



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #411

Vital Records System Automation Project (DHFS -- Health)

Base Agency

[LFB 2007-09 Budget Summary: Page 307, #2]

CURRENT LAW

Under Chapter 69 of the statutes, the state registrar of vital records (state registrar) has the duty to direct the system of vital statistics, to act as custodian of all records in the office of vital statistics, and to accept for registration, assign a date of acceptance, and index and preserve original certificates of birth and death, original marriage documents, and original divorce reports. In addition, the state registrar and local registrars (which include the registrar of deeds for each of Wisconsin's 72 counties as well as the public health departments for the cities of West Allis and Milwaukee) issue, for a fee, certified and uncertified copies of birth, death, and marriage certificates, and in the case of the state registrar divorce certificates, to the public as provided in statute.

Wisconsin's vital records system is a cooperative effort between the state registrar, local registrars, and various business partners throughout the state, such as hospitals and funeral homes, whereby information is exchanged and vital records are created, indexed, and preserved. For example, in the case of birth records, state law requires the hospital where a birth occurs to complete a birth certificate form and forward that information to the state registrar within five days after the birth. In most cases, hospitals transmit that information to the state registrar electronically by means of the Electronic Birth Certificate system. The state registrar, in turn, enters the information into the vital records office's computer system, and sends a copy of the birth certificate to the appropriate local registrar. Members of the public, consistent with the requirements set forth in statute, can obtain a certified or an uncertified copy of that birth certificate from either the state registrar or the local registrar. Different procedures apply with respect to the creation and preservation of death, marriage, and divorce records.

GOVERNOR

Provide \$4,859,400 PR in 2007-08 and \$5,297,500 PR in 2008-09 to fund a portion of the estimated cost to redesign, modernize, and automate the state's vital records system, and to facilitate the data entry of birth and death records pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 ("Intelligence Reform Act") and the Real ID Act of 2005.

DISCUSSION POINTS

1. The current status of Wisconsin's vital records depends on the type of record at issue and the date that record was created. For example, birth records from 1907 through 1947 are paper documents, most of which are handwritten, and many of which are in deteriorating condition. Birth records from this period have not been microfilmed, nor has the information they contain been entered into the vital records office's mainframe computer. The vital records office does maintain a paper index of the birth records from this period that contains limited information (the registrant's first and last name, date of birth, county of birth, and certificate number if applicable).

2. For more recent birth records, the state's vital records system has been at least partially modernized. Most birth records for the period 1948 through 1993, for instance, have been microfilmed, with the original paper certificates stored off-site at the State Records Center, although certain birth records from this period, such as non-marital birth records, have not been microfilmed. An electronic index of birth records from this period, as well as more recent periods, is maintained on the vital records office's mainframe computer. This electronic index, which contains the registrant's first and last name, date of birth, county of birth, and state certificate number, is used to confirm that a birth certificate exists and to indicate where in the archives the certificate is located. Additional information for birth records from the period 1979 through 1993 has been entered into the vital record office's mainframe computer. All birth records from the period 1994 to present are electronically filed and indexed.

3. Death, marriage, and divorce records are created and filed by paper, although beginning in the late 1970's, information related to death and marriage records has been electronically collected and indexed in the vital records office's mainframe computer database.

4. Two recently-enacted federal statutes impact Wisconsin's vital records system. The first is the Intelligence Reform Act. With the goal of improving the procedures states use to maintain birth records and to issue birth certificates, the Intelligence Reform Act directs the Secretary of Health and Human Services (HHS) to promulgate regulations that, among other things, require the following: (a) certification of the birth certificate by the state or local government custodian of record that issued the certificate, the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes; (b) proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant; and (c)

standards for the processing of birth certificate applications to prevent fraud.

5. The Secretary of HHS was to have promulgated the Intelligence Reform Act's birth certificate regulations by late 2005. To date, those regulations have not been promulgated, although DHFS has been advised that draft regulations may be released in late August of 2007. The date final regulations are promulgated is an important milestone under the Intelligence Reform Act because the statute gives states two years from the date those regulations are promulgated to comply with their requirements (although states can be granted a two-year extension if they are deemed to have made "reasonable efforts" to comply within the original two-year period).

6. If a state is not in compliance with the new federal requirements within two years after the final regulations are promulgated, the Intelligence Reform Act prohibits federal agencies from accepting for any "official purpose" a birth certificate issued by that state. Although the Intelligence Reform Act does not define the term "official purpose," the Real ID Act, discussed below, defines that term in a similar context to include "accessing federal facilities, boarding federally-chartered commercial aircraft, entering nuclear power plants, and any other purpose the Secretary shall determine."

7. Because the Secretary of HHS has not promulgated the required birth certificate regulations, it cannot be said with certainty what those final regulations will require. Through individuals and workgroups involved in the Intelligence Reform Act's rulemaking process, however, DHFS has determined those regulations, when finally promulgated, will require extensive work to modernize and automate Wisconsin's existing vital records system. For instance, DHFS believes the final regulations will require, among other things, the electronic data entry of all birth and death records from 1935 to present, as well as a significant one-time research effort to ensure that the newly-created electronic birth records include all information likely to be required by the Intelligence Reform Act regulations. In particular, DHFS believes the regulations will require the office of vital records to match millions of birth and death records so that each electronically stored birth record indicates whether the subject of the record is deceased. Considered an important anti-fraud feature, most Wisconsin birth records do not contain this birth-death match.

8. DHFS believes the final Intelligence Reform Act regulations will also require the "central issuance" of birth certificates, meaning the state's local registrars would need online access to the state registrar's mainframe computer to issue copies of birth certificates from that central database. This central issuance requirement would require an upgrade to the vital records office's computer system's current capabilities, including costs associated with hosting the central server local registrars would access.

9. The second federal statute that may impact Wisconsin's vital records system is the Real ID Act, which requires applicants to present certain documents in order to obtain a state-issued driver's license or identification card. Those documents include a photo identity document, proof of the person's social security number (or verification that the person is not eligible for a social security number), documentary evidence of the person's legal status in the United States, documentation of the person's name and principal place of residence, and documentation showing the person's date of

birth.

10. The Real ID Act's potential impact on the state vital records system resides in its requirement that state DMV offices "verify" the authenticity of the documents submitted by driver's license applicants. Among other things, this would require the DMV office to verify the authenticity of the certified copy of the birth certificate applicants will be required to submit.

11. On March 1, 2007, the Department of Homeland Security issued draft regulations under the Real ID Act. Consistent with the Real ID Act's statutory language, the draft regulations would require state DMV offices to verify the authenticity of applicants' birth certificates through the Electronic Verification of Vital Events (EVVE), an electronic hub that receives inquiries from state DMV offices and redirects those inquiries to the appropriate state's electronic vital records database. As this description implies, the efficacy of the EVVE system depends upon individual states having in place an electronic vital records database other states can access through the EVVE hub.

12. The Real ID Act requires states to comply with its requirements, including the verification of birth certificate information, by May 11, 2008. If a state is not in compliance by that date, the Real ID Act prohibits federal agencies from accepting a driver's license or identification card issued by that state for any official purpose, including boarding federally-regulated commercial aircraft. Many parties, including the National Governors Association and the National Conference of State Legislatures, expressed concern about the feasibility of that May 11, 2008 compliance date, as well as the costs associated with meeting the Act's requirements. Some of those concerns relate to the fact that several of the national databases needed to verify documentation required under the Real ID Act, including EVVE, are not yet operational. Due to these and other concerns, several states have enacted legislation rejecting participation in the Real ID Act.

13. In response to some of these concerns, the Real ID Act draft regulations would allow states to request an extension of the Act's original compliance date to December 31, 2009, provided the state files a request for an extension with the Secretary no later than October 1, 2007. The draft regulations also indicate that in the absence of extraordinary circumstances, a state's request for an extension will be granted.

14. To summarize, the Secretary of HHS has yet to issue birth certificate regulations under the Intelligence Reform Act. Under that Act, states would currently have two years from the date final regulations are promulgated to comply with any new requirements. With respect to the Real ID Act, its statutory language requires states to comply with its birth certificate verification standards by May 11, 2008, but under draft regulations released in March, 2007, states could apply for an automatic extension of that deadline to December 31, 2009. The administration believes these two federal statutes necessitate the vital records automation project partially funded by the Governor's recommendations.

15. Apart from the requirements of the Intelligence Reform Act and the Real ID Act, the administration also maintains that a major automation and modernization of the state's vital records

system is necessary. Among the reasons cited by the administration in this respect is the need to preserve original paper records, many of which are in deteriorating condition. The Governor's recommendation would microfilm all birth and death records dating back to 1935 that have not yet preserved on microfilm.

16. The administration also believes the recommended automation project will result in greater efficiencies in the vital records system. For example, if a person currently requests a copy of a vital record such as a birth certificate, vital records office staff must, depending on the date that record was created, search the paper indexes, locate the original record in the archives, and manually copy the record in order to prepare a certified or uncertified copy. Under the automated system recommended under the bill, birth records dating back to 1935 could be located and created electronically by the vital records office's computer system. The automation project would also electronically connect the state registrar's computer database with all of the state's local registrars, thereby improving the speed and security by which records are created, exchanged, and amended. Various business partners would also have limited access to the automated system to facilitate these efficiencies.

17. The administration maintains the recommended automation project would also improve the security of the state's vital records system and help reduce the opportunity for identify theft and related crimes. Under the current paper-driven system for death certificates, for instance, weeks can pass between a person's death and the date on which the state registrar is made aware of the event. Under the administration's recommended automation project, funeral home directors could immediately notify the state registrar's office, and the Social Security Administration, electronically of the fact of death, thereby reducing the risk of identity theft during the immediate post-death period. The computer updates recommended by the administration would also enable the vital records office to electronically track requests for vital records, a feature that could be used to identify potentially abusive activity.

18. The administration estimates that the total cost of the automation project would be \$24,355,100. Of that total, an estimated \$6,225,800 would go towards online costs, including costs associated with the purchase of a new computer system and other IT-related costs related to hosting, and maintenance and support. The administration based its online cost estimates on the average of the responses it received from four potential vendors.

19. The remaining estimated costs of the vital records automation project, \$18,129,300, relates to the preservation of the birth and death records in question. For these purposes, the term "preservation" refers to the entire process by which existing paper records are electronically entered into the vital records office's computer system, and the original paper documents are microfilmed and stored. These preservation costs also include the estimated research costs required to match the millions of death and birth records and to ensure that the newly-created electronic records include all the information DHFS believes will be required under the Intelligence Reform Act.

20. In conjunction with its December, 2006, request that income augmentation funds be used for the vital records project, the administration provided the following details regarding the

estimated preservation costs associated with birth records for the period 1935 through 1993.

TABLE 1

Estimated "Presentation" Costs for Birth Records from 1935 - 1993

	<u>1982-1993</u>	<u>1979-1981</u>	<u>1935-1978</u>
Birth Records	864,402	225,000	3,300,000
Data Entry (\$.50 Per Record)	\$432,201	\$112,500	\$1,650,000
Preservation Costs (Microfilm and Storage)	36,292	9,429	136,862
Research Costs (6 Records Per Hour at \$15 an Hour)	2,161,005	562,500	8,250,000
Less Adjustment for Condition of Records	<u>60%</u>	<u>60%</u>	<u>111%</u>
Total Estimated Birth Record Preservation Costs	\$1,577,699	\$410,657	\$11,140,917

21. The administration prepared the cost estimates in Table 1 by performing a series of time studies, during which it developed estimates of the staff time required to perform the necessary research and to electronically enter the requisite data. DHFS has also consulted with other states that are engaged in comparable vital records automation projects. As the table indicates, the administration estimates the total "preservation" costs for birth records from the period 1935 through 1993 will be approximately \$13,129,000. The "adjustment for condition of records" reflects the administration's estimate that more recent birth records will require somewhat less work than older records. Using a similar computation, the administration estimates that preserving the death records from this period will cost an additional \$5,000,000.

22. The administration has indicated that if the recommended funding is approved, its intention would be to complete the vital records automation project by December 31, 2009, consistent with the extended timeline identified in the Real ID Act draft regulations.

23. The administration recommends financing the costs of the automation project through several master lease agreements. Table 2 summarizes the series of estimated payments under these master lease payments over time. The payments reflected in Table 1 assume a master lease interest rate of 5.50% and a seven-year payment schedule. The total master lease payments through 2014-15, as reflected in Table 2, include estimated financing costs. Because the total payments that would be required under these master lease agreements exceed the funding recommended under the bill, additional funding would have to be provided in future budgets to satisfy the obligations under the recommended master lease agreements.

TABLE 2

**Estimated Master Lease Payments Associated
With Vital Records Automation Project**

	<u>Total Master Lease Payments</u>
2007-08	\$3,144,100
2008-09	4,239,000
2009-10	4,239,000
2010-11	4,239,000
2011-12	4,239,000
2012-13	4,239,000
2013-14	4,239,000
2014-15	<u>1,094,900</u>
Total	\$29,673,000

24. For the reasons outlined above, the Committee could approve the Governor's recommendations regarding the vital records automation project. Doing so would allow DHFS to begin what it anticipates it will be a multi-year effort to bring the state's vital records system into compliance with the Intelligence Reform Act and the Real ID Act. Approving the request would also allow DHFS to begin the automation improvements the administration believes will result in greater security and efficiency of the state's vital records system.

25. The Committee could also delete the provision, in which event the state could potentially face consequences under the Intelligence Reform Act and the Real ID Act for not being in compliance with those statutes. Those potential consequences could include federal agencies not accepting drivers' licenses or birth certificates issued by Wisconsin for any official purpose, such as boarding federally-chartered commercial aircraft. Deleting the provision, and thereby foregoing the automation project, would also prevent the state from receiving the potential efficiency or security benefits identified by the administration.

26. Alternatively, the Committee could decide to approve the recommended vital records automation project, but fund it through GPR, rather than through the additional program revenues the administration estimates would be generated by the vital records fee increases recommended under the bill.

27. Finally, given the uncertainty regarding the status of final regulations under the Intelligence Reform Act and the Real ID Act, the Committee could decide to place any funding approved for the vital records automation project in the Committee's supplemental appropriation, specifying that DHFS may make a request to the Committee during the 2007-09 biennium to transfer some or all of that funding for costs associated with the project. Such an approach would allow for greater clarity to emerge with respect to any final federal regulations on these issues.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations, thereby providing \$4,859,400 PR in 2007-08 and \$5,297,500 PR in 2008-09 to partially fund the automation of the state's vital records system.

ALT 1	Change to Bill Funding	Change to Base Funding
PR	\$0	\$10,156,900

2. Delete the Governor's recommendation to partially fund the automation project with revenue from vital records fees (-\$4,859,400 PR in 2007-08 and -\$5,297,500 PR in 2008-09). Instead, provide \$4,859,400 GPR in 2007-08 and \$5,297,500 GPR in 2008-09 to partially fund the automation of the state's vital records system.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	\$10,156,900	\$10,156,900
PR	<u>- 10,156,900</u>	<u>- 10,156,900</u>
Total	\$0	\$0

3. In addition to Alternative 1 or 2, place all funding in the Joint Committee on Finance's supplemental appropriation. Specify that DHFS may make a request to the Committee during the 2007-09 biennium to transfer some or all of this funding for the costs associated with the Governor's recommended vital records automation project.

4. Maintain current law.

ALT 4	Change to Bill Funding	Change to Base Funding
PR	- \$10,156,900	\$0

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