of this regulation except for fetal death records which must be retained indefinitely as the original files or photographic or electronic files.

§64-32-10. Authorization for Final Disposition.

10.1. Removal of Body

10.1.a. Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

10.1.a.1. Obtain assurance from the attending physician that death is from natural causes and that the physician will assume responsibility for certifying to the cause of death or fetal death and receive permission to remove the body from the place of death; or

10.1.a.2. notify the State Medical Examiner or designee or county medical examiner or county coroner if the case comes within his or her jurisdiction and obtain authorization to remove the body.

10.2. Authorization for Disinterment and Reinterment

10.2.a. An authorization for disinterment and reinterment of a dead body shall be issued only to a licensed funeral director by the State Registrar upon receipt of a written application signed by the next of kin and the person who is in charge of the disinterment or upon receipt of an order of a court of competent jurisdiction directing such disinterment.

10.2.b. Upon receipt of a court order or signed permission of the next of kin, the State Registrar may issue one authorization to a licensed funeral director to permit disinterment and reinterment of all remains in a mass disinterment provided that, insofar as possible, the remains of each body be identified and the place of disinterment and reinterment specified.

The authorization shall be permission for disinterment, transportation, and reinterment.

10.2.c. A dead body deposited in a receiving vault shall not be considered a disinterment when removed from the vault for disposition.

10.2.d. In all cases in which it is the intention that disinterment of a dead body be performed and the casket is to be opened for any purpose, other than solely for removal of the remains for subsequent cremation authorized by a cremation permit issued by the State Medical Examiner's office, disinterment and reinterment must be ordered by a court of competent jurisdiction before issuance of authorization.

§64-32-11. Registration of Marriage and Delayed Registration of Marriage .

(Reserved for future use)

§64-32-12. Amendment of Vital Records .

12.1. Amendment of Minor Errors on Birth Certificates During the First Year

12.1.a. Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions may be made by the State Registrar within the first year after the date of birth either upon his or her own observation or query or upon request of a person as defined in section 12.3.. When such additions or minor amendments are made by the State Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change shall be made on the certificate in such a way as not to become a part of any certified copy issued. The certificate shall not be marked "Amended."

12.2. All Other Amendments

12.2.a. Unless otherwise provided in these rules or in code, all other amendments to vital records shall be supported by:

12.2.a.1. A notarized affidavit setting forth:

12.2.a.1.A.

Information to identify the certificate;

12.2.a.1.B. the incorrect data as listed on the certificate;

12.2.a.1.C. the correct data as they should appear; and

12.2.a.2. One or more items of documentary evidence which support the alleged facts and were established at least five years prior to the date of application for amendment or within seven years of the date of the event.

12.2.b. The State Registrar shall evaluate the evidence submitted in support of any amendment, and when he or she finds reason to doubt its validity or adequacy, the amendment may be rejected and the applicant advised of the reasons for this action.

12.2.c. The State Registrar may in all cases require additional documentation.

12.3. Who May Apply

12.3.a. To amend a birth certificate, application may be made by one of the parents if the registrant is under age 18, the guardian or legal representative working in behalf of the registrant, the registrant if he or she is age 18 years or over, or the individual responsible for filing the certificates. In all other cases, amendment must be made by court order.

12.3.b. To amend a death certificate, application may be made by the next of kin, the informant listed on the death certificate, or the funeral director or person acting as such who submitted the death certificate. Applications to amend the medical certification of cause of death shall be made only by the physician or the State Medical Examiner or designee or county medical examiner or county coroner who provided the medical certification.

12.3.c. Applications for amendment of facts of marriage shall be made jointly by both parties to the marriage or by the survivor to the county clerk in the county in which the license was issued. In the event the marriage to which the application relates was

terminated by divorce, dissolution of marriage or annulment on or before the date of application for amendment, the applicant may request amendment only of those items on the certificate of marriage which relate to the applicant.

12.3.d. Applications for amendment of matters contained in certificates of divorce, dissolution of marriage or annulment which are not part of the decree or court order may be made by either party to the marriage terminated. Applications for amendment of matters contained in certificates of divorce, dissolution or marriage, or annulment which are part of the decree or court order may only be made by the court which ordered the divorce, dissolution of marriage, or annulment upon which the report was made.

12.3.e. Amendments to delayed certificates of birth other than the correction of minor errors or the establishment of paternity by affidavit of paternity, must be made by court order.

12.4. Amendment of Registrant's Given Names on Birth Certificates Within the First Year

12.4.a. Until the registrant's first birthday, given names may be amended upon receipt of a notarized affidavit signed by the parent(s) named on the certificate or the guardian, person, or agency having legal custody of the registrant.

12.4.b. After one year from the date of birth the provisions of section 12.2 must be followed to amend a given name if the name was entered incorrectly on the birth certificate. A legal change of name order must be submitted from a court of competent jurisdiction to change a given name after one year.

12.5. Addition of Given Names on Birth Certificates

12.5.a. Until the registrant's seventh birthday, given names, for a child whose birth was recorded with no given names, may be added to the certificate upon receipt of a notarized affidavit signed by the parent(s) named on the certificate or the guardian, person, or agency having legal custody of the registrant.

12.5.b. After 7 years the

provisions of section 12.2 must be followed to add given names.

12.6. Amendment of Cause of Death

12.6.a. The cause of death may be amended only upon receipt of a signed statement or an approved electronic notification by the physician or State Medical Examiner or designee or county medical examiner or county coroner who originally certified the cause of death. In the absence or inability of the physician or with his or her approval, the cause of death may be amended upon receipt of a signed statement or an approved electronic notification from his or her associate physician, or the chief medical officer of the institution in which death occurred, or a State Medical Examiner or designee or county medical examiner or county coroner who assumes jurisdiction of the case provided such individual has access to the medical history of the case. The State Registrar may require documentary evidence to substantiate the requested amendment.

12.7. Amendment of the Same Item More than Once

12.7.a. Other than causes or manners of death to be amended by the State Medical Examiner, once an amendment of an item is made on a vital record, that item shall not be amended again except upon receipt of a court order from a court of competent jurisdiction.

12.7.b. For purpose of accuracy only, the cause and manner of death may at any time be amended by the State Medical Examiner based on autopsy results, additional scientific study, or further inquiry or investigation for any death originally certified by the State Medical Examiner or designee or county medical examiner or county coroner or for any death signed by another physician in which a State Medical Examiner or designee or county medical examiner or county coroner claims jurisdiction.

12.8. Methods of Amending Certificates

12.8.a. Certificates of birth, death, marriage, and divorce, dissolution of marriage, or annulment may be amended by the State Registrar in the following manner:

12.8.a.1. Completing the item in any case where the item was left blank on the existing certificate.

12.8.a.2. Preparing a new certificate showing the correct information when the State Registrar deems that the nature of the amendment so requires.

12.8.a.2.A. The new certificate shall be prepared on the form used for registering current events at the time of amendment. Except as provided elsewhere in these regulations, the item number of the entry that was amended shall be identified on the new certificate.

12.8.a.2.B. In all cases, the new certificate shall show the date the amendment was made and be given the same State file number as the existing certificate. Signatures, if any, appearing on the existing certificate shall be typed on the new certificate.

12.8.a.3. Drawing a single line through the item to be amended and inserting the correct data immediately above or to the side thereof. The line drawn through the original entry shall not obliterate such entry.

12.8.a.4. In special circumstances, when deemed necessary and proper by the State Registrar, completing a special form which shall include the incorrect information as it appears on the original certificate, the correct information as it should appear, an abstract of the documentation used to support the amendment and sufficient information about the registrant to link the special form to the original record. When a copy of the record is issued, a copy of the amendment must be included.

12.8.a.5. Amending a record maintained in an electronic file by changing the item(s) to be amended. The date of amendment must be made a part of the record and the original information must also be retained.

12.9. Administrative Amendment

12.9.1. Upon investigation of filed vital records incorporated into the holdings

of the State Registrar or local custodians that were filed with incomplete or missing file dates or registrar's signatures, the State Registrar shall, if possible by approximation or other means, make an administrative amendment to the record. Such records shall be marked "Amended" and the date of amendment will be noted in administrative files indexed to the corrected record.

§64-32-13. Record Preservation.

13.1. When an authorized reproduction of a vital record has been properly prepared by the State Registrar and when all steps have been taken to ensure the continued preservation of the information, the record from which such authorized reproduction was made may be disposed of by the State Registrar. Such record may not be disposed of, however, until the quality of the authorized reproduction has been tested to ensure that acceptable certified copies can be issued and until a security copy of such document has been placed in a secure location removed from the building where the authorized reproduction is housed. Such security copy shall be maintained in such a manner to ensure that it can replace the authorized reproduction should the authorized reproduction be lost or destroyed.

13.2. The State Registrar shall offer the original documents from which the authorized reproductions are made to the section of archives and history of the division of culture and history - hereinafter known as "State Archives". The State Archives may be allowed to retain permanently such records provided they adhere to the restrictions in the vital statistics law related to access to such records. If the State Archives does not wish to place such records in their files the State Registrar shall be authorized to destroy the documents in accordance with statute and rules of the State Archives. Such destruction shall be by approved methods for disposition of confidential or sensitive documents.

§64-32-14. Disclosure and Protection of Integrity of Vital Records.

14.1. The State Registrar or other custodians of vital records shall not permit inspection of, or disclose information contained in, vital statistics records, or copy or issue a copy of all or part of any such record unless he or she is satisfied that the applicant is authorized to

obtain a copy or abstract of such record.

14.1.a. Unless access to vital records would jeopardize acceptance by any agency of the federal government as specified in regulations promulgated under the Intelligence Reform Act or other similar provisions of federal law, in addition to applicants specified in subsection (a), section twenty-eight, article five, chapter sixteen of Code, the following are authorized to obtain a copy or abstract of a vital record:

14.1.a.1. A person or entity who can prove that they have a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination of a personal or property right.

14.1.a.2. In the case of birth records, the registrant, a member of his or her immediate family, his or her guardian, or their respective authorized representatives.

14.1.a.3. In the case of a death record, any surviving relative who has a direct or tangible interest in the record, or his or her authorized representative.

14.1.a.4. In the case of a fetal death record or report, a parent listed on the record or his or her authorized representative.

14.1.a.5. In the case of marriage and divorce records, the parties married, their adult children, adult grandchildren and additional generations or their authorized representatives.

14.1.b. Family members doing genealogical research and genealogists representing a family member may obtain copies of records needed for their research. Appropriate authorization shall be required from the registrant or relevant family members as defined in subsection (a), section twenty-eight, article five, chapter sixteen of Code or rules promulgated thereunder.

14.1.c. The term "authorized representative" shall include an attorney, physician, funeral director, or other designated agent acting in behalf of the registrant or his or

her family.

- 14.1.d. The term "immediate family" includes:
- 14.1.d.1. mother or father
 - 14.1.d.2. son or daughter
 - 14.1.d.3. brother or sister
 - 14.1.d.4. husband or wife
 - 14.1.d.5. mother-in-law or father-in-law
 - 14.1.d.6. son-in-law or daughter-in-law
 - 14.1.d.7. grandparents, great-grandparents, and additional generations of same
 - 14.1.d.8. grandchildren, great-grandchildren, and additional generations of same
 - 14.1.d.9. stepmother or stepfather
 - 14.1.d.10. stepchild
- 14.1.e. If the father's name is not shown on the certificate of birth, he or his family members cannot obtain copies of the record without a court order, a court ordered determination of paternity naming him as the father, a completed notarized affidavit of paternity accepted for filing by the section of vital statistics, or proof of marriage to the mother at the time of conception or birth of child, or proof of adoption.
- 14.1.f. The natural parents of adopted children, when neither has custody, shall not be authorized to obtain copies or abstracts of the record.
- 14.1.g. Listings of names and/or addresses from vital records may not be provided to commercial firms or agencies for

commercial or business use.

14.2. All requests for disclosure of information contained in vital records or reports for research which identifies any person or institution shall be submitted in writing to the State Registrar.

14.2.a. Each request must contain:

14.2.a.1. Objectives of the research;

14.2.a.2. peer review and approval of study protocol for any contact of study subjects;

14.2.a.3. storage and security measures to be taken to assure confidentiality of identifying information, and provision for return or destruction of the information at the conclusion of the research;

14.2.a.4. time frame of the study;

14.2.a.5. acknowledgment and agreement that ownership of all information provided by the State Registrar shall remain exclusively in the Bureau and that use of that information by the researcher constitutes a license only for usage during the course of the research and creates no ownership rights by the researcher; and

14.2.a.6. acknowledgment and agreement that release of identifying information contained in vital records or reports by the researcher to any other person or entity may be made only with prior written approval of the State Registrar.

14.2.b. All requests shall be reviewed to determine compliance with the following:

14.2.b.1. The request contains all required elements;

14.2.b.2. the request adequately justifies the need for the requested information;

14.2.b.3. the requested

information can be provided within the time frame set forth in the request; and

14.2.b.4. the Bureau has adequate resources with which to comply with the request;

14.2.c. The State Registrar shall enter into research agreements for all approved research requests. Each research agreement shall specify exactly what information will be disclosed and shall prohibit release by the researcher of any information which may identify any person or institution. Additionally, each research agreement may provide that in the event of breach the principal investigator(s) and collaborator(s) shall be barred from participation in future research agreements and shall pay to the Bureau the sum of \$5,000.00 per violation of the research agreement.

14.2.d. For all requests for disclosure of information contained in vital records or reports for research which does not contain identifiers but may identify any person or institution, a signed agreement must be obtained from the person or entity requesting the information which provides the following assurances:

14.2.d.1. The recipient will neither use nor permit others to use the information in any way except for statistics reporting and analysis;

14.2.d.2. the recipient will neither release nor permit others to release the information or any part of the information to any person who is not a member of the organization without approval of the State Registrar;

14.2.d.3. the recipient will neither attempt to link nor permit others to attempt to link the data set with individual identifiable records from any other data set;

14.2.d.4. the recipient will neither use nor will allow anyone else to attempt to use the information to learn the identity of any person or institution included in the information provided; and

14.2.d.5. if the identity of any person or institution is discovered

inadvertently, the recipient will not make use of this knowledge; will immediately notify the State Registrar; will safeguard or destroy information which led to the identification of the individual or institution as requested by the State Registrar; and will inform no one else of the discovery.

14.3. The State Registrar or local custodian shall not issue a certified copy of a record until the applicant has provided sufficient information to locate the record. Whenever it shall be deemed necessary to establish an applicant's right to information from a vital record, the State Registrar or local custodian also may require identification of the applicant or a sworn statement or other good and sufficient evidence of identity and right to information.

14.4. When 100 years have elapsed after the date of birth, or 50 years have elapsed after the date of death, fetal death, marriage or divorce, dissolution of marriage, or annulment, such records in the custody of the State Registrar or local custodians, unless otherwise prohibited by statute or rules promulgated thereunder, shall become available to any person upon submission of an application containing sufficient information to locate the record. For each copy issued or search of the files made, the State Registrar or local custodian shall collect the same charged for the issuance of certified copies or a search of the files for other records in his or her possession.

§64-32-15. Copies of Data from Vital Records.

15.1. Certified copies of vital records may be made by mechanical, electronic, or other reproductive processes.

15.2. Each certified copy issued shall be certified as a true copy by the officer in whose custody the record is entrusted and shall include the date issued, the name of the issuing officer, the State Registrar's or local custodian's signature or an authorized facsimile thereof, and the seal of the issuing office. In addition, all certified copies of a birth record shall include at a minimum the following information: certificate number or other indexing reference, given name(s), surname, generational identifier, date of birth, State and city or county of birth, sex, and date of filing. In addition, all certified copies of a death record shall include at a minimum the following information: given name(s), surname,

generational identifier, date of death, date of birth or age, State and city or county of death, sex, and date of filing.

15.3. All certified copies shall include the minimum security features required for acceptance by federal agencies as specified in regulations promulgated under the Information Reform Act or similar federal statutes and shall include:

- 15.3.a. sensitized security paper;
- 15.3.b. background security design;
- 15.3.c. copy void pantograph; and
- 15.3.d. consecutive numbering;

15.4. To further enhance security, the State Registrar and local custodians may utilize other security features including, but not limited to, engraved borders, prismatic printing, erasable fluorescent background inks, nonoptical brightener paper, microline printing, complex colors, security threads, intaglio print, security laminates, and toner adhesion.

15.5. Verification of the facts contained in a vital record may be furnished by the State Registrar to any Federal, State, county, or municipal government agency or to any other agency representing the interest of the registrant. Such verifications shall be on a form prescribed and furnished by the State Registrar or on a form furnished by the requesting agency and acceptable to the State Registrar; or, the State Registrar may authorize the verification in other ways when it shall prove in the best interests of his or her office.

§64-32-16. Fees.

No certified or uncertified copy shall be issued until the fee for such copy is received unless specific approval has been obtained from the State Registrar or otherwise provided for by statute or rule.

§64-32-17. Persons Required to Keep Records.

17.1. Each funeral director shall keep a record containing, as a minimum, the following information about each dead body or fetus the funeral director handles:

17.1.a. The date, place, and time of receipt;

17.1.b. the date, place, and manner of disposition;

17.1.c. if the dead body or fetus is delivered to another funeral director, the date of such delivery and the name and address of the funeral director to whom delivered; and

17.1.d. the items required by the certificate of death for those deaths for which the funeral director was required to file the certificate.

§64-32-18. Matching of Birth and Death Certificates.

18.1. When carrying out the birth and death matching program, the State Registrar shall establish written guidelines which provide the standards for determining a match does exist. These standards shall specify the information about the decedent which should be available and which should be compared to the information on the birth certificate before a match can be made. These items include as a minimum: name of decedent; name of father and maiden name of mother, date of birth or age of decedent; State of birth of decedent; and marital status of decedent. No match shall be made unless there is documented proof of the fact of death.

18.2 The date of death, the State where death occurred, and the death certificate number shall be posted to the birth certificate.

§64-32-19. Social Security Numbers to be Reported; No Good Cause for Refusal; Limitations on Use of Social Security Numbers.

19.1. Social security numbers shall be reported as required.

19.2 Other than the situation in which a social security number has not been assigned, absent other provisions of federal regulations,

state statute or rules, there shall be no good cause for not furnishing a social security number.

19.3 A social security number obtained from the filing of a vital record may be used for all purposes approved by the Social Security Administration unless otherwise restricted by state statute or rule.

§64-32-20. Use of Names on Records.

20.1. Birth Registration Generally

20.1.a. Unless otherwise provided by statute or rule, birth certificates shall be filed by the State Registrar with the name of the registrant provided by the parent(s) to the person or entity required to file the birth certificate unless:

20.1.a.1. The mother was unemancipated, in which case the registrant's surname may only be filed in the legal surname of the mother until paternity is established unless specifically allowed otherwise by the mother's parent or legal guardian or at the order of a court of competent jurisdiction; or

20.1.a.2. It is known the registrant will be placed for adoption in which case the birth certificate shall be filed with the registrant's surname as either the legal surname or the maiden surname of the mother, as she so directs; or

20.1.a.3. A court order from a court of competent jurisdiction exists that orders another name be registered; or

20.1.a.4. The name provided contains commonly recognized profanity or is otherwise demeaning, in which case the State Registrar shall only register the birth in the requested name by order of a court of competent jurisdiction.

20.2. Only one generational identifier may be used after the surname. 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.

§64-32-21. Administrative Due Process

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests, or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64 CSR 1.