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TITLE 5--GOVERNMENT ORGANIZATION AND EMPLOYEES

PART I--THE AGENCIES GENERALLY

CHAPTER 3--POWERS

Sec. 301. Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
	5 U.S.C. 22.	R.S. Sec. 161. Aug. 12, 1958, Pub. L. 85-619, 72 Stat. 547.

The words ``Executive department'' are substituted for ``department'' as the definition of ``department'' applicable to this section is coextensive with the definition of ``Executive department'' in section 101. The words ``not inconsistent with law'' are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words ``or military department'' are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

``All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the

provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer, or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force.''

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, Sec. 201(d), as added Aug. 10, 1949, ch. 412, Sec. 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides ``Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense'' is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Improvements in Identification-Related Documents

Pub. L. 104-208, div. C, title VI, Sec. 656, Sept. 30, 1996, 110 Stat. 3009-716, as amended by Pub. L. 106-69, title III, Sec. 355, Oct. 9, 1999, 113 Stat. 1027, provided that:

``(a) Birth Certificates.--

``(1) Standards for acceptance by federal agencies.--

``(A) In general.--

``(i) General rule.--Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate--

``(I) is a birth certificate (as defined in paragraph (3)); and

``(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

``(ii) Applicability.--Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

``(B) Regulation.--

``(i) Consultation with government agencies.--The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

``(ii) Selection of lead agency.--Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation

establishing standards of the type described in such clause.

``(iii) Deadline.--The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act [Sept. 30, 1996].

``(iv) Minimum requirements.--The standards established under this subparagraph--

``(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

``(II) may not require a single design to which birth certificates issued by all States must conform; and

``(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

``(2) Grants to states.--

``(A) Assistance in meeting federal standards.--

``(i) In general.--Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

``(ii) Allocation of grants.--The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

``(B) Assistance in matching birth and death records.--

``(i) In general.--The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

``(ii) Allocation and amount of grants.--The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

``(C) Demonstration projects.--The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a

project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

``(3) Birth certificate.--As used in this subsection, the term 'birth certificate' means a certificate of birth--

``(A) of--

``(i) an individual born in the United States; or

``(ii) an individual born abroad--

``(I) who is a citizen or national of the United States at birth; and

``(II) whose birth is registered in the United States; and

``(B) that--

``(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

``(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

``[(b) Repealed. Pub. L. 106-69, title III, Sec. 355, Oct. 9, 1999, 113 Stat. 1027.]

``(c) Report.--Not later than 1 year after the date of the enactment of this Act [Sept. 30, 1996], the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

``(d) Federal Agency Defined.--For purposes of this section, the term 'Federal agency' means any of the following:

``(1) An Executive agency (as defined in section 105 of title 5, United States Code).

``(2) A military department (as defined in section 102 of such title).

``(3) An agency in the legislative branch of the Government of the United States.

``(4) An agency in the judicial branch of the Government of the United States.''

Equal Opportunity in Federal Employment

Establishment of equal employment opportunity programs by heads of Executive departments and agencies, see Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319 and Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of Title 42, The Public Health and Welfare.