

HOUSE No. 2213

By Ms. Peisch of Wellesley, petition of Alice Hanlon Peisch and others that the State Registrar be directed to establish an electronic system of vital records. Public Health.

The Commonwealth of Massachusetts

PETITION OF:

Alice Hanlon Peisch
Steven A. Tolman

Thomas J. Calter
Demetrius J. Atsalis

In the Year Two Thousand and Seven.

AN ACT TO ESTABLISH AN ELECTRONIC SYSTEM OF VITAL RECORDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by striking out Section 2
3 and inserting in place thereof the following section:—

4 Section 2. The state registrar shall be responsible for preparing an
5 index of the records under its jurisdiction. All vital records are to be
6 automated into a database either by entering said data electronically
7 or by scanning existing paper records. Said database shall fulfill the
8 requirements of such an index. Any such automated database shall
9 contain records management controls, which insure the authenticity
10 and the integrity of the information that the original records contain.

11 The paper records from which such reproductions have been
12 made shall be retained as permanent records by the custodian
13 required to maintain such vital records or may be transferred to the
14 archivist of the commonwealth as preservation needs dictate.

15 The state registrar shall make such database available to the cus-
16 todians of vital records consistent with restrictions expressed in Sec-
17 tions 2B and 13 of this chapter and consistent with other public
18 record laws regarding access.

19 Custodians are authorized to reproduce vital records, returns and
20 reports required under this chapter for transmission to other custo-

21 dians for the purpose of preserving the original copies of vital
22 records and reports. Such reproductions may be prepared in a type-
23 written, photographic, micrographic or electronic media consistent
24 with all applicable regulations.

25 Certified copies may be issued from such reproductions of the
26 vital records and reports. The seal authorized for the use of the cus-
27 todian shall denote such certification. Such certification may occur
28 from a centralized, automated database of vital records. Custodians
29 may issue certified copies in two forms. One shall be a certified
30 copy for governmental use. A second form shall be marked “Accu-
31 rate but not certified,” but accurate as to the content of the record.
32 The fee for a certified copy issued by any custodian from the central-
33 ized, automated database for a record not in his or her physical cus-
34 tody will be uniform throughout the commonwealth and will be
35 established by the state registrar consistent with department of
36 public health regulations. A certified copy of such a record signed by
37 a custodian shall be the official record of the Commonwealth and
38 shall admissible as evidence of such record.

39 Custodians shall implement appropriate security measures to
40 restrict issuance of certified copies consistent with this section,
41 Section 13, other requirements of Chapter 46, and other require-
42 ments of general and special law to deter identity theft and to pre-
43 vent fraudulent procurement and use of vital records and
44 information. The state registrar and town clerks shall issue copies of
45 non-archival vital records as specified below.

46 All forms and procedures used in the issuance of certified copies
47 of vital records in the commonwealth shall be uniform and shall be
48 provided by the state registrar. All such certified copies issued shall
49 have security features that deter alteration, counterfeiting, duplica-
50 tion or simulation of vital records and shall meet any federal stan-
51 dards established for this purpose. Each such copy issued shall show
52 the date of registration and registration number. Copies issued from
53 records that have been amended shall include that date unless pro-
54 hibited by Section 13 of this chapter.

55 Effective with the completion of the automated database but no
56 sooner than January 1, 2007, the transmission of copies of birth and
57 death records to custodians in the community of residence, as pro-
58 vided in this section, shall cease. Such automation shall provide full

59 access to all data currently available to custodians in the community
60 of residence.

61 Thereafter, the state registrar shall transmit at least quarterly to
62 town clerks in the Commonwealth a list of births and deaths that
63 have occurred in their towns.

1 SECTION 2. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by striking out Section 2A
3 and inserting in place thereof the following section:—

4 Section 2A. Notwithstanding any other law to the contrary, (1 on
5 January 1, 2007, all records and indices pertaining to births through
6 December 31, 1910, any amendments to births filed prior to
7 December 31, 1910, records and indices of marriages and deaths
8 through December 31, 1950, and any amendments to marriages and
9 deaths filed prior to December 31, 1950, shall be deemed unre-
10 stricted and available to the public.

11 All the aforementioned records, indices and amendments of
12 births, marriages, acknowledgments and adjudications of paternity,
13 and deaths shall be transferred from the state registry to the archivist
14 of the commonwealth on the basis of five-year increments, unless
15 the state registrar and the archivist of the commonwealth agree upon
16 a more expedited schedule for transfer, and those records, once
17 transferred shall be deemed unrestricted and available to the public.
18 Prior to transfer, all records, returns and indices shall be automated
19 or reproduced by another method. The state registrar shall imple-
20 ment appropriate preservation protocols to preserve the quality of
21 permanent, paper records to be transferred.

22 Vital records, indices and amendments of births, marriages and
23 deaths deemed unrestricted under this subsection may be made
24 available by the custodians of such records for public examination
25 and copying upon request, notwithstanding any general or special
26 law that would otherwise restrict access.

27 Non-certified copies shall be available upon request for a fee pre-
28 scribed by Department of Public Health regulations.

29 (2) With the exception of those records identified in Sections 2B
30 and 13 of this chapter, custodians shall, upon receipt and review of a
31 written application, issue a copy of a birth or marriage record to only
32 the registrant, his or her spouse, children, parent as named on a birth
33 record, legal guardian, sibling, grandparent, grandchild, executor,

34 authorized legal representative. The custodian may issue a certified
35 copy of a birth or marriage record to any other person who demon-
36 strates to the satisfaction of the custodian that the record is needed
37 for the determination or protection of his or her personal or property
38 right. Custodians may, upon receipt and review of a written applica-
39 tion by a member of the general public, make amended and never
40 corrected or amended birth and marriage records and indices avail-
41 able for examination but shall not issue certified copies absent a
42 proper court order.

43 (3) Custodians shall, upon receipt and review of a written applica-
44 tion, issue a copy of a death certificate.

45 (4) Federal, state and local governmental officials may, upon
46 written request, be furnished certified copies of records or data from
47 the system of vital records and statistics provided that such copies or
48 data shall be used solely in the conduct of their official duties. Those
49 records identified in Section 13 of this chapter as requiring a proper
50 judicial order for access shall not be available to governmental offi-
51 cials without such order.

52 (5) The state registrar may, by agreement with a federal agency
53 responsible for national vital statistics, furnish such copies of
54 records, reports, or data from the system of vital records and statis-
55 tics as are required for national statistics. Any such agreement shall
56 provide that such federal agency shares in the cost of collecting, pro-
57 cessing and transmitting such records, reports, or data. In addition,
58 any such agreement shall provide that such records, reports or data
59 shall not be used for any other than the statistical or research pur-
60 poses provided for in the agreement between the state registrar and
61 the federal agency. The process as described in Section 24B of
62 Chapter 111 shall be followed and the commissioner shall approve
63 any additional uses of the records, reports, or data.

64 (6) The state registrar may, by agreement with a registrar in
65 another state, transmit copies of vital records and other reports to
66 offices of vital statistics outside this Commonwealth when such
67 records or other reports relate to residents of those jurisdictions or
68 persons born in those jurisdictions. The agreement shall specify the
69 statistical and administrative purpose for which the records may be
70 used and the agreement shall further provide instructions for the
71 proper retention and disposition of such copies. Copies received by

72 the Massachusetts registry from vital statistics offices in other states
73 shall be handled in the same manner as prescribed in this section.

74 (7) Records from the Massachusetts registry or information
75 abstracted therefrom in the form of indices received by the offices of
76 vital statistics outside this Commonwealth shall not be available for
77 public examination and shall not be used for the purpose of issuing
78 certified copies. Any vital records or information transmitted by the
79 Massachusetts registrar to vital statistics offices outside this Com-
80 monwealth may not be available for public examination or used for
81 the purpose of issuing certified copies by the office receiving such
82 records.

83 (8) Nothing in this section shall be construed to permit disclosure
84 of information from the 'Confidential Information' form submitted
85 to the commissioner of public health pursuant to the provisions of
86 Section 24B of Chapter 111, or information contained in a statistical
87 report of divorce prepared pursuant to the provisions of Section 6B
88 of Chapter 208.

89 (9) When the state registrar has probable cause to believe that a
90 certificate may have been registered through fraud or misrepresenta-
91 tion, the state registrar shall withhold issuance of any copy of that
92 certificate pending a review of the facts of the case to determine
93 whether fraud or misrepresentation has occurred. The state registrar
94 shall offer the individual providing said information or his autho-
95 rized representative notice and opportunity to be heard. Thereafter,
96 if, the state registrar finds that the certificate has indeed been regis-
97 tered through fraud or misrepresentation, the state registrar shall
98 remove the certificate from the file. The state registrar shall forward
99 such finding and any applicable evidence to appropriate state, fed-
100 eral or local governmental agencies for applicable civil or criminal
101 prosecution or action. The certificate and evidence shall be retained
102 by the state registrar and shall not be subject to inspection or
103 copying except upon order of a court of competent jurisdiction in the
104 Commonwealth or by the state registrar for purposes of adminis-
105 tering the vital statistics program.

106 (10) No person, including a notary public, shall prepare or issue
107 any certificate which purports to be an original or certified copy,
108 except as authorized in this chapter or regulations promulgated pur-
109 suant to Section 4 of Chapter 17. No person shall alter a certified
110 copy or record referred to in Sections 2, 2A, and 19, of this chapter

111 or use or reproduce such altered record. Whoever violates the provi-
112 sions of this section shall be punished by a fine or not more than
113 \$500.

114 (11) No person responsible for reporting vital events, including,
115 but not limited to physicians, certified nurse midwives, funeral
116 directors, hospital administrators, or marriage officiants, shall copy
117 for distribution such forms prepared by them of birth, death,
118 acknowledgments and adjudications of paternity or marriage records
119 except for their own personal files. If there is a demonstrated need
120 for proof of the event of the birth, death, acknowledgments and adju-
121 dications of paternity or marriage prior to the registration of the
122 record with the appropriate city or town clerk, the individual respon-
123 sible for reporting such event shall provide a statement of such facts
124 without use or photocopying of the record of birth, death, acknowl-
125 edgments and adjudications of paternity or marriage. Whoever vio-
126 lates the provisions of this section shall be punished by a fine or not
127 more than \$500 dollars.

1 SECTION 3. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby further amended by inserting after
3 Section 2A the following section:—

4 Section 2B. A Massachusetts Genealogic License system is
5 hereby created. Said License system shall consist of an electronic
6 registration system to be constructed and maintained by the Secre-
7 tary of the Commonwealth, or any officer he designates. The Secre-
8 tary shall promulgate regulations establishing uniform rules
9 concerning the issuance and governance of licenses for those who
10 engage in genealogical research.

1 SECTION 4. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by striking out Section 16
3 and inserting in place thereof the following section:—

4 Section 16. Uniform forms and instructions for the preparation of
5 vital records. The state registrar shall prepare and furnish to the
6 clerks, boards of health of towns, physicians, hospitals, probate and
7 district courts, and others involved in the preparation and registra-
8 tion of all vital records, forms for returns, on paper of uniform size,
9 and any necessary instructions and explanations. Such forms used
10 for permanent records shall meet any regulations of the supervisor of

11 public records. Any forms for returns and other materials not sup-
12 plied by the state registrar shall be approved by the state registrar
13 and shall be subject to any applicable regulations of the supervisor
14 of public records. Any electronic program for the preparation, col-
15 lection, storage or issuance of vital records, not part of the statewide
16 vital records system, must be approved by the state registrar and
17 shall be subject to any applicable regulations of the supervisor of
18 public records.

1 SECTION 5. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is amended by striking out in lines 5 to 11 of
3 Section 17D and inserting in place thereof the following
4 sentences:—

5 If a delayed record of birth or death or other return of birth or
6 death is recorded by the state registry, the state registrar shall
7 transmit a certified copy of the record of birth or death to the clerk in
8 the city or town where the birth or death occurred. If a delayed
9 record of marriage or other record of marriage is recorded by the
10 state registry, the state registrar shall transmit a certified copy of a
11 delayed record of marriage to the town clerk where the original
12 intention of marriage was filed.

1 SECTION 6. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by striking out Section 18
3 and inserting in place thereof the following section:—

4 Section 18. Information on Forms. Copies transmitted or retained
5 under Sections 17 through 17D of this chapter shall be typewritten
6 or reproduced in actual size by photographic or micro photographic
7 process or approved electronic process. Any forms and formats
8 reproduced must have prior approval of the state registrar and meet
9 any standards established by regulations of the supervisor of public
10 records and regulations promulgated by the department.

1 SECTION 7. Chapter 207 of the General Laws, as appearing in
2 the 2000 Official Edition, is hereby amended by adding the
3 following language to Section 19:—

4 In addition to any other fee established by the community, the
5 sum of ten dollars shall be charged and shall accrue to the benefit of

6 the special state and local vital records and statistics fund, as estab-
7 lished under Section 31 of Chapter 46.

1 SECTION 8. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by striking out Section 26
3 and inserting in place thereof the following section:—

4 Section 26. The town clerk shall receive the following fees from
5 the town upon presenting to the town treasurer a certificate attested
6 to the state registrar listing the types and number of birth, marriage
7 and death records registered by the town clerk. For each birth, mar-
8 riage, or death, one dollar. He shall also receive from the town the
9 following fees:—

10 For each certificate transmitted under Section 12 of this chapter,
11 50 cents; for receiving and recording an affidavit and forwarding a
12 copy thereof under Section 13 of this chapter, one dollar; for sending
13 the notice required by Section 23 of this chapter, 50 cents; for each
14 oath administered in his capacity as clerk, 25 cents. A town may
15 limit the aggregate compensation allowed to its clerk.

1 SECTION 9. Chapter 46 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby further amended by inserting, after
3 Section 30, the following section:—

4 Section 31. There is hereby created through fees collected by cus-
5 todians under this section a fund to be known as the special state and
6 local vital records and statistics fund. Any custodian who issues a
7 certified copy of a vital record or a certified negative statement of a
8 vital record, shall collect from the requester of the certified record or
9 certified negative statement, in addition to any other fee, an addi-
10 tional fee of two dollars for each such certified copy requested or
11 certified negative statement requested; such additional fees shall be
12 deposited in the state and local vital records and statistics fund. Fees
13 collected pursuant to this section shall be used to improve to the
14 greatest extent practicable all aspects of the statewide system of vital
15 records and statistics. Such improvement is to include a statewide
16 automated system of vital records with proceeds from the fund pro-
17 viding such improvement services for both state and local custo-
18 dians. Physical preservation of the records shall constitute an
19 integral part of any system-wide improvement plan. The special state
20 and local vital records and statistics fund is to provide for

21 improvement of current services; the fund shall not supplant funding
22 necessary for maintaining the daily operation of the current system
23 of vital records and statistics.

24 Custodians shall on a quarterly basis make payments into the
25 special state and local vital records and statistics fund of 95% of the
26 additional fees collected under this section; custodians may retain
27 five per cent of funds collected for managing the collection of these
28 fees. Fees deposited in the special state and local vital records and
29 statistics fund in one fiscal year shall be available for expenditure in
30 a subsequent fiscal year.

31 There will be a permanent, special vital records and statistics
32 committee to oversee the overall improvement including preserva-
33 tion and automation of the vital records and statistics system in the
34 commonwealth. The committee shall consist of seventeen members
35 including the state registrar, who shall serve as chair, and the super-
36 visor of public records and the archivist of the commonwealth. The
37 committee shall include two town clerks selected by the Massachu-
38 setts Town Clerks' Association, at least one of whom shall be from a
39 town with a hospital having a maternity unit; two city clerks or a city
40 clerk and a registrar selected by the Massachusetts City Clerks' asso-
41 ciation, at least one of whom shall be from a city with a hospital
42 having a maternity unit; one member each selected by the New Eng-
43 land Historic Genealogical Society, the Massachusetts Genealogical
44 Council, the Massachusetts Newspaper Publishers Association, the
45 Massachusetts Medical Society, the Massachusetts Hospital Associa-
46 tion, the Massachusetts Public Health Association, and the Massa-
47 chusetts Funeral Directors Association. The commissioner of public
48 health shall appoint three additional members, including a lawyer
49 specializing in and practicing family law and two members with
50 expertise from each of the following areas:— medical research, epi-
51 demiology, and electronic data collection and management. The state
52 registrar and supervisor of public records and the archivist shall be
53 standing members of the committee with no term limits. All other
54 members shall serve for three-year terms, with initial terms stag-
55 gered with four one-year, five two-year and five three-year terms.
56 The reasonable travel expenses of members of the committee
57 relating to their attendance at meetings of the committee shall be
58 paid out of the special state and local vital records and statistics
59 fund.

60 The special vital records and statistics committee shall meet at
61 least quarterly and be required to develop an overall plan for the
62 automation, improvement and preservation of the statewide vital
63 records and statistics system throughout the commonwealth, pro-
64 vided that seven members in attendance shall constitute a quorum
65 for the purpose of conducting business. Such plan shall specify one,
66 three, five and ten year goals and objectives for the automation,
67 improvement and preservation of the system. All such plans for the
68 automation of the system must provide specific plans for the preser-
69 vation of the records so automated. The special vital records and sta-
70 tistics committee shall be required to authorize all expenditures from
71 the fund over the sum of \$1000. Routine administration of expendi-
72 tures from this fund shall be directed by an executive subcommittee
73 of the special vital records and statistics committee. The executive
74 subcommittee shall be composed of seven members:— the state reg-
75 istrar, supervisor of records and the archivist of the commonwealth,
76 and four rotating members two of whom shall be the town clerks and
77 two of whom shall be the city clerks or registrars serving on the
78 special vital records and statistics committee to serve for a one-year
79 term on the executive subcommittee.

80 All fees collected by the archives of the Commonwealth under
81 this section or designated by the special vital records and statistics
82 committee for the activities at the archives shall be segregated and
83 deposited into the archives trust fund (0511-1100) and be used
84 specifically for the automation, preservation, and modernization of
85 vital records administered by the archives.

1 SECTION 10. Chapter 46 of the General Laws, as appearing in
2 the 2000 Official Edition, is hereby further amended by inserting
3 after Section 31 the following section:—

4 Section 32. To protect the integrity of vital records and to prevent
5 the fraudulent use of birth certificates of deceased persons, the state
6 registry is hereby authorized to match birth and death certificates,
7 and if the state registrar is satisfied that the death certificate and the
8 birth certificate refer to the same person, he shall make note of the
9 facts of death on the birth certificate. Certified copies of such
10 marked birth records shall also be marked with the facts of death.
11 After such matching, the state registrar shall provide appropriate

12 information to clerks who shall mark the records in their custody and
13 similarly mark records issued by them.