

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Health and Human Services

Bureau name:

Public Health Administration

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Rule Set Information:

ARD assigned rule set number:

2024-9 HS

Title of proposed rule set:

COMPLETION, FILING, AND REGISTRATION OF VITAL RECORDS DOCUMENTS

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

Proposed rules are changes to long-standing vital records rules that do not duplicate any federal rules, nor any standards set by state or national licensing or accrediting associations. The rules do reflect, in part, recommendations derived from the 2011 Model Vital Statistics Act and Regulations developed by the National Center for Health Statistics (NCHS) in cooperation with state vital statistics offices represented by the National Association of Public Health Statistics and Information Systems (NAPHSIS). The model act represents best practices for vital records and statistics operations.

A. Are these rules required by state law or federal mandate?

These rules are required to implement Michigan's statewide system of vital records as outlined in MCL 333.2801 et seq. There are no federal mandates that require these rules specifically.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed a federal standard because no federal standard exists.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

These rules for the completion, filing, and registration of vital records are largely derived from the 2011 Model Vital Statistics Act and Regulations and previous versions published in 1992 and earlier. Model statutory and regulatory language is periodically developed by committees representing state jurisdictions and the federal government. Deviations from the model reflect differences in state law, such as the time periods required for the registration of births and deaths, or the circumstances requiring creation of a new birth certificate, for example. There are 57 vital statistics reporting systems in the US: the fifty states, five territories, Washington, DC, and New York City. Locally, Ohio, Indiana, and Illinois have comparable vital statistics laws and procedures to Michigan, but for differing timeframes for recordation and compliance with processes.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

These proposed rules do not exceed standards in other states, but rather implement different standards insofar as they are required by state law.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

We are not aware of any laws, rules, or other legal requirements that may duplicate, overlap, or conflict with these proposed rules. The proposed rules are amendments to longstanding rulesets that have not historically demonstrated such conflicts.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules are amendments to longstanding rulesets that implement the statewide system of vital records and statistics in Michigan and its relationships at the local, state, and federal level. The proposed amendments were developed in conversations with local registrars, agency subject matter experts, and colleagues in other states.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules provide requirements and procedures for the completion, filing, registration, and amendment of vital records documents, including birth, death, fetal death, marriage, and divorce certificates. These vital events occur daily in Michigan, including over 100,000 births and deaths per year, more than 50,000 marriages, and 25,000 reports of divorce in recent years.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The frequency of occurrence of vital events, including births, deaths, marriages, divorces, and acknowledgements of paternity are not expected to change because of these proposed rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Proposed rules are amendments to longstanding rulesets. Amendments to these rules include language to describe the use of electronic systems to replace paper-based vital records registration. Other changes are to the procedures and evidentiary requirements to establish delayed birth certificates.

C. What is the desired outcome?

Adoption of these proposed rules will provide clarity around the use of modern electronic systems to register and issue vital event records and stronger evidence for the establishment of delayed certificates of birth.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Government agencies and private industries including insurance companies, employers, and others rely on the accuracy and authenticity of vital records issued by MDHHS to establish identity, marital status, vital status, and eligibility for benefits or insurance products. These proposed rules build on existing rules to ensure the continued accuracy, integrity, and authenticity of these vital records.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Technology has changed the way vital records are documented, stored, and issued since these rules were last modified. Once entirely paper-based processes, vital registration is now largely electronic. Many proposed changes to the rules accommodate and legitimize these electronic processes. Other changes are designed to provide clarity in situations that are more commonly encountered or were not anticipated since rules were last modified. As an example, R 325.3211 adds clarity around the amendment of a death certificate, including who may make minor changes and when they must be made. These are issues that have arisen primarily because of the use of an electronic, web-based system for death registration and thus were not addressed in previous versions of these rules.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules provide for the orderly operation of Michigan's vital records system and ensure that vital records certificates issued in Michigan are recognized as accurate and authentic proof of the life events they represent. These rules ensure that current and former Michigan residents are able to fully participate in federal programs such as social security, RealID, passport, and survivor benefits. These rules provide integrity to the processes involved in documenting and certifying life events that are used by insurance and financial companies to provide coverage and pay benefits. These rules reflect the increasing importance of, and reliance on, individual identity as established by government vital records in today's administrative state.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

None of the rules in the proposed ruleset are entirely obsolete or unnecessary.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The proposed rules provide clarity to existing rules and do not significantly alter current operations and procedures. Website updates and training/training materials should not exceed the cost of \$500 attributable to the agency. There are no potential savings for the agency in promulgating these rules.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

Due to the minimal cost associated with implementation of the rule, no appropriation will be needed, and the costs will be borne by the program area via its budget.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules largely build on longstanding processes around registering vital records that have proven to be suitable to their purpose and not unduly onerous to individuals and do not require significant financial or administrative burdens, or duplicative acts. The burden of reporting and registering vital events that falls on individuals, including hospital staff, funeral directors, physicians, and local registrars is provided in the public health code.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules add clarity to modern vital records registration electronic practices to ensure the acceptability and accuracy of reported events. The rules, existing and proposed, provide clarity on the process of reporting vital events that ultimately reduces the burden on mandatory reporters by reducing the number of events that are required to be resubmitted because they are incomplete, use an incorrect form, or do not contain the appropriate signatures or approvals.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

These proposed rules do not increase or decrease revenues of any state or local governmental units. Local registrars, typically county and city clerks in Michigan, currently assist with the registration and issuance of vital events. There are no anticipated cost increases or reductions for other state or local governmental units. These proposed rules do not add or remove any requirements that will impact these operations by city and county clerk offices.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

County clerks, and some city clerks, in Michigan are authorized by law to serve as local registrars of vital records and participate in the registration and issuance of certified copies of records. However, local registrars do not handle amendment requests.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Local registrars are required to accept and register reports of vital events, including birth, death, and fetal deaths using forms and systems provided by the state registrar, using procedures approved by the state registrar. In the proposed rules, local registrars are required to report incidents of fraud or suspected fraud to the state registrar.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

The proposed rules will not result in any additional expenditures or revenues for local jurisdictions, including city and county clerks serving as local registrars. These jurisdictions are authorized by law to collect fees for vital records services to cover their costs. These proposed rules will not significantly increase or decrease current costs for vital records services provided by local governments.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The impact of these proposed rules does not vary by whether an area is rural or urban. In fact, the change to electronic systems to replace paper-based registration has overall resulted in a reduction of the burden of reporting vital events such as births and deaths in rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Mandatory reporters of vital events in rural areas include hospitals, funeral directors, physicians, medical examiners, and county clerks. These entities currently participate in the vital records process and their roles will not change significantly due to these proposed rules.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules have no known environmental impact.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules have no known impacts to small businesses.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules describe processes for the registration and amendment of vital records that affect individuals, not small businesses.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Small businesses are not affected by the proposed rules.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

Small businesses are not affected by the proposed rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

Small businesses are not affected by the proposed rules.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

Small businesses are not affected by the proposed rules.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

Small businesses are not affected by the proposed rules.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

Small businesses are not affected by the proposed rules and are not required to prepare or submit any reports under these proposed rules.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

Small businesses will not incur compliance costs from these proposed rules.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

Small businesses will not incur legal, consulting, or accounting service costs under these proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Small businesses will not incur costs or be required to absorb costs under these proposed rules.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not affect small businesses and as a result the agency will incur no costs enforcing these rules on small businesses.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Small businesses are not affected by the proposed rules.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

Small businesses are not affected by the proposed rules and were not involved in their creation.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the development of these proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

Businesses or groups will not see changes to compliance costs as a result of these proposed rule amendments.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Entities involved in vital records registration include hospitals, funeral directors, physicians, medical examiners, city and county clerks. None of these entities will see an increase or decrease in costs as a result of these proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No entities will incur additional costs as a result of these proposed rules.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

Costs to implement the proposed rules include minor changes to information on websites as well as updating policies and procedures and training local registrars during regularly scheduled meetings. These costs will not exceed \$500.

A. How many and what category of individuals will be affected by the rules?

Proposed rules affect mandatory reporters of vital records, including hospital staff, physicians, funeral directors, medical examiners, and local registrars. Rules for delayed birth registrations affect relatively few individuals who do not have a birth certificate on file.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The impact on mandatory reporters of vital records will be minimal as rule changes largely reflect electronic processes currently in place. The proposed changes will make it somewhat more difficult to obtain a delayed birth registration by increasing the documentary evidence required to establish these records administratively. These changes are in line with national best practices and increased security requirements placed on birth certificates by the US Passport and state driver license agencies.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Costs to implement the proposed rules include minor changes to information on websites as well as updating policies and procedures and training local registrars during regularly scheduled meetings. These costs will not exceed \$500.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

In clarifying the standards for reporting and registering vital events, the benefits of the proposed rules are mostly indirect. Adherence to rules, existing and proposed, reduces the number of events that must be refiled due to missing, incomplete, or incorrect information. The rules also ensure that Michigan vital records are recognized by government entities and private industries as prima facie evidence of the events they document.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules are not expected to impact business growth and job creation or elimination in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

No individuals, groups, or businesses will be disproportionately affected by these rules.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The agency relied on the knowledge of subject matter experts with direct knowledge of the history and impact of the current rules to develop this impact statement.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The only financial impact recognized is the minimal minor changes to information on websites as well as updating policies and procedures and training local registrars during regularly scheduled meetings. This is based on previous changes when rules were amended and are not anticipated to cost more than \$500.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

Proposed rules are intended to modernize existing rules that are in place to implement Michigan's statewide system of vital records. No reasonable alternatives are known that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

Reasonable alternatives were not identified, so statutory amendments are not necessary.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Vital records registration is a state function in all 50 states, as well as the District of Columbia and five US territories. State governments have the authority to mandate the reporting of vital events that are the backbone of civil registration in the United States. Private entities would not have the authority to compel population-based registration of births and deaths nor the legal requirement to maintain them in perpetuity for citizens and their dependents.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No significant alternatives were considered and excluded from these proposed rules. Discussion sessions among vital records staff, local registrars, and department legal staff debated alternatives for specific language to be used in parts, but no proposals for new rules were considered.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Website updates will be made, and training central and local registrars on these changes in meetings will occur.