

To: IAJGS Members-2019 Annual Session

From: Jan Meisels Allen, Chairperson, IAJGS Public Records Access Monitoring Committee

Re: Public Records Access Monitoring Committee-Annual Report

Date: May 27, 2019

Committee Members 2018-2019

Jan Meisels Allen, Chairperson, Agoura Hills, California

Teven Laxer, Sacramento, California

Bert Lazerow, San Diego, California

Mark Nicholls, Edgeware, Middlesex, London, UK

Paul Silverstone, New York, New York

Catherine Youngren, Coquitlam, British Columbia, Canada

Ken Bravo, *ex officio*, President IAJGS, Cleveland, Ohio

The Public Records Access Monitoring Committee (PRAMC) had a busy year monitoring and addressing issues affecting access to public records.

Access to vital records, census documents and other records is essential to the ability of genealogists to research family histories—whether as a business or a personal hobby.

In some instances, PRAMC monitors legislation and regulations rather than taking action in order to assess whether action may become necessary. Information is posted on the *IAJGS Records Access Alert* as soon as it becomes available.

JewishGen

PRAMC is no longer permitted to post notices about pending matters on JewishGen as per the JewishGen Operations Committee rules, set four years ago, if the action is not a final adoption of a law, rule or court decision.

We are permitted to post a monthly one-line summary of postings on the *IAJGS Records Access Alert* the beginning of the following month. For example, the JewishGen posting in the first week of June 2019 covered the *IAJGS Records Access Alert* postings for all of May 2019. It is of the utmost importance that at least one member of each society subscribe to the *Records Access Alert* in order for societies to keep apprised of critical actions affecting records access.

We hit an all-time high of 780 subscribers earlier in May. However, whenever there are postings about the European Union's General Data Protection Regulation (GDPR) and/or the right to be forgotten (RTBF) we lose a few subscribers who might be questioning the relevancy of our postings. As IAJGS is an international organization, PRAMC believes it is critical that the *IAJGS Records Access Alert* covers the entire globe, not just North America. The "right to be forgotten" has raised its specter in Canada and the United States. Every genealogist should be aware and concerned about the right to be forgotten as a way by which an individual's history can be erased.

The GDPR became effective on May 25, 2018 one year ago—(see below). Now, the issue of privacy has become even more relevant. The PRAMC continues to review access to vital records and census records that result from government action worldwide and carefully selects issues on which IAJGS may take a proactive stance.

Accomplishments Summary

These are highlights of what PRAMC worked on since last year's report, dated June 1, 2018:

Records Access Alert:

- 292 *Records Access Alert* postings on 22 countries since the 2018 IAJGS Annual Meeting in August 9, 2018. This represents a 24 percent increase in reportings over 2018 due to increased legislative and regulatory activities that affect genealogy; and 353 Alerts since the 2018 Annual Report (June 1, 2018) on 24 countries.
- 780 subscribers to IAJGS *Records Access Alert*- more than doubled from 2015.
- Subscribing to the Records Access Alert was promoted by IAJGS at RootsTech, NGS and will be promoted at the FGS conference during the RPAC presentations. Also promoted at Southern California Genealogical Jamboree at JGSCV exhibit table. Other RPAC members promote *Records Access Alert* at their speaking engagements.
- The IAJGS Records Access Alert is also promoted at the IAJGS conference booth with fliers at the IAJGS table and at the annual meeting.
- Both Judy Russell's Legal Genealogist Blog and Dick Eastman's Online Genealogy Newsletter have promoted the IAJGS *Records Access Alert*

Presentation/Panels:

- Three conference panel presentations: FGS 2019 (August); NGS 2019 (May); IAJGS-PRAMC program at 2019 IAJGS Conference with Jan Meisels Allen.

Submitted Statements:

- IAJGS submitted nine statements on proposed legislation and regulations in US States: Delaware, Maine, Washington State; Indiana on proposed budget cuts to Allen County Library; and in Australia on Notice of Intended Marriage Form and Germany on destruction of death certifications

Legislation and Regulation Statements:

1. **Proposed Allen County (Indiana) Library** budget cuts were a result of a City Councilman's proposal to eliminate Allen County's business property tax. The proposed loss of funding for the library was a way to "fund" the proposed property tax elimination, resulting in the library no longer being self-sustaining. The Allen County Public Library's Genealogy Center is the largest public genealogy library in the United States. IAJGS sent a letter to the Fort Wayne, IN, City Council requesting that they not reduce funding for the Allen County Public Library. We pointed out the number of visitors and the corresponding revenues to the city which the library brings in annually, in addition to the great genealogical resource the library provides to the genealogical community. The City Council did not reduce the funding for the library. The fact that the Federation of Genealogical Societies held their annual conference the week the City Council was to vote on the budget helped as there was a lot of press about this issue.

2. **Washington State New Vital Records Act ESSB 5332.** In November 2018, the genealogical community was contacted by the Washington State Director of Department of Health. The Director shared their proposal of changing Washington State from an open records state to following the 2011 Model Vital Records Act. After numerous telephone conversations with the director and her staff the genealogical community, through RPAC, where IAJGS is a sponsoring member, we were able to get many of the "egregious" provisions modified. However, not all were gone. IAJGS submitted a letter with our concerns to the chairman and members of the first committee that was going to hear the bill. The committee chairman was also the author of the bill. I received a late-night call from a very angry legislator who did not understand our concerns and our opposition. After 45 minutes of talking with him he offered to review our concerns if we provided in legislative writing (cross-outs and underlines) new language. PRAMC member Teven Laxer and I wrote the language and submitted it. We were able to get 90 percent of the

changes adopted, which were never further amended. IAJGS submitted statements at every committee hearing in both chambers. The revisions we were able to get from the initial Department of Health version include: Death records available after 25 years; 100-year embargo on birth records; expansion of those relatives who may access the vital record without waiting for the embargo periods; including an authorized representative can be other relatives or genealogists; transferring the indices annually to the state archives; and transferring the records to the state archives within one year of their embargo period; and permitting non-certified informational copies, albeit without cause of death. The 25-year embargo on death records was the compromise to the genealogical community as they would not permit the informational copies to include cause of death. The Department of Health does not have authority over marriage records and therefore this legislation did not address embargoes for those records. The law becomes effective January 1, 2021.

3. Maine's bill on vital records, LR 1695, which would have reverted Maine to its previous open records state status was killed by the co-chairperson of the initial committee, who is a genealogist. The bill was proposed by a certified genealogist who is the past president of the Maine Genealogy Society and is RPAC's Maine state liaison. We can only surmise the Secretary of State's opposition, relating it to Frank Abignale and the movie *Catch Me If You Can* about the life of someone who stole another's identity tipped the scale against the bill. IAJGS, along with other RPAC sponsoring members worked with the genealogist who proposed the bill and found an author, as well as submitted a statement supporting the bill.

4. Delaware's vital records bill, HB 114, is still in committee as this report is being written. We were not aware of the first hearing. IAJGS submitted a statement to the Speaker of the House requesting the bill not be permitted to go to the floor for a vote to be sent to the Senate. Originally, the bill was going to extend the birth record embargo period from 72 years to 80 years and for death and marriage from 40 years to 50 years. On the floor of the House, it was further amended for a birth record embargo of 100 years, a marriage record embargo of 70 years and retained the original bill's death record embargo of 50 years. The bill is awaiting a hearing in the Senate.

5. Australia's Notice of Intended Marriage form (NOIM) proposed with absence of information critical to genealogists. The intent was to streamline forms. Changing the NOIM form would also eliminate the following information of interest to genealogists: Father's name in full; Mothers maiden name in full; Usual place of residence; Usual occupation. Nothing further has been reported or posted and checking the Commonwealth's Attorney General's website the existing form posted is the one without the proposed changes.

Monitoring Issues:

Reported on numerous international issues from countries including: Australia, Brazil, Canada, Denmark, European Union, Finland, France, Germany, India, Ireland, Italy, Malta, Netherlands, New Zealand, Romania, Russia, Switzerland, United Kingdom, Vatican and United States (25 jurisdictions plus the federal government) legislation and regulations. We also monitored regulatory issues that affect genealogists as they may use these services: Apple, Amazon, Google, Facebook, Microsoft, WhatsApp, and agencies such as the Arolsen Archives (formerly International Tracing Service), Court of Justice of the European Union, (US) Federal Trade Commission, US Supreme Court and report on organizations such as *Reclaim the Records*.

IAJGS Records Access Alert

The IAJGS created the *Records Access Alert* in February 2013 for postings regarding governmental or repository actions that enhance or reduce access to genealogically relevant records. The *Records Access Alert* also includes postings regarding advocacy when it is determined that action rather than monitoring is required. This is an announcement list, for which subscriptions are required. It is open to anyone affiliated with a genealogical organization, not only members of IAJGS or JewishGen and its SIG subscribers. All organizations should have at least one member subscribed. To subscribe go to:

<http://lists.iajgs.org/mailman/listinfo/records-access-alerts> and follow the instructions to enter your email address, full name and genealogical affiliation. You will receive an email response that you must reply to or the subscription will not be finalized. All postings are archived and may be accessed at: <http://lists.iajgs.org/mailman/private/records-access-alerts/>. As of the date of this report, we have 780 subscribers, but 17 IAJGS member organizations have not yet subscribed. Non-public access items are posted to the IAJGS Leadership Forum.

FGS/IAJGS/NGS Records Preservation and Access Committee (RPAC)

In North America, a joint committee of the FGS, IAJGS and the NGS monitors and recommends action to be taken on restrictions to access of public records. RPAC holds monthly conference calls and shares information via e-mail.

The IAJGS is one of the supporting/managing members of the RPAC. The other supporting members are the Federation of Genealogical Societies (FGS) and the National Genealogical Society (NGS). The Association of Professional Genealogists (APG), the Board for Certification of Genealogists (BCG), International Commission for the Accreditation of Professional Genealogists (ICAPGen), and the American Society of Genealogists (ASG) also serve as participating members. By invitation, RPAC also includes participation from a few commercial providers of genealogical information. The committee is chaired by Janet A. Alpert, past president of the NGS. IAJGS has been a major contributor of signatures of the Genealogists' Declaration of Rights at IAJGS Conferences, the Southern California Genealogy Jamboree, and from IAJGS member societies around the US.

Beginning in 2015, Teven Laxer has monitored legislation in California for RPAC, as well as IAJGS. By participating with this committee, IAJGS is better able to find out when legislative or regulatory actions are occurring and might need our attention. As a result of our collaboration with RPAC, IAJGS is able to maximize our effectiveness while preserving our limited resources. In Summer 2017, Teven Laxer was appointed as the second IAJGS RPAC representative.

Since last year's IAJGS conference, Jan Meisels Allen has participated on the RPAC Records Access Panel presentation at the NGS annual conference in St. Charles, MO, and will participate on a similar panel presentation at the FGS conference which will be held in Washington DC in late August.

Other RPAC activities since last year's report:

- Since 2013, RPAC has been in dialog with National Association for Public Health Statistics and Information Systems (NAPHSIS) about access to vital records in the fifty-seven states and reporting jurisdictions. Efforts to amend the Proposed Model Vital Statistics Act have not been successful. RPAC's recourse is to continue to advocate for more accessible records state by state.
- Requesting NAPHSIS to open death records to prevent identity theft of a deceased person by publicizing the death in the Death Master File.
- Requesting the embargo period of death records be reduced.
- Working with Washington State Department of Health to amend their proposed vital records legislation (see above).
- Working with Maine representative in attempt to revert Maine to an open records state (see above).

Genealogists' Declaration of Rights

Over the last few years, access to public records has been threatened due to concerns about privacy and identity theft. In response, RPAC launched a Genealogists' Declaration of Rights. The Genealogists' Declaration of Rights is a statement advocating open access to federal, state and local public records. In 2014, RPAC's three sponsoring organizations' Board of Directors (FGS, NGS and IAJGS) unanimously voted

to endorse the Genealogists' Declaration of Rights. To read about this, including an RPAC press release and most importantly a link to digitally sign the Genealogists' Declaration of Rights, go to the IAJGS website: <http://www.iajgs.org/blog/legislation/declaration-of-rights/>. The electronic version of the Declaration is available at <http://bit.ly/gen-declaration>. As of the date of this report, there are 10,977 signatures.

RPAC Priorities for the Next Year

RPAC developed priorities which include:

- Opposing NAHPSIS Model Act's increased embargo years;
- Access to NAPHIS EVVE Fact of Death System;
- Monitoring right to be forgotten legislation;
- Updating the vital records access database; and
- Continued collection of Genealogists' Declaration of Rights signatures.

National Coalition for History

In 2014, RPAC was invited to join the National Coalition for History (NCH) <http://historycoalition.org/> and, in 2015, RPAC Chair Jan Alpert started serving a two-year term on the NCH Policy Board. Her term ended January 2017.

The NCH is a consortium of over 50 organizations that advocate on federal legislative and regulatory issues. The coalition is made up of several diverse organizations representing historians, archivists, researchers, teachers, students, documentary editors, preservationists, political scientists, museum professionals and other stakeholders. Since 1982, NCH (formerly the National Coordinating Committee for the Promotion of History) has served as the voice for the historical and archival professions in Washington, D.C.

Effective in 2017, each of the three sponsoring organizations agreed to increase the RPAC membership to full membership in the National Coalition for History. Their major efforts this year have been lobbying efforts on funding of the Library of Congress, National Archives and Records Administration (NARA), and the National Historical Publications and Records Commission (NHPRC). See:

<http://historycoalition.org/advocacy/>

Why We Are Seeing an Explosion of Legislation and Government Action Addressing Records and Archives Access

A) The threat of identity theft

With the explosion of identity theft, not only in the United States, but worldwide, we are seeing legislators take the initiative to limit access to vital records in the erroneous belief that these actions will prevent identity theft. Vital records access is not the cause of identity theft. Changing access to vital records gives the appearance that legislators are doing something.

The Gemalto Report on data breach levels is a worldwide report. Its *First Half of 2018, Breach Level Index* revealed for the first half of 2018 that 945 publically disclosed data breaches led to almost 4.5 billion data records being compromised. Compared to the same period in 2017, the number of lost, stolen or compromised records increased by a staggering 133 percent, though the total number of breaches slightly decreased over the same period, signaling an increase in the severity of each incident. The New York State Attorney General's Office reported in *Information Exposed, 2017 Data Breaches in New York State* 1,583 breaches to the AG's Office.

However, in a word search, the terms, "genealogy," "genealogical," or "family history" were not found, making the obvious assumption that the study did not find these the cause of identity theft.

Genealogical websites have been blamed for causing identity theft by permitting access to the Social Security Death Index (SSDI). However, the main cause of identity theft is hacking into databases of banks, data collectors, government agencies, merchants, etc. Stronger and more secure safeguards by these institutions are needed to protect against identity theft. As genealogists, we have to educate our legislators as to the real cause of identity theft and to insist they keep access to public records open.

In the United States, with the changes in the health care law and how health care is being provided, a side effect is the increase in the amount of personal information in health care databases, the size of those databases, the number of people who access those databases, the amount of information transferred from one database to another, and the lessening of the degree of credentialing imposed upon the typical person who has legitimate access to those databases. It portends a greater possibility of potential problems with personal information being accessed. The *First Half of 2018 Gemalto Report* stated "Healthcare continues to lead in number of incidents (27 percent). The largest such incident, 211 LA County, exposed 3.5 million records through accidental loss... Social media ranks top for number of records breached (56 percent) due to the high-profile customer data compromises at Facebook and Twitter, involving 2.2 billion and 336 million respectively."¹

B) Budget cuts and shortfalls

Unfortunately, several local and national government budget shortfalls have led to increases in the cost of researching and obtaining government records, and may continue to occur. Due to the worldwide fiscal situation, governments are reducing funding for national archives and in some instances merging their archives with other government agencies. We started seeing this in New Zealand in 2010. Since then, we have seen it in Canada with the Library and Archives Canada, and the 2014 threat in Oklahoma when an attempt was made to consolidate the Oklahoma Historical Society with the Department of Tourism. Indiana was the focus of this debate in 2015 when the governor proposed a 24 percent decrease in state library funding. In the end, the loud outcry restored the Genealogy Division and statewide database funding. In 2016, the issue appeared in Iowa with funding for a new building vs. access and staffing for the archives. In 2017, the Library of Virginia was threatened, but genealogists were successful in getting most of the funding restored. We have seen individual regional archives and libraries also facing similar budget cuts, 2019 the Michigan History Center impacting the Archives of Michigan and the National Archives of Australia.

Your Role in Preserving Access to Vital Records and Census Information

Achieving access to vital records and census information takes everyone's efforts. Please get involved by contacting your state or national representatives when there is an access issue that affects you. "All politics are local." While IAJGS may submit statements, your comments to your elected official carry more weight. The basis of genealogical research is vital records. It is not just family history, but the tracing of medical family history, and thus the need for access to records. Do your part to keep access alive.

Several years ago, we asked for each society to identify a key person who would monitor records access in their area and report to the PRAMC. So far, only three societies advised us that such board appointments have been made. This is an activity all of us must be involved with—without access to records, we cannot properly research our genealogy!

Several Major Issues Confronting Genealogists

There are four main issues to which PRAMC devoted many hours, in addition to the usual monitoring and letter writing on specific issues:

General Data Protection Regulation (GDPR)

For the past year, PRAMC spent by far the largest number of hours and number of Records Access Alert postings on the European Union's General Data Protection Regulation and its implementation by data regulators. GDPR became effective May 28, 2018. In addition to personal data security the regulation codifies the "right to be forgotten," as well as "the right of erasure."

The GDPR changed the focus worldwide, not just in the EU, to privacy issues. This affects social media, press, as well as access to vital records.

The GDPR governs the use and privacy of EU citizens' data and the Directive governs EU citizens' data by law enforcement. The EU represents 500 million residents in the 28 member countries. Prior to the GDPR becoming effective, there was a patchwork of national rules and now there is one law for everyone. (While invoking Article 50 of the Treaty of Lisbon to leave the European Union, the United Kingdom has not yet left the EU and the "Brexit" proposal by Prime Minister May failed four times resulting with her resignation.) The UK Parliament is currently looking at enacting their own and similar privacy legislation for when they leave the European Union.

The legislation was designed to ensure that precautions are made to protect personal data. Failure of protecting personal data results in it being subject to an attack or data breach which is required to be reported to both their customers and the data regulators within 72 hours of being made aware of the incident. It has affected how businesses obtain, store and use personal information. Privacy, Privacy, Privacy is the new issue worldwide with positive and negative results.

One of the regulation's provisions is the prohibition of the publication of personal data of living persons, especially when it is considered "special" personal data, such as religion, or political beliefs. There have already been closures of databases as a result of the GDPR that were reported in last year's report.

Of interest to genealogists (emphasis added): The protection of persons in relation to the processing of their personal data is a fundamental right laid down in the Charter of Fundamental Rights of the EU (Article 8) and in the Treaty on the Functioning of the European Union (Article 16). The GDPR explicitly states that the **regulation does not apply to deceased individuals**. In addition, it states, "Public authorities or public or private bodies that hold records of public interest should be services which, pursuant to Union or Member State law, **have a legal obligation** to acquire, preserve, appraise, arrange, describe, communicate, promote, disseminate and provide access to records of enduring value for general public interest. Member States should also be authorized to provide for the further processing of personal data for archiving purposes, for example with a view to providing specific information related to the political behavior under former totalitarian state regimes, genocide, crimes against humanity, in particular the **Holocaust, or war crimes.**"

For those of us who rely on searches to assist us in our genealogical research, the new GDPR has major impacts on us as it will affect our ability to research links from certain countries or from certain parts of the Internet.

It must be remembered there is a fundamental difference between the EU and the United States when it comes to privacy. In the EU, privacy takes precedence and in the US, the constitutional right of freedom of speech takes priority—this is the crux of the debate on the right to be erased or right to be forgotten. However, with enactment of the California Consumer Privacy Act last year which becomes effective in 2020, other states are also looking to enact or have enacted legislation and there are several bills being reviewed in the United States Congress to also protect the consumer's privacy while not violating US constitutional rights.

Facebook, Google, Microsoft and other Social Media Companies' Legal Issues

There are multiple lawsuits against multinational corporations and other social media companies that have been filed in the European Union. The IAJGS Records Access Alert has devoted numerous postings about regulatory sanctions against: GAFA : Google, Apple, Facebook, and Amazon, and more. These actions are about their dominance in the industry and whether they violate EU anti-trust issues; privacy, transparency and more.

Most recently is the issue of taxing these large companies. France could not wait until the EU could decide whether to tax and if so how much and instituted a 3 percent tax on gross revenues retroactive to January 1, 2019 on companies with 750 million Euros (\$842 million USD) in worldwide revenue and 25 million Euros in French digital sales. This amounts to about 30 companies predominately from the United States. Meantime, the EU is still debating an EU-wide tax so that companies whose European headquarters are located in more "tax friendly" countries will not be able to evade the new revenue stream for individual countries. The Organization for Economic Cooperation and Development (OCED) comprised of mostly wealthy countries is still working toward global reform of digital taxation.

To view other litigation in the EU and other countries read the IAJGS Records Access Alert.

Google has approximately 90 percent of the European market, varying by country. According to the most recent transparency report, In the period May 29, 2014- May 25,2019, Google reported receiving roughly 806,000 requests calling for the delisting of about 3.1 million URLs. 55.4% of those URLs were delisted.² Google is the 21st century library. Imagine what people would say if every library in the world burned half of their books and magazines?

Microsoft's biannual transparency report for July 1, -December 31, 2018 was released this Spring. Bing, Microsoft's search engine, reported there were 2,689 requests received covering 10,628 URLs They accepted 6,030 URLs for removal-or 57 percent. Since the "right to be forgotten" began in May 2014 until the end of December 2018, Microsoft received 24,419 requests for removal from 89,410 -43 percent of the requests were accepted- 57 percent were rejected.³

Right to be Forgotten

The right to be forgotten (RTBF) began in the EU with the Court of Justice of the European Union finding that search engines would be required to remove links to certain postings if they met certain criteria in a ruling in 2014, *Google Spain SL, Google Inc v Agencia Española de Protección de Datos, Mario Costeja González*, the GDPR codified the RTBF. The data is to be deleted if requested and is "inadequate, irrelevant or no longer relevant". Customers have the right to request companies to delete all of the data held on them permanently. There have been thousands of requests in the past year to have their information removed. If companies suffer data breaches and the requested data to be deleted has not been it is possible that data has been compromised. Currently it is up to the search engines to determine if something is to be erased.

However, the global reach is far beyond the European Union. We have seen this being adopted in the following countries: Argentina, Australia, Brazil, China, Hong Kong, India, Mexico, Russia, South Korea and Turkey.

A case before the European Union's Court of Justice brought by the French data regulator, National Commission for Information Technology and Civil Liberties (CNIL) as to whether the RTBF is extraterritorial, is still waiting for the full court's determination. In January 2019, the court's advocate general gave an initial opinion that search engines should only be enforceable within the EU and not globally. While it is usual, it is not required that the full court endorse initial opinions. The advocate

general stated," the right to be forgotten must be balanced against other "fundamental rights", such as the right to data protection, privacy and the legitimate public interest in accessing information."

Right to be forgotten exposes direct conflicts with two groups: data privacy advocates and free speech advocates.

In prior years there were bills introduced in the New York State legislature which never had hearings and this year no such bill has been yet introduced.

In California, there was a court case that went to the California Supreme Court involving a posting on Yelp where one reader "defamed" an attorney. The attorney was seeking to enforce the take down of the comments on Yelp-but was requiring Yelp to do the removal—not the comment poster. Yelp is a non-party to the original litigation, and therefore, was found not a party to the case that is the responsibility of the poster. In the US, there is the *Federal Communications Decency Act Section 230* which provides for online free speech. This is what the California Supreme Court found and when the plaintiff petitioned the US Supreme Court – they denied certiorari, which is denied taking the case—the California Supreme Court decision is final. Also in California, there is existing law that enables minors to have embarrassing materials removed from their Internet pages.

In 2015, Consumer Watchdog submitted a request to the Federal Trade Commission to impose the right to be forgotten in the United States. Thus far no action by the FTC has been taken.

There are individual organizations that have taken positions, such as Cleveland.com, that have removed some names from dated stories about minor crimes and other embarrassing news. They are giving people a chance to "clear the record". They will **consider** removing a name from a story on their site if it causes the person harm. Cleveland.com will not do this about serious or violent or sex crimes nor public corruption.

United States: 2011 Model Vital Records Act Revision

The Model State Vital Statistics Act was developed to serve as a model for states in preparing laws and regulations on the collection and publication of vital statistics. The Model Act currently restricts access to birth records for 100 years and death, marriage, and divorce records for 50 years. A working group consisting of state and local vital statistics executives drafted the 2011 Revision of the Model Vital Statistics Act, which would extend the restriction periods to 125 years after the date of a live birth, 75 years after the date of death, and 100 years after the date of marriage or divorce.

The Department of Health and Human Services (HHS) put the 2011 Revision "on hold" in April 2012. Impatient for DHHS approval, the National Association for Public Health Statistics and Information Systems (NAPHSIS) endorsed the Model Act in 2011. Frustrated by the delay in approval at the federal level, several state vital records officials introduced the 2011 Model Act in their state legislatures. The working group has been disbanded, so our recourse is to work on the legislation as it is introduced in various states.

At the National Genealogical Society conference in May 2019, the current NAPHSIS president, Elizabeth (Lou) Saadi, announced that they are working on a further revision which will include parental acts. This would include requiring a birth certificate for a baby born to a surrogate mother to have the birth mother listed as the mother on the birth certificate, not the DNA mother regardless of any legal agreements stating otherwise. There are other issues as well that we will need to watch once this latest Model Act is out: Is a physician's letter sufficient to change the birth record for transgenders, or must all the transforming tests and hormonal therapies be completed first? What about sperm donors and the original agreement of privacy with identification becoming known through DNA testing?

District of Columbia We missed this legislation completely which adopted the 2011 Model Vital Record Act in total including the 125/10/75 year embargo periods

Delaware Legislation with greater embargo periods, but not to the 2011 Model Act embargo periods has passed the Assembly and before their Senate.

Maine As mentioned above, IAJGS supported legislation failed to remove Maine from a state with aspects of the embargo periods and treating indices as in the 2011 Model Vital Records Access Act.

Michigan Legislation has been introduced to extend the birth record embargo period to 130 years—even longer than the 2011 Model Vital Records Act. RPAC was advised the bill was not introduced by the Vital Records Office and is now on hold.

New York City Enacted the 2011 Model Vital Records Act last year. While they ignored the 5,000 plus comments in opposition, they did adopt a new rule expanding the list of relatives whom may obtain records without waiting for the embargo period which became effective in January 2019. *Reclaim the Records* has filed suit against the New York City Department of Health and Board of Health which created the "irrational" rules that exceeded their authority in making local rules and policies that are stricter than the actual New York State law. A decision is not expected this year. New York City has its own Department of Health and is considered one of the 57 Public Health jurisdictions by the US Department of Health and Human Services. The litigation is asking the judge to strike and void the new rules as they ignored the 6,000 unanimously negative public comments.

Texas Legislation in committee to extend birth records embargo period to 90 years.

New Access to Records, Monitoring and Reporting Issues (To read all major activities go to the *Records Access Alerts Archives*.)

Australia

- Western Australia Metropolitan Cemeteries Board requires prior approval of next of kin to take gravestone photos or videos.
- Australian Parliament passed the *Assistance and Access Bill*" regarding technology surveillance on smartphone applications which would allow authorities greater access to criminal suspects' secure messages.
- Australian Competition and Consumer Commission Chairman warns increased regulation of technology giants

Canada

- Canadian Prime Minister Justin Trudeau announced plans for a new Canadian digital charter. Also promised is an overhaul of Canada's Privacy law, Personal Information Protection and Electronic Documents Act (PIPEDA) to ensure it is better suited to today's data-driven economy.
- The Office of the Privacy Commissioner (OPC) launched a reference case in Federal Court to confirm the interpretation he presented last year which said the right to de-index search results already exists under Canada's Personal Information Protection and Electronic Documents Act (PIPEDA).
- The privacy commissioners of Canada, Alberta and British Columbia jointly issued guidelines aimed at assisting organizations to obtain meaningful consent from individuals for the collection, use and disclosure of their personal information.
- A poll by the Angus Reid Institute found 51 percent of Canadians agree that they should have the "right to be forgotten online." The survey found 22 percent strongly support and 34 percent support Canada adopting a right to be forgotten.
- Canadian Privacy Commissioner Daniel Therrien wants greater powers of investigation and enforcement.

European Union—See elsewhere in report for more on activities of EU

- Parliament Votes in favor of controversial copyright law.

France

- Google Fined \$57 Million USD as first penalty for a U.S. Based Company under GDPR for lack of transparency and lack of valid consent.
- French Government imposes 3 percent tax on internet giants.

Germany

- In landmark decision, competition watchdog tells Facebook to stop combining user information across its platforms.

Italy

- Supreme Court of Cassation rules adoptee may know biological siblings as well as birth parents--siblings must be consulted and consent to disclosure.

Netherlands

- Authority for Consumers and Markets announces it will Investigate Apple and Google for Antitrust
- Dutch Data Privacy Regulator states tracking cookies are not GDPR compliant regarding their own apps.

New Zealand

- Ten percent of population did not complete census-may be prosecuted.

United Kingdom

- The General Register Office makes Portable Document Format (PDF) experiment permanent.

United States

- 2020 US Census question on citizenship status heard by US Supreme Court.
- House of Representatives passes new net neutrality bill "Save the Internet".
- Federal Trade Commission seeks to examine the privacy practices of broadband providers
- Maryland bill introduced prohibiting law enforcement to use publicly available DNA databases.
- Ohio Data Protection Act effective November 2, 2018

Vatican

- Pope Francis announces Vatican Archives will unseal the archives of Pope Pius XII

All IAJGS comments and recommendations concerning legislation and rule-making support the position that there should be public access and, if some restrictions are necessary, then these restrictions must not be infinite. Birth, marriage, divorce, and death records should be open to the public and available for research. We are trying to open public access, within a specified time period, to records that currently may have extreme embargo dates or permanent closure.



Jan Meisels Allen
Chairperson, IAJGS Public Records Access Monitoring Committee

¹ <https://www.gemalto.com/press/pages/data-breaches-compromised-4-5-billion-records-in-first-half-of-2018.aspx>

² <https://transparencyreport.google.com/eu-privacy/overview?hl=en>

³ <https://www.microsoft.com/en-us/corporate-responsibility/crrr>