ATTORNEY GENERAL OPINION NO. 86-145

William L. Edds
General Counsel
Kansas Department of Revenue
State Office Building
Topeka, Kansas 66612

Re: Laws, Journals and Public Information--Records Open to the Public--Records Subject to Disclosure


Synopsis: The Uniform Vital Statistics Act neither prohibits nor authorizes the transfer of certain data by the office of vital statistics to the Department of Revenue. The Secretary of the Department of Health and Environment may promulgate regulations, subject to the provisions of the act, authorizing release of such information. Cited herein: K.S.A. 65-2401 et seq., 65-2402, 65-2422.

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Dear Mr. Edds:

As general counsel for the Department of Revenue, you have requested our opinion concerning the Kansas Vital Statistics Act, K.S.A. 65-2401 et seq. Specifically, you inquire whether, pursuant to K.S.A. 65-2422, the office of vital statistics of the Kansas Department of Health and Environment (KDHE) may supply the Kansas Department of Revenue with the full name, date of birth, residence or social security number of a deceased Kansas citizen. You state that the Department
of Revenue desires access to this information for three purposes: First, drivers' license renewal forms would not be sent to families of the deceased, thereby sparing the family a painful reminder of their loss; Second, in the interest of administrative ease, the Department of Revenue would be spared the expense, time and effort required by such renewals. Finally, the department could request the voluntary return of handicap license plates and identification cards from vehicle owners who are no longer eligible for the license plates or cards due to the death of the handicapped person. It is our opinion that, while the act does not prohibit the Secretary of the KDHE (secretary) from sharing such information with the Department of Revenue, neither does it specifically allow it. However, the secretary may promulgate rules, subject to the provisions of the act, to allow the distribution of such information.

The disclosure of records is regulated by K.S.A. 65-2422. Subsection (a) of that statute states in part:

"[i]t shall be unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by this act and the secretary. . . ."

Subsection (e) provides that, subject to the provisions of K.S.A. 65-2422, the secretary may direct local registrars to provide to federal, state or municipal agencies certain data shown on the birth, death or stillbirth certificates filed by those registrars.

We believe that, under these sections, the secretary may provide the Department of Revenue with certain data, so long as other sections do not prohibit sharing the information. One such prohibition includes releasing information regarding parents' marital status at the time of an individual's birth. The other relevant limitation appears in subsection (c), which states in part:

"The state registrar shall not permit inspection of the records or issue a certified copy of a certificate or part thereof unless . . . the applicant therefor has a direct interest in the matter recorded and that information . . . is necessary for the determination of personal or property rights. . . ."
We construe this section to preclude inspection by the applicant, issuance of a certified copy, or issuance of a part of the certified copy, unless the stated condition is met. We do not believe, however, that this subsection precludes releasing information in a form which is designed by the secretary to provide the protection of private information as required by law.

In short, the act does not prohibit releasing information to the Department of Revenue, subject to limitations. However, we have previously opined that for information to be released, it must be authorized by law. See e.g., Kansas Attorney General Opinion No. 84-101. The secretary of KDHE is empowered to make necessary regulations, after notice and hearing, for enforcement of the act. K.S.A. 65-2402(4). It is our opinion that the secretary may therefore promulgate a regulation, with safeguards mandated by the act, for transferring data to the Department of Revenue.

In conclusion, the Uniform Vital Statistics Act neither prohibits nor authorizes the transfer of certain data by the office of vital statistics to the Department of Revenue. The Secretary of the Department of Health and Environment may promulgate regulations, subject to the provisions of the act, authorizing release of such information.

Very truly yours,

ROBERT T. STEPHAN
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