

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to 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 Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. 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

/s/ Todd W. Daloz

_____ , on _____
(signature)

11/21/23

(date)

Printed Name and Title:

Todd W. Daloz
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 Filing Confirmed

1. TITLE OF RULE FILING:

Vital Records Rule

2. ADOPTING AGENCY:

Agency of Human Services, Vermont Department of Health

3. PRIMARY CONTACT PERSON:

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

Name: Natalie Weill

Agency: Agency of Human Services Vermont Department of Health

Mailing Address: 108 Cherry St, Burlington, VT, 05401

Telephone: 802-863-7282 Fax: 802-951-1275

E-Mail: ahs.vdhrules@vermont.gov

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

<http://www.healthvermont.gov/about-us/laws-regulations/public-comment>

4. 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: Brendan Atwood

Agency: Agency of Human Services Vermont Department of Health

Mailing Address: 108 Cherry St, Burlington, VT, 05401

Telephone: 802-862-7282 Fax: 802-951-1275

E-Mail: ahs.vdhrules@vermont.gov

5. 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:

6. 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) (8) and (f) and 5112 (b), and 3 V.S.A. § 801(b) (11) .

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

18 V.S.A. §§ 5000 (e) (8) states "The State Registrar shall, consistent with the requirements of this part:...adopt rules governing:...(B) acceptable forms of identification required in connection with applications for certified copies of birth and death certificates;"

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."

3 V.S.A. § 801(b) (11) states: ""Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments;..."

8. CONCISE SUMMARY (150 WORDS OR LESS):

This rulemaking amends the types of documents that can be used to establish a person's identity when requesting a certified birth certificate. Specifically, an out of state correctional facility will be able to provide documentation to verify the identity of an individual incarcerated in the facility the same way that the Vermont Department of Corrections (DOC) is able to currently do for individuals incarcerated in a Vermont correctional facility.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Currently, an individual incarcerated in a Vermont correctional facility is able to obtain a certified copy of a birth certificate with the assistance of DOC by providing documentation that establishes the individual's identity, such as a photo ID sheet. However, individuals incarcerated outside of Vermont are not afforded that same access. This rulemaking will

facilitate the same access for individuals whether they are incarcerated inside or outside of Vermont.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

This rulemaking establishes parity for individuals to access certified copies of their birth certificate whether they are incarcerated inside or outside of Vermont. The decisions made by the Department regarding these regulations are factually based, rationally connected to those factual bases, and would make sense to a reasonable person.

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

Persons born in Vermont and incarcerated outside of Vermont.

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

No direct economic impact is anticipated. However, individuals who can access certified copies of their birth certificate will likely find it easier to obtain housing and employment upon release, which could have positive economic implications.

13. A HEARING WILL BE SCHEDULED

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. 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 NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 12/12/2023

Time: 03:00 PM

Street Address: 108 Cherry Street, Conference room 3B,
Burlington, VT

Zip Code: 05401

URL for Virtual: Call in (audio only)

+1 802-828-7667, ,324330487# United States, Montpelier

Phone Conference ID: 324 330 487#

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 12/17/2023

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

Vital Records

Birth Certificates

Incarcerated

Correctional facility

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.

1. TITLE OF RULE FILING:

Vital Records Rule

2. ADOPTING AGENCY:

Agency of Human Services, Vermont 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 if 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*):

Vital Records Rule, effective December 29, 2022,
Secretary of State Rule Log #22-031

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. If no impacts are anticipated, please specify “No impact anticipated” in the field.

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.

1. TITLE OF RULE FILING:

Vital Records Rule

2. ADOPTING AGENCY:

Agency of Human Services, Vermont 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:

No direct economic impact is anticipated. However, individuals who can access certified copies of their birth certificate will likely find it easier to obtain housing and employment upon release, which could have positive economic implications.

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:

No impact is anticipated.

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.*

Because there are no impacts, alternatives have not been considered.

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):

No impact is anticipated.

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.*

Because no impacts are anticipated, this evaluation was not conducted.

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:

Without this rulemaking, individuals incarcerated out of state may not be able to obtain a certified birth certificate, which could prevent them from obtaining employment and housing upon release.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Department has provided the information that is available.

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. If no impacts are anticipated, please specify “No impact anticipated” in the field.

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

1. TITLE OF RULE FILING:

Vital Records Rule

2. ADOPTING AGENCY:

Agency of Human Services, Vermont 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.):*
No impact is anticipated.

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.):*
No impact is anticipated.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact is anticipated.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact is anticipated.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact is anticipated.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No impact is anticipated.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
Because there is no impact, this analysis is sufficient.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

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

1. TITLE OF RULE FILING:

Vital Records Rule

2. ADOPTING AGENCY:

Agency of Human Services, Vermont Department of Health

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The rule is posted on the Department of Health's website:

<https://www.healthvermont.gov/about-us/laws-regulations/public-comment>

The Department will hold a public hearing.

4. 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 Legal Aid

Vermont ACLU

Vital Records Rule

1.0 Authority

This rule is adopted pursuant to 18 V.S.A. §§ 5000 (e)(8) and (f) and 5112(b).

2.0 Purpose

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

3.0 Definitions

3.1 “Affidavit of Gender Identity” means the form published by the Department that is used to self-attest to an individual’s gender identity for the purpose of amending a birth certificate.

3.2 “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a person experiencing homelessness for the purposes of obtaining a certified birth certificate.

3.3 “Alternate means of identification” means two documents (exempting 3.3.12 and 3.3.13 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:

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

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

3.3.3 Federal or state identification issued by departments, bureaus, or agencies of corrections or prisons;

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

3.3.5 Pilot’s License;

- 3.3.6 Car registration or title with current address;
 - 3.3.7 U.S. Selective Service Card;
 - 3.3.8 Voter Registration Card;
 - 3.3.9 Filed Federal tax form that contains current address and signatures;
 - 3.3.10 Bank statement, property or utility bill (e.g. gas, water, electric, sewer, phone) with current address;
 - 3.3.11 U.S. or state court documents with current address;
 - 3.3.12 Documentation provided by the Vermont Department of Corrections or an out-of-state correctional facility in which the eligible person is incarcerated substantiating the identity of the eligible person (e.g. a photo identification sheet);
 - 3.3.13 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;
 - 3.3.14 A receipt from a licensed healthcare provider with name and current address; or
 - 3.3.15 First class mail with name and current address.
- 3.4** “Applicant” means an eligible party seeking to obtain the vital records of a registrant.
- 3.5** “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.
- 3.6** “Department” means the Vermont Department of Health.
- 3.7** “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):
- 3.7.1 The registrant; or their spouse, child, grandchild, 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;

3.7.2 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;

3.7.3 An employee of a public agency authorized by the State Registrar as defined in 1 V.S.A § 317; or

3.7.4 In the case of a death certificate only, additionally to:

3.7.4.1 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;

3.7.4.2 the Social Security Administration;

3.7.4.3 the U.S. Department of Veterans Affairs; or

3.7.4.4 the deceased’s insurance carrier, if such carrier provides benefits to the decedent’s survivors or beneficiaries.

3.8 “Gender marker” reflected on a birth certificate as “Sex” means:

3.8.1 “F” to represent female;

3.8.2 “M” to represent male; and

3.8.3 “X” to represent non-binary.

3.9 “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.

3.10 “Homeless services provider” means:

- 3.10.1 A governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a person experiencing homelessness or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.
- 3.10.2 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.
- 3.10.3 A local educational agency liaison for homeless children and youth, or a school social worker.
- 3.10.4 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, public assistance, or employment services.
- 3.11** “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.
- 3.12** “Non-binary” means a person whose gender identity is not exclusively male or female, including, but not limited to, a person whose gender identity is intersex, agender, amalggender, androgynous, bigender, demigender, genderfluid, genderqueer, gender non-conforming, neutrois, nonbinary, pangender, third sex, transgender, Two-Spirit, or otherwise unspecified by the person.
- 3.13** “Person experiencing homelessness” and “Homeless,” mean the same as the definition found in 42 USC § 11302 for a “homeless individual”.
- 3.14** “Registrant” means the individual who is the subject of a vital record event certificate.
- 3.15** “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.
- 3.16** “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:

- 3.16.1 United States issued Driver's License or Identification card;
- 3.16.2 United States Territories Driver's License or Identification card;
- 3.16.3 Tribal Identification Card that contains the bearer's signature;
- 3.16.4 U.S. Military Identification Card that contains the bearer's signature;
- 3.16.5 Passport issued by the United States, or by a foreign country recognized by the United States government;
- 3.16.6 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;
- 3.16.7 U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or 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 means of identification (exempting 3.3.12 and 3.3.13 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 person experiencing homelessness may establish their identity necessary to be eligible to receive a certified birth certificate by providing a completed Affidavit of Homeless Status, available on the Department's website. The Affidavit must be signed by both 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;

5.1.4 a contractor of the State of Vermont that is providing application or processing services on behalf of the Vermont Office of Vital Records.

6.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees

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

6.1.1 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

6.1.2 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.

7.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption

7.1 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:

7.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;

7.1.2 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.

7.2 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.

8.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates

8.1 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:

- 8.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke, or other emergencies;
- 8.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;
- 8.1.3 Is a secure facility;
- 8.1.4 Employee workspace is separated from the public, such as by service counter, service window, locked door, or other physical barrier;
- 8.1.5 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;
- 8.1.6 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;

8.1.7 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.

8.2 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.

8.3 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:

8.3.1 Monitoring visitors;

8.3.2 Requiring visitors to view/inspect certificates at a designated table or office;

8.3.3 Retrieving only the birth and death certificates requested by the visitor rather than providing unlimited access to all certificates;

8.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or

8.3.5 Requiring visitors to show the contents of any bags, briefcases, or other storage methods prior to departing the office.

9.0 Criteria for Acceptance of Child's Name on Birth Certificates

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

9.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;

9.1.2 Not contain symbols other than:

9.1.2.1 Numerals used for generational identifiers;

- 9.1.2.2 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
- 9.1.2.3 Special characters that are commonly used, such as accent marks and tildes.
- 9.1.3 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.
- 9.1.4 Contain a last name.
- 9.1.5 Contain no more than one generational identifier after the last name.

10.0 Amending a Gender Marker on a Birth Certificate

10.1 A registrant born in Vermont may amend the gender marker on their birth certificate.

10.1.1 Any person 16 years or older may amend their gender marker.

10.1.2 Any person under the age of 16 may amend their gender marker with signed consent from a parent or legal guardian.

10.2 A registrant may amend their gender marker to reflect their identity through self-attestation by filing the Affidavit of Gender Identity available on the Department's website.

10.3 To file for an amendment under Section 10.0, registrants shall submit a notarized Affidavit of Gender Identity, signed by the registrant, or if applicable, the registrant's parent or legal guardian, by mail or in-person to the Vermont Department of Health, Vital Records Office.

10.4 A new certificate issued pursuant to this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made.

Vital Records Rule

1.0 Authority

This rule is adopted pursuant to 18 V.S.A. §§ 5000 (e)(8) and (f) and 5112(b).

2.0 Purpose

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

3.0 Definitions

3.1 “Affidavit of Gender Identity” means the form published by the Department that is used to self-attest to an individual’s gender identity for the purpose of amending a birth certificate.

3.2 “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a person experiencing homelessness for the purposes of obtaining a certified birth certificate.

3.3 “Alternate means of identification” means two documents (exempting 3.3.12 and 3.3.13 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:

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

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

3.3.3 Federal or state identification issued by departments, bureaus, or agencies of corrections or prisons;

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

3.3.5 Pilot’s License;

- 3.3.6 Car registration or title with current address;
 - 3.3.7 U.S. Selective Service Card;
 - 3.3.8 Voter Registration Card;
 - 3.3.9 Filed Federal tax form that contains current address and signatures;
 - 3.3.10 Bank statement, property or utility bill (e.g. gas, water, electric, sewer, phone) with current address;
 - 3.3.11 U.S. or state court documents with current address;
 - 3.3.12 Documentation provided by the Vermont Department of Corrections or an out-of-state correctional facility in which the eligible person is incarcerated substantiating the identity of the eligible person (e.g. a photo identification sheet);
 - 3.3.13 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;
 - 3.3.14 A receipt from a licensed healthcare provider with name and current address; or
 - 3.3.15 First class mail with name and current address.
- 3.4** “Applicant” means an eligible party seeking to obtain the vital records of a registrant.
- 3.5** “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.
- 3.6** “Department” means the Vermont Department of Health.
- 3.7** “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):
- 3.7.1 The registrant; or their spouse, child, grandchild, 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;

3.7.2 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;

3.7.3 An employee of a public agency authorized by the State Registrar as defined in 1 V.S.A § 317; or

3.7.4 In the case of a death certificate only, additionally to:

3.7.4.1 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;

3.7.4.2 the Social Security Administration;

3.7.4.3 the U.S. Department of Veterans Affairs; or

3.7.4.4 the deceased’s insurance carrier, if such carrier provides benefits to the decedent’s survivors or beneficiaries.

3.8 “Gender marker” reflected on a birth certificate as “Sex” means:

3.8.1 “F” to represent female;

3.8.2 “M” to represent male; and

3.8.3 “X” to represent non-binary.

3.9 “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.

3.10 “Homeless services provider” means:

- 3.10.1 A governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a person experiencing homelessness or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.
- 3.10.2 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.
- 3.10.3 A local educational agency liaison for homeless children and youth, or a school social worker.
- 3.10.4 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, public assistance, or employment services.
- 3.11** “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.
- 3.12** “Non-binary” means a person whose gender identity is not exclusively male or female, including, but not limited to, a person whose gender identity is intersex, agender, amalggender, androgynous, bigender, demigender, genderfluid, genderqueer, gender non-conforming, neutrois, nonbinary, pangender, third sex, transgender, Two-Spirit, or otherwise unspecified by the person.
- 3.13** “Person experiencing homelessness” and “Homeless,” mean the same as the definition found in 42 USC § 11302 for a “homeless individual”.
- 3.14** “Registrant” means the individual who is the subject of a vital record event certificate.
- 3.15** “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.
- 3.16** “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:

- 3.16.1 United States issued Driver's License or Identification card;
- 3.16.2 United States Territories Driver's License or Identification card;
- 3.16.3 Tribal Identification Card that contains the bearer's signature;
- 3.16.4 U.S. Military Identification Card that contains the bearer's signature;
- 3.16.5 Passport issued by the United States, or by a foreign country recognized by the United States government;
- 3.16.6 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;
- 3.16.7 U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or 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 means of identification (exempting 3.3.12 and 3.3.13 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 person experiencing homelessness may establish their identity necessary to be eligible to receive a certified birth certificate by providing a completed Affidavit of Homeless Status, available on the Department's website. The Affidavit must be signed by both 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;

5.1.4 a contractor of the State of Vermont that is providing application or processing services on behalf of the Vermont Office of Vital Records.

6.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees

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

6.1.1 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

6.1.2 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.

7.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption

7.1 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:

7.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;

7.1.2 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.

7.2 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.

8.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates

8.1 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:

- 8.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke, or other emergencies;
- 8.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;
- 8.1.3 Is a secure facility;
- 8.1.4 Employee workspace is separated from the public, such as by service counter, service window, locked door, or other physical barrier;
- 8.1.5 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;
- 8.1.6 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;

8.1.7 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.

8.2 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.

8.3 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:

8.3.1 Monitoring visitors;

8.3.2 Requiring visitors to view/inspect certificates at a designated table or office;

8.3.3 Retrieving only the birth and death certificates requested by the visitor rather than providing unlimited access to all certificates;

8.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or

8.3.5 Requiring visitors to show the contents of any bags, briefcases, or other storage methods prior to departing the office.

9.0 Criteria for Acceptance of Child's Name on Birth Certificates

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

9.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;

9.1.2 Not contain symbols other than:

- 9.1.2.1 Numerals used for generational identifiers;
- 9.1.2.2 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
- 9.1.2.3 Special characters that are commonly used, such as accent marks and tildes.
- 9.1.3 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.
- 9.1.4 Contain a last name.
- 9.1.5 Contain no more than one generational identifier after the last name.

10.0 Amending a Gender Marker on a Birth Certificate

- 10.1** A registrant born in Vermont may amend the gender marker on their birth certificate.
 - 10.1.1 Any person 16 years or older may amend their gender marker.
 - 10.1.2 Any person under the age of 16 may amend their gender marker with signed consent from a parent or legal guardian.
- 10.2** A registrant may amend their gender marker to reflect their identity through self-attestation by filing the Affidavit of Gender Identity available on the Department's website.
- 10.3** To file for an amendment under Section 10.0, registrants shall submit a notarized Affidavit of Gender Identity, signed by the registrant, or if applicable, the registrant's parent or legal guardian, by mail or in-person to the Vermont Department of Health, Vital Records Office.
- 10.4** A new certificate issued pursuant to this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made.

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JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be 'Jenney Samuelson', written over the 'FROM:' line.

DATE: January 31, 2023

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz 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: Todd W. Daloz