

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare:

IDAPA 16.05.01 - Use and Disclosure of Department Records - Proposed Rule (Docket No.
16-0501-1501).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/14/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/09/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 25, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.05.01 - Use and Disclosure of Department Records - Proposed Rule (Docket No. 16-0501-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.01. The proposed rule adds to existing language to clarify which individuals have a direct and tangible interest in a vital record in order to conform to Senate Bill 1077, which was passed by the Legislature in the 2015 regular session.

Negotiated rulemaking was not conducted due to the simple nature of the rule change. There is no anticipated impact on the state general fund. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code.

cc: Department of Health and Welfare
Beverly Barr and Frank Powell

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code (Joint rules).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 19, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2015 legislature passed S1077 which clarifies that the person with authority to designate disposition of a decedent's remains should be considered a person with a "direct and tangible interest" and thus is entitled to receive an official death certificate. This proposed rule amendment aligns these rules with the amended statute.

Specifically, this proposed rule adds the clarification that any person designated in Section 54-1142(1), Idaho Code, has "a direct and tangible interest" in the death certificate of a decedent in accordance with to Section 39-270(b), Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking has no fiscal impact to the state general fund or any other funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking was deemed not feasible as this rule change is simple in nature.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Aydelotte (208) 334-4969.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 26, 2015.

DATED this 7th Day of July, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0501-1501
(Only those Sections being amended are shown.)

011. DEFINITIONS FOR VITAL STATISTICS.

The definitions provided in Subsection 011 of these rules apply to Vital Statistics and to the disclosure provisions of Section 39-270, Idaho Code. (3-20-04)

01. Authorized Representative. An attorney, physician, funeral director, a legally designated agent, or an entity whose purpose for obtaining a vital record is to pay direct benefits to a person with a direct and tangible interest defined in Subsection 011.03 of this rule. (3-20-04)

02. Certificate. A certificate of birth, death, stillbirth, marriage, or divorce, filed pursuant to law, excluding information contained in the statistical section of any record. (3-20-04)

03. Individuals with a Direct and Tangible Interest. Individuals who have a direct and tangible interest in a vital record are: (3-20-04)

a. The registrant and that person's spouse, children, parents, grandparents, grandchildren, siblings, or guardian; (3-20-04)

b. A person who is conducting genealogical research on the person's own family; (3-20-04)

c. Any other person who demonstrates that the record is needed for the determination or protection of that person's property right; (3-20-04)

d. An authorized representative of any of these individuals; (3-20-04)

e. The surviving next-of-kin if a deceased registrant has no other surviving family member listed in this subsection; (3-20-04)

f. The Idaho Attorney General, and state and federal prosecuting attorneys, if such attorney submits an affidavit affirming that the record is necessary in the furtherance of the attorney's official law enforcement duties, is not reasonably available from another source, and that reasonable steps will be taken to preserve the confidentiality of the record; *and* (3-20-04)()

g. Any person, upon the order of an Idaho court of competent jurisdiction, where the court finds that disclosure of the record is necessary in the interests of justice; *and* (3-20-04)()

h. Any person with the right to control the disposition of remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan as authorized in Subsection (1) of Section 54-1142 Idaho Code, in accordance with Section 39-270(b), Idaho Code. ()

04. Parent. Does not include a biological parent whose parental rights have been terminated. (3-20-04)

05. Public Health. The science and art of: (3-20-04)

a. Preventing disease, prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; (3-20-04)

b. The control of communicable infections; (3-20-04)

c. The education of the individual in personal hygiene; (3-20-04)

d. The organization of medical and nursing services for the early diagnosis and preventive treatment

of disease; and

(3-20-04)

e. The development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize his birthright of health and longevity. (3-20-04)

06. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (3-20-04)

07. Registrar. The state Registrar as defined in Section 39-241(18), Idaho Code. The mailing and street address for the state Registrar is Bureau of Vital Records and Health Statistics, 450 W. State St., 1st Floor, PO Box 83720, Boise, Idaho 83720-0036. (3-20-04)

08. Research. Organized scientific inquiry or examination of data in order to discover and interpret facts. (3-20-04)

09. Statistical Purposes. The collection, analysis, interpretation and presentation of masses of non-identifying numerical information. (3-20-04)