

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

October 4, 2019  
10:00 a.m. Central Time  
Gold's Building, Room 534  
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on the adoption of amendments to and repeal of the following regulations:

The following regulation is proposed for AMENDMENT:

Title 174, Chapter 3 of the Nebraska Administrative Code (NAC) – *Viewing and Release of Vital Records*.

This chapter governs the public access to and the agency's release of certificates of birth, death, marriage, and dissolution of marriage. The proposed changes remove any duplication of statutory language from the regulations; update definitions; and update formatting.

The following regulation is proposed for REPEAL in its entirety:

Title 174 NAC 1 – *Compilation of Information Submitted on Abortion Reporting and Consent Forms*.

This chapter is being repealed as the requirement to compile, publish, and make available abortion reporting and consent forms is repetitive language that already exists in Nebraska Revised Statute §§ 28-343, 28-3,107 and 71-6909.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call

DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 174	Prepared by: Sean Loving
Chapter: 1	Date prepared: 5/16/19
Subject: Compilation of information submitted on abortion reporting and consent forms	Telephone: 402-471-0916

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 174	Prepared by: Sean Loving
Chapter: 3	Date prepared: 5/16/19
Subject: Viewing and release of Vital Records	Telephone: 402-471-0916

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency:

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

TITLE 174 VITAL RECORDS

CHAPTER 3 VIEWING AND RELEASE OF VITAL RECORDS

~~3-001.~~ SCOPE. These regulations govern the access to and release of birth, death, marriage, and dissolution of marriage certificates under Nebraska Revised Statute (Neb. Rev. Stat.) § 71-612.

~~3-002.~~ DEFINITIONS. The following definitions apply to this chapter.

002.01 APPLICANT. ~~Applicant means a~~ A person requesting a certified copy or a person seeking to view a certificate.

002.02 APPLICATION. ~~Application means a~~ A request for a record in writing containing information required by the Department.

002.03 CERTIFICATE. ~~Certificate means t~~The form used for registration or reporting to the Department the event of birth, death, marriage, or dissolution of marriage as approved by state law or regulation. For purposes of these regulations, certificate includes an abstract of marriage as provided in Neb. Rev. Stat. § 71-601.01 and a certificate of birth resulting in stillbirth as provided in Neb. Rev. Stat. § 71-606. Certificate does not include that portion of the certificate entitled "for health data and statistical research," "information for statistical purposes only" or for "medical or health information only" or similar language except as specifically provided in these regulations. The portion of the certificate designated for "health data and statistical research" is confidential and released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the Department in these rules. The Department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained.

002.04 CERTIFIED COPY. ~~Certified copy means a~~ A certificate certified by the Department as provided by law.

~~Department means the Department of Health and Human Services~~

002.05 FAMILY. ~~Family means t~~The parent, spouse, or child of a registrant. Family does not include the biological parent of an adopted child.

002.06 LEGAL REPRESENTATIVE. ~~Legal representative means t~~The registrant's attorney, legal guardian or conservator, custodian, personal representative, executor, or executrix of

the registrant's estate or other person showing lawful authority to act on behalf of the registrant.

002.07 PROOF OF IDENTITY. ~~Proof of identity means d~~Documentation issued by a federal, state, or local political subdivision, corporation, or other entity, that contains a photograph of the applicant and facts identifying the applicant or other documentary evidence establishing identity.

002.08 PROOF OF QUALIFICATION. ~~Proof of qualification means w~~Written documentation establishing the credentials or authority of the applicant or facts required by these regulations to demonstrate a proper purpose.

002.09 REGISTRANT. ~~Registrant means t~~The individual who is the subject of the vital record.

002.10 RESEARCH. ~~Research means a~~ A systematic statistical study, conforming to or in accordance with generally accepted medical or scientific standards or principles, designed to develop or contribute to medical or scientific knowledge, and which does not identify the persons in the study.

### 3-003. VIEWING OR OBTAINING A CERTIFIED COPY OF A RECORD.

3-003.01 REQUEST TO VIEW RECORDS. Birth, death, marriage, and dissolution of marriage certificates are public records unless otherwise provided by law or court order and as such, the Department allows said records to be viewed during normal office hours. The applicant must make a request to view the vital record and provide the applicant's name and address.

3-003.02 VIEWING A COPY OF A CERTIFICATE. An applicant wishing to view a vital record will be provided at the statutory fee a copy of the certificate which will be stamped "NOT A LEGAL DOCUMENT - FOR REVIEW ONLY." This copy will not contain any information contained on that portion of the vital record titled "medical or health information" or "information for statistical purposes only" or similar statistical information not registering the vital event itself.

3-003.03 CERTIFIED COPIES FOR VIEWING. Copies of certificates provided to an applicant for review may not be removed from the area provided for viewing. These copies must not be photocopied or reproduced by the applicant. Such copies must be returned to the Department before the applicant leaves the viewing area. An applicant may make and keep notes on the contents of a record.

3-003.04 CERTIFIED COPIES. The Department will provide no copies of a vital record other than certified copies to an applicant demonstrating a proper purpose except death certificates for scientific research pursuant to Neb. Rev. Stat. § 71-612(5).

3-003.05 HOW TO OBTAIN A CERTIFIED COPY OF A RECORD. The Department will supply for any proper purpose as defined in 174 Nebraska Administrative Code (NAC) 3-004, a certified copy of a birth, death, marriage, or dissolution of marriage record, except as

otherwise provided by law or court order. The burden is on the applicant to prove to the Department that a valid proper purpose exists. To obtain a certified copy, an applicant must:

- (A) ~~3-003.05A~~ Provide sufficient information to enable the Department to locate and identify each certified copy requested.
- (B) ~~3-003.05B~~ Pay the statutory fees for each certified copy or each search for a certified copy, whether or not the record is found, unless exempt from payment by law.
- (C) ~~3-003.05C~~ Provide name and address, telephone number, and proof of identity. More than one document showing proof of identity may be required. If the applicant is involved in medical, scientific, law enforcement, government, genealogical, or historical research, the applicant must provide the name of the entity, if any, which the applicant represents; the name of the principal investigator if other than the applicant; qualifications of the applicant if appropriate; the location where the research will take place; and the means by which the research will take place.
- (D) ~~3-003.05D~~ Describe the purpose for each certified copy requested and provide satisfactory proof to the Department that the request is for a proper purpose as defined below.

~~3-004.~~ PROPER PURPOSE. Proper purpose means and includes the following circumstances:

~~3-004.01~~ PERSONAL USE. ~~Personal Use:~~ Personal use by a registrant of his or her own certificate of birth, certificate of marriage, or certificate of dissolution of marriage, upon proof of identity.

~~3-004.02~~ LEGAL USE. ~~Legal Use:~~ Use by a registrant, the registrant's family, or the registrant's legal representative of a certificate for a legal purpose that requires documentation of a vital event to obtain a legal right or privilege upon proof of identity. A legal purpose includes, but is not limited to the following:

- (A) ~~3-004.02A~~ To establish the fact of death or identity in a probate or estate action.
- (B) ~~3-004.02B~~ To transfer title to a motor vehicle or other personal or real property.
- (C) ~~3-004.02C~~ To obtain government documents such as a driver's license, identification card, social security, passports, or other state or federal licenses, benefits, or certificates.
- (D) ~~3-004.02D~~ To obtain admission to school.
- (E) ~~3-004.02E~~ To establish a legal relationship with another person or property right such as an inheritance, insurance, or dependency benefit.
- (F) ~~3-004.02F~~ To provide a copy or copies of a certificate of birth resulting in stillbirth to the parent(s) as listed on the fetal death record.

~~3-004.03~~ CONSENSUAL USE. ~~Consensual Use:~~ Use upon submission by the applicant of the written consent of the registrant to obtain the certificate. Such written consent will be retained by the Department and made a part of the application.

~~3-004.04~~ SCIENTIFIC OR MEDICAL USE. ~~Scientific or Medical Use:~~ Use upon proof of identity and qualifications by a researcher employed by a research organization, university, institution, or government agency, who is conducting scientific, medical, or public health research of a certificate, so long as there is no publication or disclosure of the name or names or facts that would lead to the identity of any person included in the certificate.

3-004.05 LAW ENFORCEMENT USE. ~~Law Enforcement Use:~~ Use of a certificate upon proof of identity and employment with an agency of the federal government, state government, or political subdivision of the state, charged by law with the duty of detecting or prosecuting crime or enforcing child support or establishing paternity.

3-004.06 GENEALOGICAL USE. ~~Genealogical Use:~~ Use of a certificate of birth and death by a person engaged in genealogical research:

- (A) 3-004.06A Upon proof of identity of the applicant when the person whose certificate is requested has been deceased for 50 or more years; or
- (B) 3-004.06B Upon proof of identity of the applicant and written consent of the registrant or a member of registrant's family when the registrant is alive or has been deceased less than 50 years.
- (C) 3-004.06C A certificate of birth resulting in stillbirth is available only to the parent(s) as listed on the fetal death record. A certificate of birth resulting in stillbirth is not open to the public for genealogical use.

3-004.07 HISTORICAL RESEARCH. ~~Historical Research:~~ Use by a historical researcher of a certificate upon proof of identity and proof of qualification, including but not limited to documentation that:

- (A) 3-004.07A Applicant possesses academic credentials as a historian from, or is currently majoring in and pursuing a course of study in history in an accredited university, college, or nationally-recognized organization.
- (B) 3-004.07B Applicant is engaged in a historical research project.
- (C) 3-004.07C Each certificate requested is relevant to the project.

3-004.08 GOVERNMENTAL USE. ~~Governmental Use:~~ Use of a certificate upon proof of identity and employment by federal, state, or political subdivision government agencies for statistical purposes, disease control or prevention, health-related record keeping, and for record keeping required by any state or federal agency in the course of its official duties.

3-004.09 MEDIA USE. ~~Media Use:~~ Use of a certificate upon proof of identity and employment with a newspaper, magazine, radio, or television station for the purpose of reporting news to the public.

3-005. PROCESSING REQUESTS.

3-005.01 Certified Copies: The Department will review the application and documentation provided by the applicant to determine whether the criteria for proper purpose are met. In reaching a decision, the Department may conduct independent verification of some or all of the information or proof supplied by an applicant. The Department will deny an application when:

- (A) 3-005.01A The reason for which the record is sought is not a proper purpose as defined in 174 NAC 3-004.
- (B) 3-005.01B An applicant cannot show proof of identity.
- (C) 3-005.01C Information or documentation provided by the applicant is incomplete.
- (D) 3-005.01D The certificate or record requested is confidential, sealed, or protected by statute or court order.

- (E) ~~3-005.01E~~ Information or documentation provided by the applicant does not provide the proof necessary for release for a proper purpose.
- (F) ~~3-005.01F~~ There is reason to believe that an applicant has provided inaccurate or false information.

~~3-005.02~~ ACCESS TO CERTIFICATES. ~~Access to Certificates:~~ The Department will not release a certificate or particular information from a certificate or other record for review when a statute makes such information confidential. In these cases, the applicant will be provided a written denial. Any person denied a copy or a portion of a copy may seek review of the Department denial, or denial of particular information, under any of the methods described in Neb. Rev. Stat. § 84-712.03.

~~3-005.03~~ MAIL REQUEST. ~~Mail Request:~~ Requests by mail for certified copies are permitted if they meet the requirements set out in this chapter. Supplemental information may be accepted over the phone except when documentation is required and a record of such will be made by the Department.

~~3-005.04~~ DENIAL. ~~Denial:~~ Any denial of access to or a certified copy of any record will be made in writing by the Department to the applicant. Such denial will clearly set out the reasons for the denial.

TITLE 174 - VITAL RECORDS

CHAPTER 1 - (Repealed)