

WSR 21-06-041

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed February 24, 2021, 2:00 p.m., effective April 1, 2021]

Effective Date of Rule: April 1, 2021.

Purpose: Chapter 246-492 WAC, Vital statistics data release, the department of health (department) adopted a new chapter of rule to prescribe the direct and indirect identifiers for birth and fetal death records that the department will use to disclose vital records information to researchers, government agencies conducting nonresearch public health work, and the public; establish a formalized procedure for requesting vital records data; and create new fees for data files, analysis, and data requests.

Citation of Rules Affected by this Order: New WAC 246-492-001, 246-492-010, 246-492-020, 246-492-100, 246-492-200, 246-492-300, 246-492-400, 246-492-500, and 246-492-990.

Statutory Authority for Adoption: ESSB 5332 (chapter 148, Laws of 2019).

Adopted under notice filed as WSR 20-23-097 on November 17, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-492-001 was amended to add media organizations to the purpose and scope.

WAC 246-492-300 was amended to add new subsection (7) to clarify that the department of health must comply with chapter 42.48 RCW regarding requests for research on live human subjects.

WAC 246-492-300(8) was amended to provide clarity to the rule without changing the effect.

WAC 246-492-990 was amended to reduce the standard data file fee for preliminary standard data files, clarify the annual final standard data file fee, and waive the annual final standard file fee if a requestor has received all preliminary data files for a single data set for a single calendar year.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 9, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 0, Repealed 0.

Date Adopted: February 23, 2021.

Jessica Todorovich
Chief of Staff
for Umair A. Shah, MD, MPH
Secretary

OTS-2720.3

Chapter 246-492 WAC
VITAL STATISTICS DATA RELEASE

NEW SECTION

WAC 246-492-001 Vital statistics data release—Purpose and scope. Vital records data is used by government agencies, tribes, researchers, private entities, media organizations, and individuals for assessment, public health surveillance, and epidemiological study. The rules in this chapter provide the requirements for requesting vital records data from the department.

- (1) The rules establish the following:
 - (a) Application submission requirements;
 - (b) Process for agency to approve or deny requests;
 - (c) Direct and indirect identifiers for birth and fetal death records; and
 - (d) Fees for data files, analysis, and data requests.
- (2) The rules in this chapter do not address the process to request certificates or informational copies of vital records, which has been promulgated in chapter 246-491 WAC.

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NEW SECTION

WAC 246-492-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

- (1) "Analytic services" means a service provided by the department that includes working with vital records data in order to disseminate requested information to customers. This service includes, but is not limited to, data analysis for calculating and providing specific counts, rates, and other statistics; building and distributing aggregate reports; linkage of data; and producing record level data files and subsets of data files for customers.
- (2) "Custom data request" means a specialized vital records data request or data file created and released by the department. Custom data request does not mean standard data file.
- (3) "Data" means a data file containing multiple records.
- (4) "Department" means the department of health.
- (5) "Direct identifier" means a single data element that identifies an individual person.
- (6) "Fetal death" means any product of conception that shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth that is not an induced termination of pregnancy and:
 - (a) Has completed twenty or more weeks of gestation as calculated from the date the last menstrual period of the individual who gave birth began, to the date of expulsion or extraction; or

(b) Weighs three hundred fifty grams or more, if weeks of gestation are not known.

(7) "General data inquiry request" means a request for information that can be answered with use of vital records data, but without the need for extensive investigation, analysis, report building or data file production.

(8) "Government agencies" includes state boards, commissions, committees, departments, educational institutions, or other state agencies which are created by or pursuant to statute, other than courts and the legislature; county or city agencies, United States federal agencies, and federally recognized tribes and tribal organizations.

(9) "Human research review board" is a standing institutional review board operating under chapter 42.48 RCW.

(10) "Indirect identifier" means a single data element that on its own does not identify an individual person, but when combined with other indirect identifiers can be used to identify an individual person.

(11) "Individual" means a natural person.

(12) "Infant death" means a death of a child under one year of age.

(13) "Public health purpose" means a purpose that seeks to support or evaluate public health activities, which include, but are not limited to, health surveillance; identifying population health trends; health assessments; implementing educational programs; program evaluation; developing and implementing policies; determining needs for access to services and administering services; creating emergency response plans; promoting healthy lifestyles; and preventing, detecting, and responding to infectious diseases, injury, and chronic and inheritable conditions. Public health purpose does not include research as defined in this section.

(14) "Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes.

(15) "Secretary" means the secretary of the department of health.

(16) "Standard data file" means routine statewide vital records data created and released by the department. Standard data file does not mean specialized custom data requests and data files.

(17) "State" means Washington state unless otherwise specified.

(18) "State registrar" means the person appointed by the secretary to administer the vital records system under RCW 70.58A.030.

(19) "Vital record" or "record" means a report of a vital life event that has been registered and supporting documentation.

(20) "Vital statistics" means the aggregated data derived from vital records, including related reports, and supporting documentation.

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NEW SECTION

WAC 246-492-020 Direct and indirect identifiers. (1) The department may disclose vital records information for persons named in any birth, death, or fetal death record in accordance with chapter 70.58A RCW and this chapter.

(2) The department may aggregate data from birth and fetal death records, and may release such aggregated data with either direct identifiers or indirect identifiers, or both, in accordance with chapter 70.58A RCW and this chapter.

(3) Birth record direct and indirect identifiers are as follows:

Birth Record Item	Direct or Indirect Identifier
Child Name	Direct Identifier
Child Date of Birth	Indirect Identifier
Child Time of Birth	Indirect Identifier
Child Sex	Indirect Identifier
Type of Birthplace	Indirect Identifier
Planned Birthplace, if different	Indirect Identifier
Name of Facility	Direct Identifier
County of Birth	Indirect Identifier
City of Birth	Indirect Identifier
Mother/Parent Name	Direct Identifier
Mother/Parent Date of Birth	Indirect Identifier
Mother/Parent Birthplace	Indirect Identifier
Mother/Parent Social Security Number	Direct Identifier
Do you want to get a Social Security Number for your child?	Indirect Identifier
Mother/Parent Residence: Number and Street	Direct Identifier
Mother/Parent Residence: City/County	Indirect Identifier
Mother/Parent Residence: Country	Indirect Identifier
Mother/Parent Residence: State	Indirect Identifier
Mother/Parent Residence: Zip Code	Indirect Identifier
Mother/Parent Tribal Reservation	Indirect Identifier
Mother/Parent Residence Inside City Limits?	Indirect Identifier
Mother/Parent Length at Current Residence	Indirect Identifier
Mother/Parent Telephone Number	Direct Identifier
Mother/Parent Mailing Address: Number and Street	Direct Identifier
Mother/Parent Mailing Address: Country	Indirect Identifier

Birth Record Item	Direct or Indirect Identifier
Mother/Parent Mailing Address: State	Indirect Identifier
Mother/Parent Mailing Address: City	Indirect Identifier
Mother/Parent Mailing Address: Zip Code	Indirect Identifier
Mother/Parent Occupation	Indirect Identifier
Mother/Parent Industry	Indirect Identifier
Mother/Parent Education Level	Indirect Identifier
Mother/Parent Hispanic Origin?	Indirect Identifier
Mother/Parent Race	Indirect Identifier
Mother/Parent Current Height	Indirect Identifier
Mother/Parent Prepregnancy Weight	Indirect Identifier
Were WIC benefits utilized during pregnancy?	Indirect Identifier
Cigarette Smoking Before and During Pregnancy	Indirect Identifier
Mother/Parent Marital Status	Indirect Identifier
Father/Parent Name	Direct Identifier
Father/Parent Date of Birth	Indirect Identifier
Father/Parent Birthplace	Indirect Identifier
Father/Parent Social Security Number	Direct Identifier
Father/Parent Occupation	Indirect Identifier
Father/Parent Industry	Indirect Identifier
Father/Parent Education Level	Indirect Identifier
Father/Parent Hispanic Origin?	Indirect Identifier
Father/Parent Race	Indirect Identifier
Date of First Prenatal Care Visit	Indirect Identifier
Date of Last Prenatal Care Visit	Indirect Identifier
Total Number of Prenatal Visits During Pregnancy	Indirect Identifier
Number of Previous Live Births	Indirect Identifier
Date of Last Live Birth	Indirect Identifier
Number of Pregnancy Outcomes	Indirect Identifier
Date of Last Other Pregnancy Outcomes	Indirect Identifier
Date Last Normal Menses Began	Indirect Identifier
Mother/Parent Weight at Delivery	Indirect Identifier

Birth Record Item	Direct or Indirect Identifier
Was mother/parent transferred to higher level care for maternal medical or fetal indications for delivery?	Indirect Identifier
Principle Source of Payment for Delivery	Indirect Identifier
Birth Weight	Indirect Identifier
Infant Head Circumference	Indirect Identifier
Obstetric Estimate of Gestation	Indirect Identifier
Apgar Score	Indirect Identifier
Plurality	Indirect Identifier
Birth Order	Indirect Identifier
Was infant transferred within 24 hours of delivery?	Indirect Identifier
Is infant living at the time of report?	Indirect Identifier
Is infant being breastfed?	Indirect Identifier
Risk Factors in this Pregnancy	Indirect Identifier
Infections Present and/or Treated During Pregnancy	Indirect Identifier
Maternal Morbidity	Indirect Identifier
Method of Delivery	Indirect Identifier
Obstetric Procedures	Indirect Identifier
Onset of Labor	Indirect Identifier
Characteristics of Labor and Delivery	Indirect Identifier
Abnormal Conditions of the Newborn	Indirect Identifier
Congenital Anomalies of the Newborn	Indirect Identifier
Attendant Name	Direct Identifier
Attendant Title	Indirect Identifier
NPI of person delivering the baby	Direct Identifier
Certifier Name	Direct Identifier
Certifier Title	Indirect Identifier
Date Certified	Indirect Identifier

(4) Fetal death record direct and indirect identifiers are as follows:

Fetal Death Record Item	Direct or Indirect Identifier
Fetus Name	Direct Identifier
Fetus Sex	Indirect Identifier
Fetus Date of Delivery	Indirect Identifier
Fetus Time of Delivery	Indirect Identifier
Type of Birthplace	Indirect Identifier
Name of Facility	Direct Identifier
Facility ID	Indirect Identifier

Fetal Death Record Item	Direct or Indirect Identifier
Location of Delivery	Direct Identifier
Zip Code of Delivery	Indirect Identifier
County of Delivery	Indirect Identifier
Mother/Parent Name	Direct Identifier
Mother/Parent Date of Birth	Indirect Identifier
Mother/Parent Birthplace	Indirect Identifier
Mother/Parent Residence: Number and Street	Direct Identifier
Mother/Parent Residence: City/County	Indirect Identifier
Mother/Parent Residence: Country	Indirect Identifier
Mother/Parent Residence: State	Indirect Identifier
Mother/Parent Residence: Zip Code	Indirect Identifier
Mother/Parent Tribal Reservation	Indirect Identifier
Mother/Parent Residence Inside City Limits?	Indirect Identifier
Mother/Parent Length at Current Residence	Indirect Identifier
Father/Parent Name	Direct Identifier
Father/Parent Date of Birth	Indirect Identifier
Father/Parent Birthplace	Indirect Identifier
Name of Person Completing Cause of Death	Direct Identifier
Title of Person Completing Cause of Death	Indirect Identifier
Date Signed by Person Completing Cause of Death	Indirect Identifier
Name of Person Delivering Fetus	Direct Identifier
Title of Person Delivering Fetus	Indirect Identifier
NPI of Person Delivering Fetus	Direct Identifier
Method of Disposition	Indirect Identifier
Date of Disposition	Indirect Identifier
Place of Disposition	Indirect Identifier
Location of Disposition	Indirect Identifier
Name of Funeral Facility	Indirect Identifier
Address of Funeral Facility	Indirect Identifier
Initiating Cause/Condition	Indirect Identifier
Other Significant Causes or Conditions	Indirect Identifier
Estimated Time of Fetal Death	Indirect Identifier
Was an autopsy performed?	Indirect Identifier

Fetal Death Record Item	Direct or Indirect Identifier
Was a histological placental examination performed?	Indirect Identifier
Were autopsy or histological placental examination results used in determining the cause of death?	Indirect Identifier
Date Received by County Registrar	Indirect Identifier
Weight of Fetus	Indirect Identifier
Obstetric Estimate of Gestation	Indirect Identifier
Plurality	Indirect Identifier
Birth Order	Indirect Identifier
Mother/Parent Education	Indirect Identifier
Mother/Parent of Hispanic Origin?	Indirect Identifier
Mother/Parent Race	Indirect Identifier
Mother/Parent Occupation	Indirect Identifier
Mother/Parent Industry	Indirect Identifier
Mother/Parent Marital Status	Indirect Identifier
Mother/Parent Height	Indirect Identifier
Did mother/parent get WIC food for herself during this pregnancy?	Indirect Identifier
Mother/Parent Prepregnancy Weight	Indirect Identifier
Mother/Parent Weight at Delivery	Indirect Identifier
Date Last Normal Menses Began	Indirect Identifier
Date of First Prenatal Care Visit	Indirect Identifier
Date of Last Prenatal Care Visit	Indirect Identifier
Total Number of Prenatal Visits for this Pregnancy	Indirect Identifier
Number of Previous Live Births	Indirect Identifier
Number of other Pregnancy Outcomes	Indirect Identifier
Cigarette Smoking Before and During Pregnancy	Indirect Identifier
Was mother transferred to higher level care for maternal medical or fetal indications for delivery?	Indirect Identifier
Father/Parent Education	Indirect Identifier
Father/Parent Hispanic Origin	Indirect Identifier
Father/Parent Race	Indirect Identifier
Father/Parent Occupation	Indirect Identifier
Father/Parent Industry	Indirect Identifier
Risk Factors in this Pregnancy	Indirect Identifier

Fetal Death Record Item	Direct or Indirect Identifier
Method of Delivery	Indirect Identifier
Congenital Anomalies of the Fetus	Indirect Identifier
Maternal Morbidity	Indirect Identifier
Infections Present and/or Treated During this Pregnancy	Indirect Identifier

(5) The department may release data files linked with birth or fetal death record items. When data files are released by the department in a form or format that is linked with birth or fetal death data, the linked data will be treated with the same restrictions as the most restrictive record item in the linked birth and fetal death data files.

(6) The department may calculate additional data items from the birth or fetal death record items listed in subsections (3) and (4) of this section. These calculated data items shall maintain the same direct or indirect identifier categorization as the most restrictive record items listed in subsections (3) and (4) of this section from which the department derived the additional calculated data.

(7) The department may deidentify birth or fetal death record items listed in subsections (3) and (4) of this section that are direct identifiers. The department may release such deidentified items as an indirect identifier.

(8) The department may limit or restrict the release of vital record items in data files to maintain confidentiality standards and protect the information for persons named in any birth, death, or fetal death record.

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NEW SECTION

WAC 246-492-100 Requests for birth or fetal death record data that contains direct identifiers for research purposes. (1) A researcher requesting birth or fetal death record data that contains direct identifiers for research purposes must comply with the requirements of chapter 70.58A RCW and this section. The department will not release data to a researcher requesting data from the department until all the requirements of this section have been completed to the satisfaction of the state registrar.

(2) A researcher submitting a data request under this section must submit all of the following to the department:

(a) A completed records request form associated with the human research review board application that contains all the information required in subsection (3) of this section;

(b) Approval from the human research review board of the research proposal for which the data is being requested;

(c) A signed confidentiality agreement with the department; and

(d) All fees required by WAC 246-492-990.

(3) A researcher submitting a data request under this section must submit all of the following information on the records request

form provided by the human research review board to the state registrar for review and approval:

- (a) Project title;
 - (b) Principal investigator name, title, and contact information (telephone number and email address);
 - (c) Study abstract that includes:
 - (i) Description of the proposed research study and objectives;
 - (ii) Research study design and analysis plan;
 - (iii) Duration of research study;
 - (iv) The plan for dissemination of the results and a certification that the researcher will abide by the department's small numbers guidelines in the dissemination of results; and
 - (v) A plan for the return or destruction of the information at the conclusion of the research study.
 - (d) Vital records data elements needed to complete the research study;
 - (e) Years of the requested data; and
 - (f) Geographic area of interest of the research study.
- (4) The state registrar may request additional information regarding the research proposal. If additional information is requested, the researcher must submit the information within thirty days of the state registrar's request or the request for data may be denied.
- (5) If the researcher submitting a data request under this section receives an exempt determination letter from the human research review board, the researcher may:
- (a) If the researcher is a governmental agency and will use the data for a public health purpose, comply with the provisions of WAC 246-492-200; or
 - (b) Submit a request to receive data pursuant to WAC 246-492-300.
- (6) The state registrar may deny a request for data for research purposes if the researcher submitting a data request under this section fails to meet the requirements of this section or chapter 70.58A RCW, or for the reasons permitted by chapter 70.58A RCW. If the state registrar denies a request under this section, the researcher may appeal the decision by requesting a brief adjudicative proceeding pursuant to WAC 246-10-501 through 246-10-505, and RCW 70.58A.550.

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NEW SECTION

WAC 246-492-200 Requests from government agencies for birth and fetal death record data that contains direct identifiers for nonresearch public health purposes. (1) A government agency requesting birth and fetal death record data that contains direct identifiers for nonresearch public health purposes must comply with the requirements of chapter 70.58A RCW and this section. The department will not release data to a government agency requesting data from the department pursuant to this section until all the requirements of this section have been completed to the satisfaction of the state registrar.

(2) A government agency submitting a data request under this section from the department for nonresearch public health purposes must submit all of the following to the department in the form or format required by the state registrar:

- (a) A completed application on the form provided by the department;
 - (b) A signed data sharing agreement with the department that conforms with WAC 246-492-400;
 - (c) All information required in subsection (3) of this section;
- and
- (d) All fees required by WAC 246-492-990.

(3) A government agency submitting a data request under this section from the department for nonresearch public health purposes must submit to the state registrar all of the following information:

(a) Name, title, organizational affiliation, and contact information (mailing address, telephone number, and email address) of the requestor, the organization official authorized to execute agreements, the organization information technology security officer, and organization privacy officer;

(b) Purpose or intended use of the data being requested;

(c) Justification of how the purpose or intended use of the data meets the definition of a public health purpose;

(d) Length of time and frequency of the data being requested;

(e) State if any contact with subjects is proposed, provide justification of why and how this achieves the public health purpose, and the methods that will be used for contacting subjects;

(f) Physical and electronic security measures to be taken to assure confidentiality and security of identifying information, including stored information;

(g) Provision for return or destruction of the information at the conclusion of use;

(h) Geographic area of interest;

(i) Names and titles of all persons who will have access to the data;

(j) The plan for use of the data and certification to abide by the department's small numbers guidelines;

(k) Vital records data elements needed to achieve the public health purpose; and

(l) Years of the requested data.

(4) The state registrar may request additional information regarding the request for birth and fetal death record data for public health purposes. If additional information is requested, the government agency must submit the information within thirty days of the state registrar's request or the request for data may be denied.

(5) If the state registrar determines the request for data submitted pursuant to this section is in fact for research purposes, the state registrar will require the government agency to comply with the provisions of WAC 246-492-100.

(6) If the state registrar suspects or is unsure if the request for data submitted pursuant to this section is for research purposes, the state registrar may require the government agency to comply with the provisions of WAC 246-492-100.

(7) The state registrar may deny a request for data for nonresearch public health purposes if the government agency fails to meet the requirements of this section or chapter 70.58A RCW, or for the reasons permitted by chapter 70.58A RCW. If the state registrar denies a request under this section, the government agency may appeal the decision by requesting a brief adjudicative proceeding pursuant to WAC 246-10-501 through 246-10-505, and RCW 70.58A.550.

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NEW SECTION

WAC 246-492-300 Requests from individuals or entities for birth and fetal death data that contains indirect identifiers, infant death data, death data, or marriage and divorce data. (1) This section applies to the following data requests:

(a) Birth and fetal death data that contains only indirect identifiers;

(b) Infant death data that contains indirect identifiers;

(c) Death data files; and

(d) Marriage and divorce data files.

(2) All requests for data under this section must comply with the requirements of chapter 70.58A RCW and this section. The department will not release data to an individual or entity requesting data from the department pursuant to this section until all the requirements of this section have been completed to the satisfaction of the state registrar.

(3) The data released pursuant to this section will only be in the data file format prescribed by the state registrar.

(4) An individual or entity submitting a data request under this section must submit all of the following on the form or in the format required by the state registrar:

(a) A completed application on the form provided by the department;

(b) A signed data sharing agreement with the department that conforms with WAC 246-492-400;

(c) All information required in subsection (5) of this section; and

(d) All fees required by WAC 246-492-990.

(5) An individual or entity submitting a data request under this section must submit all of the following information to the state registrar:

(a) Name, title, organizational affiliation, and contact information (mailing address, telephone number, and email address) of the requestor, the organization official authorized to execute agreements, the organization information technology security officer, and the organization privacy officer;

(b) Purpose or intended use of the data being requested;

(c) Length of time data is needed or length of the project;

(d) For requests of death, marriage, or divorce data only: State if any contact with subjects is proposed and provide justification why;

(e) Physical and electronic security measures to be taken to assure confidentiality and security of identifying information including storage of data, and provision for return or destruction of the information at the conclusion of use;

(f) Geographic area of interest;

(g) Names and titles of all persons who will have access to the data;

(h) The plan for dissemination of the results and certification to abide by the department's small numbers guidelines; and

(i) Type of vital records data and years requested.

(6) The state registrar may request additional information regarding the request for data under this section. If additional information is requested, the individual or entity must submit the information within thirty days of the state registrar's request or the request for data may be denied.

(7) To comply with chapter 42.48 RCW, the state registrar may require the requesting individual or entity to comply with provisions of WAC 246-492-100, if the state registrar determines the request for data submitted pursuant to this section may be used for research purposes on live human subjects.

(8) The individual or entity must download the data from the secured file transfer site within two weeks. If after the two weeks, the requestor has not retrieved the data, the individual or entity must submit a new request and payment.

(9) The state registrar may permit the local deputy registrar to release death data to a requesting entity in a format prescribed by the state registrar upon a signed data sharing agreement with the department. A local deputy registrar permitted by the state registrar to release death data shall require the entity receiving the death data from the local deputy registrar to sign a data sharing agreement with the local deputy registrar. The local deputy registrar can only release the following information:

- (a) Decedent's name;
- (b) Date of death;
- (c) Date of birth;
- (d) Date filed;
- (e) Age of decedent;
- (f) Gender of decedent;
- (g) Decedent's residence city and state; and
- (h) County of death.

(10) The state registrar may deny a request if the individual or entity fails to meet the requirements of this section or chapter 70.58A RCW, or for reasons permitted by chapter 70.58A RCW. If the state registrar denies a request under this section, the individual or entity may appeal the decision by requesting a brief adjudicative proceeding pursuant to WAC 246-10-501 through 246-10-505, and RCW 70.58A.550.

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NEW SECTION

WAC 246-492-400 Vital statistics data sharing agreements. (1)

All written data sharing agreements with the department for the release of vital records data must comply with the requirements of chapter 70.58A RCW and this section.

(2) A data sharing agreement with the department is required for the following:

- (a) Government agencies requesting birth and fetal death record data that contains direct identifiers for nonresearch public health purposes;
- (b) Individuals or entities requesting birth and fetal death record data that contains only indirect identifiers;
- (c) Individuals or entities requesting infant death data that contains indirect identifiers;
- (d) Individuals or entities requesting death, marriage, or divorce record data; and
- (e) Government agencies requesting vital records in the conduct of official duties as permitted by chapter 70.58A RCW.

(3) The department may use standard form data sharing agreements for all data requests, consistent with the provisions of this section and chapter 70.58A RCW. If the department elects to use a standard form data sharing agreement for data requests, the requestor shall sign the standard form data sharing agreement prepared by the department pursuant to this subsection. The department will not negotiate the terms of standard form data sharing agreements with a requestor, except for circumstances in subsection (4) of this section.

(4) For data sharing agreements with government agencies, the department may deviate from the standard form data sharing agreement if the government agency is legally prohibited from signing provisions of the standard form data sharing agreement due to constitutional or other statutory provisions. The ultimate decision to modify the standard form data sharing agreement to accommodate a government agency's data request lies solely with the department. The government agency wishing to modify a term of the standard form data sharing agreement under this subsection must submit all of the following to the department in writing:

(a) All of the specific terms of the standard form data sharing agreement that the government agency is legally prohibited from complying with;

(b) An explanation of why the government agency is legally prohibited from complying with the term or terms; and

(c) Citation to the law or rule that prohibits it from complying with the term or terms of the standard form data sharing agreement.

(5) An individual or entity requesting vital records data under this section must comply with all the terms and conditions of the data sharing agreement. If the individual or entity violates the data sharing agreement, then the individual or entity may be guilty of a misdemeanor under RCW 70.58A.590(1), will result in the immediate termination of the data sharing agreement, and result in denial of vital records data in the future.

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NEW SECTION

WAC 246-492-500 Data file production. (1) The department retains the discretion to determine what form or format is most appropriate to provide to a particular requestor. Where the department provides data files on a routine schedule, the department may automate file production. The department may manually produce data files when deemed appropriate by the state registrar. Nothing in this chapter should be deemed to entitle any requestor to receive data in a particular form or format, and nothing in this chapter should be deemed to require the state registrar to produce the data in a particular form or format.

(2) Where the department provides data files on a routine schedule, the department may, in the discretion of the state registrar, allow a requestor to update their original data request with the department. If the department permits a requestor to update their data request, the requestor must pay the fee required by WAC 246-492-990(5).

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NEW SECTION

WAC 246-492-990 Vital statistics data fees. (1) The department shall collect nonrefundable fees as follows:

(a) One hundred seventy-five dollars per preliminary standard data file;

(b) Three hundred fifty dollars per annual final standard data file;

(c) Two hundred dollar flat fee for up to two hours of analytic services or general data inquiry requests;

(d) Any analytic services or general data inquiry requests that exceed two hours, in addition to subsection (1)(b) of this section, will be charged an hourly fee of one hundred dollars; and

(e) Fifty dollars per standard data file for students with proof of valid student status.

(2) For custom data file requests, the department shall collect nonrefundable fees as follows:

(a) Three hundred fifty dollars per data file; and

(b) One hundred dollars per hour to create the custom data file.

(3) For data requests where data files are provided on a routine schedule, the department shall collect nonrefundable fees as follows:

(a) A one-time initial automation program creation fee of one thousand five hundred dollars;

(b) One hundred seventy-five dollars per data file; and

(c) An annual maintenance fee of one thousand five hundred dollars.

(4) If a requestor has received all preliminary data files for a single data set for a single calendar year and has paid the fees for such data sets required by subsection (1)(a) of this section, the department may waive the annual final standard file fee in subsection (1)(b) of this section for the same year and same data set.

(5) For existing data requests with an established automation program in existence at the time of the adoption of the rule, the department may waive the initial automation program creation fee of one thousand five hundred dollars in subsection (3)(a) of this section.

(6) Updates to data requests allowed by WAC 246-492-500(2) will be assessed a fee by the department equivalent to the actual costs incurred by the department in order to update the data request.

(7) The department, at the discretion of the state registrar, may waive fees for data requests for the following:

(a) Requests from state legislators or legislative staff;

(b) Local health jurisdictions receiving standard data files prescribed by the state registrar;

(c) Tribes, tribal organizations within the state, and Indian health service designated tribal epidemiology centers serving tribes within the state, receiving standard data files prescribed by the state registrar; and

(d) Government agencies during a state of emergency, if the data is used for official duties to aid the state of emergency response.

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