

Dear Senators MARTIN, Riggs, Stennett, and  
Representatives WOOD, Vander Woude, Chew:

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

IDAPA 16.02.08 - Vital Statistics Rules - Temporary and Proposed Rule (Docket No. 16-0208-2201).

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 09/06/2022. 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 10/03/2022.

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 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
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:** Principal Legislative Drafting Attorney - Elizabeth Bowen  
**DATE:** August 18, 2022  
**SUBJECT:** Department of Health and Welfare

IDAPA 16.02.08 - Vital Statistics Rules - Temporary and Proposed Rule (Docket No. 16-0208-2201)

### Summary and Stated Reasons for the Rule

This temporary and proposed rule, regarding vital statistics, modifies existing rules to bring them into alignment with two bills passed by the 2022 Legislature, S.B. 1268 and S.B. 1320. The rule waives fees for birth certificates for persons applying for the Idaho Department of Transportation's no-fee identification. The rule also adds statutory references to language concerning the registration system for adult adoptees.

The Governor finds that the temporary rule is justified to protect public health, safety, and welfare and to conform to law.

### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted, as the purpose of this rulemaking is to bring rules into conformance with statute.

### Statutory Authority

This rulemaking appears to be authorized pursuant to Section 39-242, Idaho Code.

cc: Department of Health and Welfare  
Frank Powell and Trinette Middlebrook

### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director    Kristin Ford, Manager    Keith Bybee, Manager    April Renfro, Manager    Glenn Harris, Manager  
Legislative Services Office    Research & Legislation    Budget & Policy Analysis    Legislative Audits    Information Technology

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# **IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

## **16.02.08 – VITAL STATISTICS RULES**

### **DOCKET NO. 16-0208-2201**

#### **NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2022.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-242, Idaho Code.

**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 July 20, 2022.

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:

S1268 passed by the 2022 Legislature provides for a no-fee application for an identification card for people experiencing homelessness. One of the pieces of documentation they may need to establish their identity is a birth certificate. This rulemaking waives the fee for the birth certificate in this specific set of circumstances in order to remove the fee as a barrier to applying for the identification card.

S1320 passed during the 2022 Legislature shifts the presumption of the law regarding adult adoptee access to birth records from a presumption of closure to one of openness. The amended statute allows adoptees, who are adopted on or after July 1, 2022, to access their original birth records once they are eighteen (18) years of age. References to the amended statute are being added to the vital statistics rules in order to maintain consistency with this statutory change.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a and b), Idaho Code, the Governor has found that temporary adoption of the rule of the rule is appropriate for the following reasons:

This new language is being added to align with S1268 (2022) and S1320 (2022). This Temporary rule protects public health, safety, or welfare, and is required to comply with deadlines in amendments to governing law or federal programs.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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:

The fiscal impact for the changes related to S1268 (2022) would be revenue not generated by these requests. Currently, the Department estimates it receives less than 100 such requests per year from persons who are experiencing homelessness. If requests were to increase to 500 per year, it would cost the Department \$8,000 in lost revenue. There is no anticipated cost to rule changes due to S1320 (2022).

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is being made to align with legislation passed by the 2022 legislature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this 3rd day of June, 2022.

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  
[dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov) e-mail

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 16-0208-2201  
(Only Those Sections With Amendments Are Shown.)**

**251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.**

**01. Certified Copies.** The fee for the issuance of a certified copy of a death certificate is sixteen dollars (\$16) per copy. This fee incorporates the additional one dollar (\$1) coroner training and education fund fee in accordance with Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is sixteen dollars (\$16) per copy. (3-15-22)

**02. Searches.** The fee for a search of the files for a record of any vital event when no record is found, no copy is made, or a special document search is requested, is sixteen dollars (\$16). (3-15-22)

**03. Verifications.** Except for Idaho state agencies and public health districts, the fee for manual or written data verification from a certificate is ten dollars (\$10). (3-15-22)

**04. Statistical, Research, or Public Health Services.** The State Registrar assesses the fee for statistical, research or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. (3-15-22)

**05. Fees for Other Services.** (3-15-22)

**a.** The fee for filing a report, certificate, or decree of adoption is twenty dollars (\$20). (3-15-22)

**b.** The fee for establishing a delayed certificate of any vital event is twenty-five dollars (\$25). (3-15-22)

**c.** For any vital event, the fee for establishing a new certificate due to a court order, a replacement certificate, or an amended certificate is twenty dollars (\$20), except as specified under Subsection 251.05.f.ii. of this rule. (3-15-22)

**d.** A service fee may be established by the local registration area, in addition to the certified copy fee

for each certified copy of a vital record. (3-15-22)

e. The fee for a copy of a certificate of any vital event provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code, is sixteen dollars (\$16). (3-15-22)

f. Fees for correction of a certificate of any vital event. (3-15-22)

i. The fee for a replacement certified copy of a certificate of any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is five dollars (\$5) per certified copy. (3-15-22)

ii. There is no charge for a correction of an error(s) on a certificate of any vital event when the required documentation is received within the first year after the date of the event. (3-15-22)

iii. The fee for correction of an error(s) on a certificate of any vital event, when the required documentation is received one (1) year or more after the date of the event, is twenty dollars (\$20) per submitted correction request. (3-15-22)

g. Fees for priority processing or special handling. (3-15-22)

i. A service fee of ten dollars (\$10) per certificate or document will be added for priority processing or special handling of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those identified in Subsection 251.05.g.ii. of this rule. This fee will be in addition to the current fee or fees for each certified copy, search, or filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. (3-15-22)

ii. A service fee of twenty-five dollars (\$25) per certificate will be added for priority processing to establish a new or amended certificate of any vital event due to a report, certificate or decree of adoption, delayed certificate filing, a court order, a paternity affidavit or rescission, a subsequent marriage affidavit or a correction of a certificate. This fee is in addition to the current fee or fees for the legal amendment processing or request for a certified copy or copies, or both. This fee is forfeited and a new legal amendment service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information or documentation or both. (3-15-22)

**06. Waiver of Fee Requirement. (7-1-22)T**

**a.** Fees may be waived for Idaho state agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. ~~(3-15-22)~~(7-1-22)T

**b.** The fee for a birth certificate may be waived for an individual applying for the Idaho Department of Transportation's no-fee identification available to an individual who is experiencing homelessness. The applicant must have direct and tangible interest, provide a completed vital statistics certificate request form with required identification, and provide a photocopy of the completed verification of homelessness form established and required by the Idaho Department of Transportation. One (1) free birth certificate may be issued for a registrant under this waiver. Subsequent copies will be subject to normal fees. (7-1-22)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**402. REGISTRATION SYSTEM FOR ADULT ADOPTEES.**

**01. Search for "the Other Birth Parent."** The State Registrar will not participate in the search for

“the other birth parent.” The adoption service units of the Department may participate in such searches when requested to do so by a birth parent or the adult adoptee. Costs of the search will be provided by the birth parent or adult adoptee seeking the match. Such service costs will be set by the adoption service unit and are based upon the actual cost of the search and cost of notification of the registrant(s). (3-15-22)

**02. Completion of Match.** When dated evidence of a completed search is presented to the State Registrar and “the other birth parent” has not been found, then and only then will a match be completed as cited in Section 39-259A(e) and (f), Idaho Code. (3-15-22)

**a.** When one (1) of the birth parents cannot be found according to Section 39-259A(b)(3), Idaho Code, no information about the missing birth parent will be released to either registrant, except as provided for in Section 39-258(9)(b), Idaho Code. ~~(3-15-22)~~(7-1-22)T

**b.** When one (1) birth parent is deceased, proof of death must be established by a certified copy of the death certificate or a verification of the fact of death from the Vital Statistics official of the state where death occurred. Such proof is the responsibility of the registered birth parent. (3-15-22)

**03. Siblings of Adult Adoptee.** When it appears that there is a match between siblings, the State Registrar may confirm the match from the sealed adoption record on file in the Vital Statistics Office and make appropriate notification to the siblings. However, if the birth parent(s) has not also voluntarily registered, no identifying information about the birth parent(s) will be provided to the adult adoptee or the sibling, except as provided for in Section 39-258(9)(b), Idaho Code, or where proof of death of the birth parent(s) is found. ~~(3-15-22)~~(7-1-22)T

**04. Notification.** When it appears to the State Registrar that a match has occurred, the State Registrar will notify the registrants by certified mail of the opportunity to withdraw from the register prior to proceeding with full notification of the registrants. Such withdrawal must be made by written notarized request and be received by the State Registrar within thirty (30) days of the date of registrant’s receipt of notification from the State Registrar. Such withdrawal is exempt from the usual withdrawal fee. (3-15-22)

**05. Registration Time.** Birth parents or relatives of qualified birth parents may register at any time after an adoption has taken place, regardless of the adoptee’s age. Adoptees may register after they have reached their eighteenth birthday. (3-15-22)

**06. Fees.** An initial filing fee of ten dollars (\$10) is paid by or on behalf of each registrant and must be submitted with the registration form. An update fee of ten dollars (\$10) is charged whenever a registrant requests in writing a revision, update, or withdrawal of a previous registration. (3-15-22)

**07. Release of Information.** When it appears there is a match between registered adult siblings and no birth parent information has been registered, before release of identifying information to any registered adult sibling, the State Registrar will require proof from the registrant(s) of the identity and the relationship of the registrant to other registrants. At least two (2) documents providing such proof must be viewed and recorded by the State Registrar. (3-15-22)