



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

October 9, 1986

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

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

              Public Health--Uniform Vital Statistics  
              Act--Disclosure of Records

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:

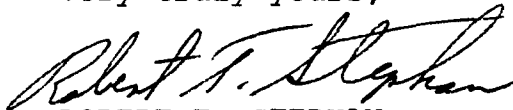
"The state registrar shall not permit inspection of the records or issue a certified copy of a certificate or part thereof unless . . . the applicant therefor has a direct interest in the matter recorded and that information . . . is necessary for the determination of personal or property rights. . . ."

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.

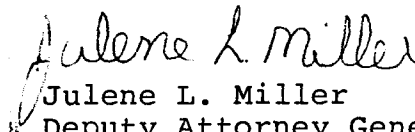
In short, the act does not prohibit releasing information to the Department of Revenue, subject to limitations. However, we have previously opined that for information to be released, it must be authorized by law. See e.g., Kansas Attorney General Opinion No. 84-101. The secretary of KDHE is empowered 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  
Attorney General of Kansas



Julene L. Miller  
Deputy Attorney General

RTS:JLM:jm