



January 30, 2025

Senator Liz Krueger
Senator Thomas F. O'Mara
Standing Committee on Finance
New York State Senate
financechair@nysenate.gov

Assemblyman J. Gary Pretlow
Standing Committee on Ways and Means
New York State Assembly
wamchair@nyassembly.gov

RE: Part U of Health and Mental Hygiene Legislation, FY 2026 New York Executive Budget

Dear Senator Krueger, Senator O'Mara, and Assemblyman Pretlow,

The Association of Professional Genealogists (APG) strongly opposes the proposed legislation in New York State that would close off the state's access to historical birth, marriage, and death records (vital records). APG urges the Legislature to reject this harmful legislation, whose sole proponent is an agency with an agenda that appears to be evading records access. While Part U of the Proposed Health Legislation Budget purports to "Digitize Genealogical Records" and "streamline operations," the bill text does not support those objectives; instead, **it will essentially prohibit research of 20th-century New Yorkers** with the sole goal of reducing the Bureau of Vital Records' (BVR's) workload.¹ **Without access to these records, our members would be severely hindered in their abilities to run their small businesses,** and our thousands of clients with New York roots will be impeded in their ability to uncover their heritage and medical histories.

Vital records serve as cornerstone documents for proving someone's identity and are instrumental in understanding family histories and cultural heritage, undertaking demographic and medical research, and conducting many essential legal proceedings, such as the settling of estates. This bill, if enacted, would retroactively prevent access to decades of these historical records, while raising the fees on the rest by more than 400%. **Genealogy requests, which constitute only about 3% of total requests, currently face a 5-year wait because BVR has already deprioritized their processing.**² BVR has collected more than \$200,000 in customer fees, representing more than 10,000 unfulfilled requests—an unacceptable

¹ <https://www.budget.ny.gov/pubs/archive/fy26/ex/artvii/hmh-memo.pdf>

² <https://cbs6albany.com/news/local/new-york-state-genealogy-requests-face-massive-backlog>

situation that reinforces the need for public self-service access to historic records. This has been the subject of numerous news stories.³

APG, representing more than 120 New Yorkers and 2,000 professional genealogists worldwide, stands ready to participate in conversations about how to improve New York's outdated vital records laws. At a minimum, **any changes must expand public access, not restrict it for more than a century**, as the Department of Health is proposing. Additionally, New York should increase the list of entitled parties to certified copies of vital records, to match that of nearly every other state, so that descendants, close relatives, and parties with a legitimate need can obtain documents.⁴

Impact of Proposed Legislation

1. Prohibitive Embargo Periods

Public access to vital records is common practice across much of the United States and internationally. New York's proposed restriction—125 years for birth, 75 years for death, and 100 years for marriage—far exceeds the norms of other states and may be the most restrictive in the nation. As a general matter, nearly all birth, marriage, and death records are accessible in our neighboring states of Connecticut, New Jersey, Massachusetts, and Vermont. In the United Kingdom, every birth, marriage, and death record from 1837 onward is public. **New York's proposed legislation isolates the state as an outlier, restricting public access without justification.**

There is no public benefit to closing off vital records and the public has not requested this change. In fact, in 2020, the Massachusetts Department of Public Health briefly tried to close off access to their vital records, and the idea was swiftly defeated, after members of the public and others within the government considered the state's 400-year history of open records.⁵

Even in states where vital records are considered “closed,” there are exceptions for descendants or close relatives, which satisfy most genealogical needs. New York's laws—current or proposed—make no such provision, meaning that in many cases, relatives will never see records they desire. **While many states make vital records public immediately, or at worst, after a few decades, BVR is proposing a move in the opposite direction, restricting access for nearly a century, or longer.**

2. Fee Increase

The proposed increases in genealogy fees disproportionately affect researchers, small businesses, and families seeking access to historical data. They will discourage public engagement with records and limit opportunities for genealogists and historians to conduct critical research. **The current \$22 fee for a genealogy record is generally**

³ <https://www.timesunion.com/news/article/genealogists-say-state-hinders-research-17909381.php>

⁴ We have prepared *Appendix A*, outlining how vital records currently operate in New York, and how current procedures are both vastly divergent from and less accessible than nearly all other states.

⁵ We have prepared *Appendix B*, contextual information about the spurious reasons for which health departments often propose closing off vital records.

consistent with what other health departments charge for records. Under this proposed law, it appears that New York would raise the fee to \$95 for *each genealogical record*. Many states move older records to archives to permit free public access. In addition, **most states—and New York City—have even published their historic vital records online for free.**

If increasing fees would lead to better fulfillment—or frankly, any fulfillment—of our members’ requests, we would likely still support some increase. But in this case, **the bill raises fees to nearly five times what most states charge for the same service and restricts fulfillment.**

3. Elimination of Indices and Creation of a FOIL Exemption

The proposed elimination of the Department of Health’s (DOH’s) obligation to maintain an index of birth and death records violates established transparency practices. Public health laws generally require the creation of such indices to ensure records are organized, preserved, and accessible for public inquiry. The DOH claims that the indexes are “seldom” used, yet paradoxically argues that they constitute an “unnecessary administrative burden”, a contradiction that suggests they are still utilized.

Standalone indexes can also be published, enabling constituents to locate death information independently so they can request these records from local municipalities rather than BVR. In fact, they do publish a death index for a range of years.⁶ **Abolishing the index creation requirement risks the degradation of the records⁷ and actually increases BVR’s workload.⁸** More broadly, abolishing indexes would mean that in the State of New York, there is no official or comprehensive means to confirm if an individual exists or has ever existed.

The law exempts genealogical vital records from the Freedom of Information Law (FOIL), removing a key level of government transparency. FOIL provides statutory rights, such as mandated response times within twenty business days and the right to file an administrative appeal. BVR has already taken the position that uncertified vital

⁶ https://health.data.ny.gov/Health/Genealogical-Research-Death-Index-Beginning-1957/vafa-pf2s/about_data

⁷ A 2016 Inspector General’s Report “found that the system utilized by DOH in indexing, storing, retrieving and reproducing vital records is antiquated and not only susceptible to human error, but vulnerable to loss, theft, or destruction, and therefore in critical need of modernization to ensure the integrity of these important documents.” See: <https://ig.ny.gov/sites/g/files/ocf571/files/2016-11/DOHVitalRecordsReport6-21-16.pdf> . To their credit, the DOH has hired vendors to help process their disorganized records, however, given their history of poor records management, removing an indexing requirement introduces an unnecessary risk.

⁸ It should be noted that BVR often *suggests* that researchers obtain records from municipalities, despite its reluctance to facilitate that process by readily making indexes available. However, this strategy is less practical for the older records because the full certificates frequently do not exist at the local level. Prior to the 1910s, most municipalities maintained just bare-bones ledgers listing out the summary information of what the full certificate contains. In fact, some municipalities only have partial records into the middle of the 1900s.

records aren't subject to FOIL, and as a result, essentially ignores all genealogy records requests.⁹

Researchers rely on access to vital records to perform critical work:

- **Tracing Family Histories:** These records provide unique insights into personal heritage, contributing to individuals' understanding of their roots and cultural identities.
- **Settling Estates:** Many genealogists work with attorneys and executors to identify heirs and resolve legal matters. Vital records are necessary to prove kinship and unite unclaimed estates with their rightful owners.
- **Recognizing Dual Citizenship:** Many individuals can apply for second citizenships if they can properly document their ancestral lineage. Without access to vital records, this right cannot be recognized. Even under the current law, many applicants for dual citizenship are forced to waste judicial resources seeking court orders in order to obtain certified copies of their deceased parents' and grandparents' birth records. This proposal makes no attempt to rectify that.
- **Health Research:** Medical researchers utilize historical vital records to study disease trends and inherited conditions. Anonymized data cannot provide the full demographic detail that individual vital records do. Additionally, individuals use their extended family's death certificates in order to learn their own medical histories. **There are genealogists who have saved lives due to studies of medical histories.**¹⁰
- **Cultural and Historical Studies:** These records are invaluable for demographers, historians, and other researchers examining patterns in migration, marriage, and mortality. **The only complete copy of Harriet Tubman's death certificate is locked away at the Department of Health, and a researcher currently has to wait five years to see it.**

Recommendations

Five years ago, BVR made a conscious decision to functionally ignore all genealogy requests; now they're trying to change the law to *ban* most genealogy requests. APG urges the Legislature to reject this harmful legislation. Instead, we hope this presents an opportunity to draft legislation, with our input, that modernizes the state's archaic vital records laws. See our non-exhaustive list of suggestions, all of which are modeled after frameworks for vital records in other states (discussed further in *Appendix A*):

- Mandate publicly accessible indices of vital records for ease of navigation and research.
- Limit fees for record access to reasonable levels to ensure affordability.
- Transfer the older vital records to the New York State Archives to ease BVR's workload.

⁹ To the extent that BVR views this bill as a FOIL exemption to indexes as well, genealogists will lose even more access to information. In response to a 2017 FOIL request, the DOH allowed [Ancestry.com](#) to scan the microfiche indexes that span 1881-1956. BVR may interpret this law to mean they no longer need to provide the public with indexes ever again, which will impede access to both genealogists and those who need certified copies of records for official purposes.

¹⁰ https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=dTx_PLUS_R40KSGTWqCU2utOjmQ==

- Permit the issuance of uncertified copies of all vital records for research purposes.
- Mandate BVR work with a commercial vendor to digitize and publish records.
- Entitle descendants and other relatives to certified copies of all vital records.

Vital records are the cornerstone of genealogical and historical research, and their accessibility is critical to preserving our cultural fabric. Our members and our clients require specific legislation that provides proper access to these records. The proposed legislation does the opposite, and as written, threatens to erode public access to these records, impede transparency, and stifle important research. APG respectfully calls on the Legislature to reconsider this proposal in favor of policies that support the preservation and accessibility of vital historical data for current and future generations.

Respectfully,

A handwritten signature in black ink, reading "Suzanne L. Hoffman". The signature is fluid and cursive, with the first name "Suzanne" being more prominent than the last name "Hoffman".

Suzanne L. Hoffman
President, Association of Professional Genealogists
president@apgen.org

Appendix A: How do vital records work in New York and across the Country?

New York's vital records are far less accessible to the public and to relatives of those named on the records than in nearly every other state. While many people assume that vital records, especially death records, are open to the public, this is not the case in New York. Certified copies of vital records—that is, copies that can be used for legal purposes and to prove identity—are only made available to narrow classes of people. For birth and marriage records, this list is limited to the people named on the document. For death records, spouses, siblings, parents, and children are entitled. If these people are all deceased, **the only way to get a certified copy is often via a court order.**¹¹ In virtually every other state, descendants, and often other relatives, are entitled to certified copies of vital records. The New York City Department of Health and Mental Hygiene, which is part of a separate vital records jurisdiction, has some of the strictest access regimes in the country. Yet they allow descendants and nieces/nephews (with no generational limit) to receive certified copies of vital records.¹²

Additionally, **most states allow anyone to obtain a certified copy of a vital record after a certain number of years.** In some states, such as California, Massachusetts, Connecticut, and Ohio, this threshold is 0 years. Essentially anyone can obtain a certified copy of any vital record. More common is that anyone can obtain a certified copy after 50 or 75 years, or that marriage and death records are available in a certified format immediately, but birth records have restrictions placed on them because of their frequent use as an identity document.

Some states have frameworks where there may be restrictions on certified copies, but anyone can obtain uncertified copies (and/or records that are marked as “not an identity document”). These records are generally not useful for legal purposes but can be used for research. Such systems exist in Minnesota, New Jersey, and Washington. Anyone can request any vital record, including ones issued within the last week, but they can only get an uncertified version of it.

More common is that after a certain duration of time, vital records move to a state archive, where they can be inspected in person at no cost. The archives often scan them, either internally or with the help of a vendor, and post them online. This is the case in New Jersey, Massachusetts, Pennsylvania, Rhode Island, Vermont, Maryland, Virginia, West Virginia, North Carolina, Delaware, Tennessee, Missouri, Minnesota, and Washington. **Once the records move to the archives, anyone can obtain a certified copy for a fee or a scan / photocopy / uncertified copy at low or no cost.** In New York City, birth records before 1910, and marriage and death records before 1950 are at the Municipal Archives, and are mostly available online for free.¹³

¹¹ There are other provisions in the law for who can obtain certified copies, but rarely do they apply to researchers. The one exception is that the DOH permits descendants to obtain certified copies if they are seeking dual citizenship, as they view that as a “legal right or claim.” Other parts of the law are irrelevant entirely, such as the section allowing scientific research access or the section allowing government agencies access.

¹² <https://www.nyc.gov/site/doh/services/birth-death-records-death.page>

¹³ <https://a860-historicalvitalrecords.nyc.gov/search>

Additionally, **many states have statutory mandates that vital records indexes be made available.** This is the case in at least Oklahoma, New Jersey, Virginia, Texas, California, Massachusetts, Maine, and Wisconsin. Many other states regularly provide copies of indexes upon receipt of an open records request. This has been the case in at least Idaho, Ohio, Connecticut, Vermont, Missouri, Wyoming, Nebraska, Maryland, Washington and Nebraska.

We have none of these options under New York State's current statutory structure. The records never move to an archive; the records never become available online or at a low cost; they never become public in certified form; and close relatives are still often unable to obtain certified copies without judicial intervention. To make matters worse, **because the DOH has essentially shut down genealogy requests, even uncertified copies of select older records are, for all intents and purposes, unavailable.**

There is no state that charges anywhere approximating \$95 for an uncertified (or even certified) copy of a vital record. California and Michigan each charge \$34 for a certified vital record; these may be the most expensive vital records in the nation. Of the states that offer uncertified vital records, the most expensive is likely New Jersey, which charges \$25 for recent records at the Department of Health (while all historic ones are freely available at the archives). Regarding uncertified copies of older records, the state with the most expensive fee structure is probably already New York, at \$22.

Vendors such as Ancestry and FamilySearch have digitized vital records in some form in virtually every state. In recent years, many departments of health and state archives have pursued mass digitization projects, allowing Ancestry and FamilySearch to publish millions of vital records online, some of which are dated as recently as the 2010s. This list includes but is not limited to Michigan, Indiana, Idaho, Pennsylvania, Montana, Iowa, North Carolina, Massachusetts, and Vermont. At least one state, Virginia, has specific statutory text authorizing a private vendor to digitize and publish vital records. **For years, Ancestry has been offering BVR the option to digitize New York's older vital records—at no cost to the taxpayers—and publish them online. The agency has declined to engage with them, opting instead to pay hundreds of thousands of dollars to a vendor to scan more than 30 million certificates for internal use only.**

Appendix B: The Fiction of Vital Records Fraud

There is no evidence to support health departments' claims that privacy concerns and the risk of fraud occur with access to records. In fact, **death records and their indices help prevent fraud by allowing businesses and institutions to verify deaths accurately.** Just this month, the United States Department of the Treasury published a press release about how increased access to death indexes allowed the recovery of \$31 million in improper payments during a five-month pilot study.¹⁴ Additionally, other publicly accessible records—such as voter registrations, probate records, and land deeds—already disclose similar information without documented issues of misuse. The idea that someone born before the invention of flight has some inherent privacy interest in their birth certificate is ridiculous.

Health Departments are selling the same information to corporations through their national lobbying organization, NAPHSIS. The National Association for Public Health Statistics and Information Systems (NAPHSIS) is the 501(c)(3) of which all 57 nationwide vital records offices are members.¹⁵ They seek to close off access to vital records, while marketing the same data through their service, Electronic Verification of Vital Events (EVVE).¹⁶ Although their public messaging purports that the sky is falling regarding rates of vital-records identity theft, their private remarks have shown this to be a smokescreen.¹⁷ The DOH has so little actual concern about vital records-related identity theft that they do not even bother to maintain any records about it.¹⁸ Their Record Access Office has affirmed on appeal that they have no fraud-related internal guidance or tracking.

Please see the chart on the next page, in which members of APG have correlated rates of identity theft in each state with the level of access to death records. Unsurprisingly, there is very little correlation between public access and fraud. In fact, the line slopes slightly upward, meaning that states with closed death records actually have slightly more fraud than those with open death records. There is simply no causal link between identity theft and vital records despite organizations such as NAPHSIS purporting that there is.

¹⁴ <https://home.treasury.gov/news/press-releases/jy2784>

¹⁵ <https://www.naphsis.org/about/who-we-are/our-members>

¹⁶ <https://www.naphsis.org/get-vital-records/for-work/on-demand>

¹⁷ <https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=aeFo8hFdyRuC7U5jO/YaQw==>

¹⁸ <https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=2V9xaAnfjomkpdjK1a9ZKw==>

