

Executive Summary

February 9, 2011

This report presents the public policy rationale for modernizing the Vermont statutes which direct the business processes for issuing, recording and storing birth and death certificates. The responsibility for vital records has rested with VDH for over 100 years. The statutes that govern these functions are antiquated and reflect public health, legal, public service and business practices from pre-1950. VDH is proposing that these statutes be revised to incorporate modern business practices for enhancing efficiencies and improving the accuracy of the documents. The proposed revisions will also improve the security of the documents to dramatically reduce the opportunities for fraud and identity theft. The report reflects the partnership between the Vermont Department of Health's (VDH) Office of Vital Statistics, city, town and municipal clerks' offices, and the Vermont State Archive and Records Administration (VSARA) with respect to vital records. This report forms the basis of House Bill 99.

http://www.healthvermont.gov/admin/legislature/documents/VitalRecords_legislative_recommendations_091310.pdf

The report describes three options for modernizing Vermont's vital records system. The options are presented in order of increasing degrees of change and the report discusses each option according to established criteria. The report recommends Option B, which represents the middle range of change and incorporates many of the best practices and standards that have been in place and operated effectively for many years, including in other New England states.

The most important reasons to significantly revise the statutes are as follows:

Efficiency and Public Service The current statutes require certain business processes that cause delays for families in receiving a birth or death certificate, but are no longer necessary because of computer technology. The proposed revisions would allow VDH to implement changes to better serve the public.

Limiting Opportunities for Identity Theft The current statutes have significant loopholes that create an opportunity for identity theft and fraud using Vermont vital records. Vermont is one of the very last states that allows any person (anywhere in the world) to request and receive a certified copy of a birth or death certificate **with no questions asked and no tracking**. Such a copy is then used to obtain a Passport, driver's license, and access to other identification documents. As one of the last states with such unrestricted access to these legal documents, Vermont vital records are increasingly vulnerable to fraud and identity theft activities.

Compliance With National Expectations of Technology and Security Changes have occurred (and some are still underway) at a national level that require states' vital records operations to implement significant changes. For example:

- Use of security paper and anti-fraud devices;
- Tracking of document requests, including review of the requestor's proof of identification;
- Electronic issuance and storage of birth and death records;
- Electronic data exchange in real time with states and federal agencies;
- Limited access to birth and death certificates, based on relationship of requestor.

Improved Acceptance of Vermont Vital Event Documents in Other States Due to the security vulnerabilities and the unlimited access to documents in Vermont, some states are now refusing to accept a certified copy of a birth or death certificate issued by a town or municipal clerk and will only accept certified copies issued by VDH or VSARA. This leads to frustration and causes problems for people seeking a Passport or other identification document for travel. Nearly every state and U.S. territory has already implemented changes to their laws to streamline business processes and create a more efficient and secure system for the public. VDH receives constant feedback about the need for Vermont's vital records processes to change to meet the requirements of the 21st century.

Model Law

The National Center for Health Statistics has published a “Model law” for state legislatures to consider for updating statutes to include best practices that govern vital records activities. This Model Law covers many topics, including access to records, operations/structure and reporting. Many states have adopted the Model Law in whole or in part. This has had an impact on Vermont’s interaction with other states and federal agencies who expect that all states have vital records systems that conform to best business, legal, efficiency and security practices. The options presented in the report are based on the Model Law.

Approaches for Revising Vermont’s Vital Records Statutes

The report discusses the VDH responsibilities and operations relating to vital records and identifies the various public and governmental stakeholders who would be affected by the recommended changes. It also presents a discussion of the possible strategies for remediating any inconveniences to stakeholders who currently depend on open access to vital records, e.g. genealogists, while at the same time improving security for those records.

In acknowledging the need to balance the opportunities offered by open vital records with the security risks inherent in full public access, the report presents three options for changing Vermont vital records statutes. Each option would remedy some issues with Vermont’s current antiquated system. The report weighs each option in terms of its ability to address the following criteria:

- Improved security and identity protection
- Improved efficiency and streamlined operations
- Other operational concerns
- Liability issues

A brief summary of each option follows:

Option A: Minor Administrative changes

This option would preserve full, open access to Vermont’s vital records, but would not address the significant security vulnerabilities for the birth and death certificates of the current system. It is expected that under this Option, other states would continue to refuse to accept certified copies of vital records issued by town clerks and would only accept documents certified by VDH and VSARA. This option would address some of the administrative, operational and technical issues that currently result in inefficiencies.

Option B: Closure of Certified Copies

This option would include the administrative improvement provisions of Option A and also would improve security by providing for partial closure of Vermont vital records. **Certified** copies of birth and death certificates would be available only to people who have a legal right to those documents, but informational copies would be available to anyone. It is expected that under this Option, other states would accept certified copies of Vermont vital records issued by town clerks, as well as documents certified by VDH and VSARA. Although this option would result in some reduction of identity theft, it would not completely remove the potential for such fraud. This is the option recommended in the report.

Option C: Closure of Birth and Death Certificates

This option would close access to all birth and death records, except for people who can demonstrate a legal right to them. All copies of birth and death documents would only be released to those with a legal right to obtain them. It is expected that under this Option, as under Option B, other states would accept certified copies of Vermont vital records issued by town clerks, as well as documents certified by VDH and VSARA. This option would include the administrative improvement provisions of Option A, and would address most of the issues and concerns outlined in the report.

The report concludes with a discussion of the potential impact of recommended changes on Vermont’s town clerks who currently provide certified birth and death certificates for a fee. A recommendation is made to consider centralizing the function of providing these certificates to town offices that are interested and able to meet specific requirements for ensuring security of vital records. Other legal, financial and operational issues are also briefly identified for consideration, and a list of statutes that would be affected by recommended changes is included.