

Senate Bill No. 1614

Passed the Senate August 30, 2002

Secretary of the Senate

Passed the Assembly August 28, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 102230 of, and to add Sections 102231 and 102232 to, the Health and Safety Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1614, Speier. Public records: vital statistics.

Existing law requires the Director of Health Services, as the State Registrar of Vital Statistics, to administer the registration of births, deaths, fetal deaths, and marriages. Existing law requires the State Registrar to arrange and permanently preserve the certificates in a systematic manner and to prepare and maintain a comprehensive and continuous index of all certificates registered.

Existing law, the California Public Records Act, requires state and local agencies to make records that are not otherwise exempt from disclosure available to the public upon receipt of a request that reasonably describes an identifiable record, and upon payment of fees to cover costs.

This bill would require the comprehensive index described above, and comprehensive birth and death record indices prepared or maintained by local registrars and county recorders, to be kept confidential, except that these indices may be disclosed to government agencies. This bill would exempt these indices from disclosure under the California Public Records Act.

This bill would prohibit a government agency from selling or releasing these indices, except as specified, and from posting these indices on the Internet.

This bill would require the State Registrar to prepare and maintain separate noncomprehensive indices of all California birth and death records for public release, as well as indices for purposes of law enforcement or preventing fraud. The bill would also provide for the release of certain birth and death data files, as defined, by the State Registrar, local registrars, and county recorders in accordance with specified requirements. It would require requesters of these indices and data files to provide proof of identity, complete a form containing prescribed information, and sign the form under penalty of perjury, and would prohibit these indices and data files from being used for fraudulent



purposes or from being posted on the Internet unless certain requirements are met.

This bill would also make it a misdemeanor for any person to violate the above provisions and would provide that any violators may be denied further access to the indices or data files maintained by the department.

By expanding the scope of the crime of perjury, creating new crimes, and by increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 102230 of the Health and Safety Code is amended to read:

102230. (a) (1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain comprehensive and continuous indices of all certificates registered.

(2) The birth and death record indices prepared pursuant to paragraph (1) and all comprehensive birth and death record indices prepared or maintained by local registrars and county recorders shall be kept confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).



(3) Notwithstanding paragraph (2), the State Registrar, at his or her discretion, may release comprehensive birth and death record indices to any government agency. Local registrars and county recorders, when requested, shall release their comprehensive birth and death record indices to the State Registrar. A government agency that obtains indices pursuant to this paragraph may not sell or release the index or any portion of its contents to any other person except as necessary for official government business and shall not post the indices or any portion thereof on the Internet.

(b) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth and death records for public release.

(2) For purposes of this section, noncomprehensive birth record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, and place of birth.

(3) For purposes of this section, noncomprehensive death record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, place of birth, place of death, date of death, and father's last name.

(4) Requesters of the birth or death record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) The proposed use of the birth or death record indices.

(B) A disclaimer crediting any analyses, interpretations, or conclusions reached regarding the birth or death record indices to the author and not to the State Department of Health Services.

(C) Assurance that technical descriptions of the birth or death record indices are consistent with those provided by the State Department of Health Services.

(D) Assurance that the requester shall not sell, assign, or otherwise transfer the birth or death record indices.

(E) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(5) Birth and death record indices obtained pursuant to this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

(c) (1) The State Registrar shall prepare and maintain separate noncomprehensive indices of all California birth and death records for purposes of law enforcement or preventing fraud.



(2) For purposes of this section, noncomprehensive birth record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, sex, date of birth, place of birth, and mother's maiden name.

(3) For purposes of this section, noncomprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, social security number, date of birth, place of birth, date of death, and father's last name.

(4) The birth and death record indices prepared pursuant to this subdivision shall be made available to financial institutions, as defined in 15 U.S.C. Sec. 6827(4)(A) and (B), its representatives or contractors, consumer credit reporting agencies, as defined in subdivision (d) of Section 1785.3 of the Civil Code, its representatives or contractors, those entities providing information services for purposes of law enforcement or preventing fraud, officers of the court for the sole purpose of verifying a death, and to persons or entities acting on behalf of law enforcement agencies or the court, or pursuant to a court order.

(5) The birth and death record indices prepared pursuant to this subdivision may be released to any government agency.

(6) Requesters of the birth or death record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) An agreement not to release or allow public access to the birth or death record indices, and an agreement not to post the indices on the Internet, except as permitted by this subdivision.

(B) The proposed use of the birth or death record indices.

(C) The names of all persons within the organization, if applicable, who will have access to the birth or death record indices.

(D) A disclaimer crediting any analyses, interpretations, or conclusions reached regarding the birth or death record indices to the author and not to the State Department of Health Services.

(E) Assurance that technical descriptions of the birth or death record indices are consistent with those provided by the State Department of Health Services.



(F) Assurance that the requester shall not sell, assign, or otherwise transfer the birth or death record indices, except as permitted by this subdivision.

(G) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(7) (A) Birth and death record indices, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the Internet.

(B) Notwithstanding subparagraph (A), individual information contained in birth and death record indices may be posted on the Internet if all of the following requirements are met:

(i) The individual information is posted on a Web site that is protected by a password.

(ii) The individual information is posted on a Web site that is available to subscribers only for a fee.

(iii) The individual information is not posted for public display.

(iv) The individual information is available to subscribers pursuant to a contractual agreement.

(v) The individual information is posted for purposes of law enforcement or preventing fraud.

(d) Mail-in requests from nongovernmental agencies for birth and death record indices requested pursuant to subdivisions (b) and (c) shall include a notarized statement attesting to the identity of the requester.

(e) Noncomprehensive birth and death record indices pursuant to subdivisions (b) and (c) shall be updated annually.

(f) All birth and death record indices provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) Any noncomprehensive birth and death record indices created by local registrars or county recorders shall be subject to the conditions for release required by this section.

(h) A person or entity that obtains a birth or death record index, or any portion thereof, from a requester who has obtained the index in accordance with paragraph (6) of subdivision (c) may not sell, assign, or otherwise transfer that index, or any portion thereof, to any third party.



(i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive, shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 2. Section 102231 is added to the Health and Safety Code, to read:

102231. (a) Notwithstanding any other provision of law, birth data files, birth data files for public release, death data files for public release, and death data files for purposes of law enforcement or preventing fraud prepared and maintained by the State Registrar, local registrars, and county recorders shall only be released as follows:

(1) Birth data files containing personal identifiers shall be subject to the same restrictions as the confidential portion of a birth certificate and shall only be released under the terms and conditions specified in Section 102430.

(2) Birth data files for public release shall not contain the mother's maiden name.

(3) Death data files for public release shall not contain the mother's maiden name and social security number.

(4) Death data files for purposes of law enforcement or preventing fraud shall include the mother's maiden name and social security number. Death data files prepared pursuant to this subdivision may be released to governmental agencies and to those entities described in paragraph (4) of subdivision (c) of Section 102230.

(5) Death data files containing personal identifying information may be released to persons expressing a valid scientific interest, as determined by the appropriate committee constituted for the protection of human subjects that is approved by the United States Department of Health and Human Services and has a general assurance pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(b) Requesters of birth and death data files pursuant to this section shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(1) An agreement not to release the birth or death data files and not to post the files on the Internet, except as permitted by this subdivision.



(2) An agreement not to provide public access to data files obtained pursuant to paragraphs (1) and (4) of subdivision (a).

(3) The proposed use of the data file.

(4) For data files obtained pursuant to paragraphs (1) and (4) of subdivision (a), the names of all persons within the organization, if applicable, who will have access to the data files.

(5) A disclaimer that credits any analyses, interpretations, or conclusions reached regarding the birth or death data files to the author and not to the State Department of Health Services.

(6) Assurance that technical descriptions of the data files are consistent with those provided by the State Department of Health Services.

(7) Assurance that the requester shall not sell, assign, or otherwise transfer the data files, except as permitted by subdivision (e).

(8) Assurance that the requester shall not use the data files for fraudulent purposes.

(c) Mail-in requests for birth and death data files pursuant to this section shall include a notarized statement attesting to the identity of the requester.

(d) Birth and death data files provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(e) (1) Birth and death data files, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the Internet.

(2) Notwithstanding paragraph (1), individual information contained in death data files obtained pursuant to paragraph (4) of subdivision (a) may be posted on the Internet if all of the following requirements are met:

(A) The information is posted on a Web site that is protected by a password.

(B) The information is posted on a Web site that is available to subscribers only for a fee.

(C) The information is not posted for public display.

(D) The information is available to subscribers pursuant to a contractual agreement.

(E) The information is posted for purposes of law enforcement or preventing fraud.



(f) A person or entity that obtains a birth or death data file, or any portion thereof, from a requester who has obtained the data file in accordance with subdivision (b) may not sell, assign, or otherwise transfer that data file, or any portion thereof, to any third party.

(g) This section shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 3. Section 102232 is added to the Health and Safety Code, to read:

102232. (a) (1) Any person who violates Section 102230 or 102231 may be denied further access to the indices or data files maintained by the department.

(2) Any person who violates Section 102230 or 102231 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed one year, or a fine of one thousand dollars (\$1,000), or by both the imprisonment and fine, for each violation.

(3) The penalties described in paragraphs (1) and (2) shall not be construed to limit any other remedies provided by law.

(b) Notwithstanding Section 126 of the Penal Code, the crime of perjury specified in paragraph (4) of subdivision (b) of Section 102230, paragraph (6) of subdivision (c) of Section 102230, and subdivision (b) of Section 102231, shall be punishable as a misdemeanor.

(c) Paragraph (1) of subdivision (a) shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to



local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 2002

Governor

