

ASSEMBLY BILL

No. 1102

Introduced by Assembly Member Hancock

February 22, 2005

An act to amend Sections 300, 302, 303, 306, 307, 309, 351, 354, 355, 357, 358, 359, 360, 400, 420, 422, 425, 500, 501, 503, 505, 506, 508, 509, 510, 511, 530, 531, 532, 533, 534, 535, and 536 of, to amend the heading of Part 2 (commencing with Section 350) of Division 3 of, and to repeal Sections 353, 424, and 502 of, the Family Code, and to amend Sections 100430, 102130, 102140, 102310, 102325, 102355, 103125, 103175, 103180, 103200, 103235, 103730, 103780, and 103785 of, and to repeal Section 103595 of, the Health and Safety Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as introduced, Hancock. Marriage.

Existing law provides that marriage is a personal relation arising out of a civil contract between a man and a woman, and requires the licensure and solemnization thereof. Existing law provides for the issuance of marriage and confidential marriage licenses and sets the fees thereof. Existing law further imposes duties on county clerks in that connection, as specified.

This bill would, among other things, revise and recast those provisions and related terms. The bill would conform various statutory provisions of law to those changes. The bill would further prohibit the issuance of confidential marriage licenses based upon an inability of the parties to appear, and would make related changes with regard to notary publics and the state registrar. In issuing a duplicate marriage license or confidential marriage license, the bill would allow the county clerk to charge any fee to cover the actual costs of issuing that

duplicate license, and would change the fee charged notary publics for approval to issue confidential marriage licenses to an unspecified amount.

By adding to the duties of county employees to comply with those changes, 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.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 300 of the Family Code is amended to
2 read:

3 300. (a) Marriage is a personal relation arising out of a civil
4 contract between a man and a woman, to which the consent of
5 the parties capable of making that contract is necessary. Consent
6 alone does not constitute marriage. Consent must be followed by
7 the issuance of a license and solemnization as authorized by this
8 division, except as provided by Section 425 and Part 4
9 (commencing with Section 500).

10 (b) *For purposes of this part, the document issued by the*
11 *county clerk is a marriage license until it is registered with the*
12 *county recorder or county clerk, at which time the license*
13 *becomes a marriage certificate.*

14 SEC. 2. Section 302 of the Family Code is amended to read:

15 302. (a) An unmarried male or female under the age of 18
16 years is capable of consenting to and consummating marriage ~~if~~
17 ~~each of the following documents is filed with the county clerk~~
18 ~~issuing the marriage license:~~

19 ~~(a) upon obtaining a court order granting permission to the~~
20 ~~underage person or persons to marry.~~

1 (b) The *court order and* written consent of the parents of each
2 underage person, or of one of the parents or the guardian of each
3 underage person:

4 ~~(b) A court order granting permission to the underage person~~
5 ~~to marry, obtained on the showing the court requires shall be~~
6 ~~filed with the clerk of the court, and a certified copy of the order~~
7 ~~shall be presented to the county clerk at the time the marriage~~
8 ~~license is issued.~~

9 SEC. 3. Section 303 of the Family Code is amended to read:

10 303. If it appears to the satisfaction of the court by application
11 of a minor that the minor requires a written consent to marry and
12 that the minor has no parent or has no parent capable of
13 consenting, the court may make an order consenting to the
14 issuance of a marriage license and granting permission to the
15 minor to marry. The order shall be filed with the *clerk of the*
16 *court and a certified copy of the order shall be presented to the*
17 county clerk at the time the *marriage* license is issued.

18 SEC. 4. Section 306 of the Family Code is amended to read:

19 306. Except as provided in Section 307, a marriage shall be
20 licensed, solemnized, and authenticated, and ~~the certificate of~~
21 ~~registry of~~ *authenticated marriage license* shall be returned to the
22 *county recorder of the county where the marriage license was*
23 *issued*, as provided in this part. Noncompliance with this part by
24 a nonparty to the marriage does not invalidate the marriage.

25 SEC. 5. Section 307 of the Family Code is amended to read:

26 307. This division, so far as it relates to the solemnizing of
27 marriage, is not applicable to members of a particular religious
28 society or denomination not having clergy for the purpose of
29 solemnizing marriage or entering the marriage relation, if all of
30 the following requirements are met:

31 (a) The parties to the marriage ~~make, sign, and endorse on or~~
32 ~~attach to the license a statement, in the form prescribed by the~~
33 State Department of Health Services, showing all of the
34 following:

- 35 (1) The fact, time, and place of entering into the marriage.
- 36 (2) The *printed names*, signatures, and ~~places of residence~~
37 *mailing addresses* of two witnesses to the ceremony.
- 38 (3) The religious society or denomination of the parties to the
39 marriage, and that the marriage was entered into in accordance
40 with the rules and customs of that religious society or

1 denomination. The statement of the parties to the marriage that
2 the marriage was entered into in accordance with the rules and
3 customs of the religious society or denomination is conclusively
4 presumed to be true.

5 (b) The License and Certificate of ~~Declaration of Non-Clergy~~
6 Marriage, endorsed pursuant to subdivision (a), is returned to the
7 county recorder of the county in which the license was issued
8 within ~~30~~ 10 days after the ceremony.

9 SEC. 6. Section 309 of the Family Code is amended to read:
10 309. If either party to a marriage denies the marriage, or
11 refuses to join in a declaration of the marriage, the other party
12 may proceed, by action *pursuant to Section 103450 of the Health*
13 *and Safety Code*, to have the validity of the marriage determined
14 and declared.

15 SEC. 7. The heading of Part 2 (commencing with Section
16 350) of Division 3 of the Family Code is amended to read:

17
18 PART 2. MARRIAGE LICENSE ~~AND CERTIFICATE OF~~
19 REGISTRY
20

21 SEC. 8. Section 351 of the Family Code is amended to read:
22 351. The marriage license shall show all of the following:

- 23 (a) The identity of the parties to the marriage.
- 24 (b) The parties' ~~real and~~ *full given names at birth or by court*
25 *order, and places of residence mailing addresses.*
- 26 (c) The parties' ~~ages~~ *dates of birth.*

27 SEC. 9. Section 353 of the Family Code is repealed.
28 ~~353. If an applicant for a marriage license is under the age of~~
29 ~~18 years, the license may be granted only if both parties are~~
30 ~~capable of consenting to and consummating marriage as provided~~
31 ~~for in Section 302, and the consent or court order required by~~
32 ~~Section 303 are filed with the county clerk.~~

33 SEC. 10. Section 354 of the Family Code is amended to read:
34 354. (a) Each applicant for a marriage license ~~may~~ *shall* be
35 required to present authentic *photo* identification *acceptable to*
36 *the county clerk* as to name *and date of birth. A credible witness*
37 *affidavit or affidavits may be used at the discretion of the county*
38 *clerk in lieu of authentic photo identification.*

39 (b) For the purpose of ascertaining the facts mentioned or
40 required in this part, if the clerk deems it necessary, the clerk

1 may examine the applicants for a marriage license on oath at the
2 time of the application. The clerk shall reduce the examination to
3 writing and the applicants shall sign it.

4 (c) If necessary, the clerk may request additional documentary
5 proof as to the accuracy of the facts stated.

6 (d) Applicants for a marriage license shall not be required to
7 state, for any purpose, their race or color.

8 (e) If a marriage is to be entered into pursuant to subdivision
9 (b) of Section 420, the attorney-in-fact shall comply with the
10 requirements of this section on behalf of the applicant who is
11 overseas, if necessary.

12 SEC. 11. Section 355 of the Family Code is amended to read:

13 355. (a) The forms for the ~~application for a marriage license~~
14 ~~and the marriage license~~ shall be prescribed by the State
15 Department of Health Services, and shall be adapted to set forth
16 the facts required in this part.

17 (b) The ~~form for the application for a marriage license~~ shall
18 include an affidavit ~~on the back~~, which the applicants shall sign,
19 affirming that they have received the brochure provided for in
20 Section 358. If the marriage is to be entered into pursuant to
21 subdivision (b) of Section 420, the attorney-in-fact shall sign the
22 affidavit on behalf of the applicant who is overseas.

23 ~~(e) The affidavit required by subdivision (b) shall state:~~

24
25 AFFIDAVIT

26
27 — I acknowledge that I have received the brochure titled _____

28 _____
29 Signature of Bride _____ Date _____

30 _____
31 Signature of Groom _____ Date _____

32
33 SEC. 12. Section 357 of the Family Code is amended to read:

34 357. (a) The county clerk shall number each marriage license
35 issued and shall transmit at periodic intervals to the county
36 recorder a list or copies of the licenses issued.

37 (b) Not later than 60 days after the date of issuance, the county
38 recorder shall notify licenseholders whose ~~certificate of registry~~
39 *marriage license* has not been returned of that fact and that the

1 marriage license will automatically expire on the date shown on
2 its face.

3 (c) The county recorder shall notify the licenseholders of the
4 obligation of the person solemnizing their marriage to return the
5 ~~certificate of registry and endorsed marriage~~ license to the
6 recorder's office within 10 days after the ceremony.

7 SEC. 13. Section 358 of the Family Code is amended to read:

8 358. (a) The State Department of Health Services shall
9 prepare and publish a brochure ~~which~~ *that* shall contain the
10 following:

11 (1) Information concerning the possibilities of genetic defects
12 and diseases and contain a listing of centers available for the
13 testing and treatment of genetic defects and diseases.

14 (2) Information concerning acquired immune deficiency
15 syndrome (AIDS) and the availability of testing for antibodies to
16 the probable causative agent of AIDS.

17 (3) Information concerning domestic violence, including
18 resources available to victims and a statement that physical,
19 emotional, psychological, and sexual abuse, and assault and
20 battery, are against the law.

21 (b) The State Department of Health Services shall make the
22 brochures available to county clerks who shall distribute a copy
23 of the brochure to each applicant for a marriage license,
24 including applicants for a confidential marriage license and
25 notary publics receiving a confidential marriage license pursuant
26 to Section 503.

27 (c) Each notary public ~~authorizing~~ *issuing* a confidential
28 marriage *license* under Section 503 shall distribute a copy of the
29 brochure to the applicants for a confidential marriage license.

30 (d) To the extent possible, the State Department of Health
31 Services shall seek to combine in a single brochure all statutorily
32 required information for marriage license applicants.

33 SEC. 14. Section 359 of the Family Code is amended to read:

34 359. (a) ~~Applicants for a marriage license~~ *Except as provided*
35 *in Section 420, applicants to be married shall first appear*
36 *together in person before the county clerk to obtain from the*
37 ~~county clerk issuing the license, a certificate of registry of a~~
38 *marriage license.*

1 (b) The contents of the ~~certificate of registry~~ *marriage license*
2 are provided in Part 1 (commencing with Section 102100) of
3 Division 102 of the Health and Safety Code.

4 (c) The ~~certificate of registry shall be filled out by the~~
5 ~~applicants, in the presence of the county clerk issuing the~~ *issued*
6 ~~marriage license, and shall be presented to the person~~
7 ~~solemnizing the marriage~~ *by the parties to be married.*

8 (d) The person solemnizing the marriage shall complete the
9 ~~certificate of registry solemnization sections on the marriage~~
10 ~~license, and shall cause to be entered on the certificate of registry~~
11 ~~marriage license the printed name, signature, and mailing~~
12 ~~address of at least one witness, and no more than two, witnesses~~
13 ~~to the marriage ceremony.~~

14 (e) The ~~certificate of registry marriage license~~ shall be
15 returned by the person solemnizing the marriage to the county
16 recorder of the county in which the license was issued within 10
17 days after the ceremony.

18 (f) As used in this division, “returned” means presented to the
19 appropriate person in person, or postmarked, before the
20 expiration of the specified time period.

21 SEC. 15. Section 360 of the Family Code is amended to read:

22 360. (a) If a ~~certificate of registry of marriage license~~ is lost,
23 ~~damaged, or destroyed after the marriage ceremony, but before it~~
24 ~~is returned to the county recorder, or deemed unacceptable for~~
25 ~~registration by the county recorder, the person solemnizing the~~
26 ~~marriage, in order to comply with Section 359, shall obtain a~~
27 ~~duplicate certificate of registry marriage license by filing an~~
28 ~~affidavit setting forth the facts with the county clerk of the~~
29 ~~county in which the license was issued.~~

30 (b) The duplicate ~~certificate of registry marriage license~~ may
31 not be issued later than one year after issuance of the original
32 license and shall be returned by the person solemnizing the
33 marriage to the county recorder within ~~10 days after~~ *one year of*
34 ~~the issuance date shown on the original marriage license.~~

35 (c) ~~The county clerk may charge a fee for issuing the duplicate~~
36 ~~marriage license and certificate of registry is five dollars (\$5) to~~
37 ~~cover the actual costs of issuing a duplicate marriage license.~~

38 (d) ~~If a marriage license is lost, damaged, or destroyed before~~
39 ~~a marriage ceremony takes place, the applicants shall purchase~~
40 ~~a new marriage license and the old license shall be voided.~~

1 SEC. 16. Section 400 of the Family Code is amended to read:
2 400. Marriage may be solemnized by any of the following
3 who is of the age of 18 years or older:

4 (a) A priest, minister, ~~or~~ rabbi, *or authorized person* of any
5 religious denomination.

6 (b) A judge or retired judge, commissioner of civil marriages
7 or retired commissioner of civil marriages, commissioner or
8 retired commissioner, or assistant commissioner of a court of
9 record in this state.

10 (c) A judge or magistrate who has resigned from office.

11 (d) Any of the following judges or magistrates of the United
12 States:

13 (1) A justice or retired justice of the United States Supreme
14 Court.

15 (2) A judge or retired judge of a court of appeals, a district
16 court, or a court created by an act of Congress the judges of
17 which are entitled to hold office during good behavior.

18 (3) A judge or retired judge of a bankruptcy court or a tax
19 court.

20 (4) A United States magistrate or retired magistrate.

21 (e) A legislator or constitutional officer of this state or a
22 member of Congress who represents a district within this state,
23 while that person holds office.

24 SEC. 17. Section 420 of the Family Code is amended to read:

25 420. (a) No particular form for the ceremony of marriage is
26 required for solemnization of the marriage, but the parties shall
27 declare, in the *physical* presence of the person solemnizing the
28 marriage and necessary witnesses, that they take each other as
29 husband and wife.

30 (b) Notwithstanding subdivision (a), a member of the Armed
31 Forces of the United States who is stationed overseas and serving
32 in a conflict or a war and is unable to appear for the licensure and
33 solemnization of the marriage may enter into that marriage by the
34 appearance of an attorney-in-fact, commissioned and empowered
35 in writing for that purpose through a power of attorney. The
36 attorney-in-fact must personally appear at the county clerk's
37 office with the party who is not stationed overseas, and present
38 the original power of attorney duly signed by the party stationed
39 overseas and acknowledged by a notary or witnessed by two
40 officers of the United States Armed Forces. *Copies in any form,*

1 *including by facsimile, are not acceptable.* The power of attorney
 2 shall state the ~~true legal~~ *full given names at birth, or by court*
 3 *order,* of the parties to be married, and that the power of attorney
 4 is solely for the purpose of ~~authorizingg~~ *authorizing* the
 5 attorney-in-fact to obtain a marriage license on the person’s
 6 behalf and participate in the solemnization of the marriage. The
 7 original power of attorney shall be a part of the marriage
 8 certificate upon registration.

9 (c) No contract of marriage, if otherwise duly made, shall be
 10 invalidated for want of conformity to the requirements of any
 11 religious sect.

12 SEC. 18. Section 422 of the Family Code is amended to read:

13 422. The person solemnizing a marriage shall ~~make, sign, and~~
 14 ~~endorse upon or attach to~~ *print or type upon* the marriage license
 15 a statement, in the form prescribed by the State Department of
 16 Health Services, showing all of the following:

17 (a) The fact, date (month, day, year), and place (city and
 18 county) of solemnization.

19 (b) The *printed names, signatures, and* ~~places of residence~~
 20 *mailing addresses* of *at least one or, and no more than two,*
 21 witnesses to the ceremony.

22 (c) The official position of the person solemnizing the
 23 marriage, or of the denomination of which that person is a priest,
 24 minister, rabbi, or ~~member~~ *other authorized person* of ~~the clergy~~
 25 *any religious denomination.*

26 (d) The person solemnizing the marriage shall also type or
 27 print ~~the person’s~~ *his or her* name and *mailing address.*

28 SEC. 19. Section 424 of the Family Code is repealed.

29 ~~424. At the request of, and for, either party to a marriage, the~~
 30 ~~person solemnizing the marriage shall issue a marriage certificate~~
 31 ~~showing the facts specified in Section 422.~~

32 SEC. 20. Section 425 of the Family Code is amended to read:

33 425. If no record of the solemnization of a *California*
 34 *marriage* previously contracted *under this division for that*
 35 *marriage* is known to exist, the parties may purchase a License
 36 and Certificate of Declaration of Marriage from the county clerk
 37 in the parties’ county of residence *one year or more from the*
 38 *date of the marriage.* The license and certificate shall be returned
 39 to the county recorder of the county in which the license was
 40 issued.

1 SEC. 21. Section 500 of the Family Code is amended to read:
2 500. ~~When an~~ (a) *An* unmarried man and an unmarried
3 woman, not minors, ~~have been living together as husband and~~
4 ~~wife, they~~ may be married pursuant to this chapter by a person
5 authorized to solemnize a marriage under Chapter 1
6 (commencing with Section 400) of Part 3, ~~without the necessity~~
7 ~~of first obtaining health certificates.~~

8 (b) *For purposes of this part, the document issued by the*
9 *county clerk is a marriage license until it is registered with the*
10 *county recorder or county clerk, at which time the license*
11 *becomes a marriage certificate.*

12 SEC. 22. Section 501 of the Family Code is amended to read:
13 501. ~~Except as provided in Section 502, a~~ *A* confidential
14 marriage license shall be issued by the county clerk upon the
15 personal appearance *together* of the parties to be married and
16 their payment of the fees required by Sections 26840.1 and
17 26840.8 of the Government Code and any fee imposed pursuant
18 to the authorization of Section 26840.3 of the Government Code.

19 SEC. 23. Section 502 of the Family Code is repealed.

20 502. ~~If, for any reason, either or both of the parties to be~~
21 ~~married is physically unable to appear in person before the~~
22 ~~county clerk, a confidential marriage license shall be issued by~~
23 ~~the county clerk to the person solemnizing the marriage upon that~~
24 ~~person's presenting an affidavit to the county clerk, signed by the~~
25 ~~person and the parties to be married, explaining the reason for the~~
26 ~~inability to appear.~~

27 SEC. 24. Section 503 of the Family Code is amended to read:

28 503. The county clerk shall issue a confidential marriage
29 license upon the request of a notary public approved by the
30 county clerk to ~~authorize issue~~ confidential ~~marriages~~ *marriage*
31 *licenses* pursuant to Chapter 2 (commencing with Section 530)
32 and upon payment by the notary public of the fees specified in
33 Sections 26840.1 and 26840.8 of the Government Code. The
34 parties shall reimburse a notary public who ~~authorizes issues~~ a
35 confidential marriage *license* for the amount of the fees.

36 SEC. 25. Section 505 of the Family Code is amended to read:

37 505. (a) The form of the confidential marriage license shall
38 be prescribed by the State Registrar of Vital Statistics.

1 (b) The form shall be designed to require that the parties to be
2 married declare or affirm that they meet all of the requirements
3 of this chapter.

4 ~~(c) The form shall include a certificate of marriage, which
5 shall be filled out by the parties upon performance of the
6 marriage and be authenticated by the person solemnizing the
7 marriage.~~

8 ~~(d) The form shall include an affidavit on the back, which the
9 husband bride and wife groom shall sign, affirming that they
10 have received the brochure provided for in Section 358.~~

11 ~~(e) The affidavit required by subdivision (d) shall state:~~

12
13 AFFIDAVIT

14
15 I acknowledge that I have received the brochure
16 titled _____

17
18 _____
19 Signature of Wife _____ Date
20 _____
21 Signature of Husband _____ Date

22
23 SEC. 26. Section 506 of the Family Code is amended to read:
24 506. (a) The confidential marriage license shall be presented
25 to the person solemnizing the marriage.

26 (b) Upon performance of the ceremony, the *solemnization*
27 *section on the confidential marriage certificate license* shall be
28 ~~filled out by the parties to the marriage and authenticated~~
29 *completed* by the person solemnizing the marriage.

30 ~~(c) The certificate confidential marriage license~~ shall be
31 returned by the person solemnizing the marriage to the office of
32 the county clerk in the county in which the license was issued
33 within 10 days after the ceremony.

34 SEC. 27. Section 508 of the Family Code is amended to read:
35 508. Upon issuance of a confidential marriage ~~certificate~~
36 *license*, parties shall be provided with an application to obtain a
37 certified copy of the confidential marriage certificate from the
38 county clerk.

39 SEC. 28. Section 509 of the Family Code is amended to read:

1 509. (a) A party to a confidential marriage may obtain a
2 certified copy of the confidential marriage certificate from the
3 county clerk of the county in which the certificate is filed in any
4 of the following ways:

5 (1) By submitting the application for a certified copy of the
6 confidential marriage certificate provided to the parties pursuant
7 to Section 508.

8 (2) By personally appearing before a notary public or at the
9 county clerk's office in the party's county of residence,
10 producing proper identification *that is acceptable to the county*
11 *clerk*, obtaining a certificate attesting to the party's identity from
12 the notary public or county clerk, and ~~transmitting mailing or~~
13 ~~faxing~~ that certificate, together with a request for the certified
14 copy of the confidential marriage certificate, to the county clerk
15 of the county with which the certificate is filed.

16 (3) By personally appearing at the county clerk's office where
17 the certificate is filed and producing proper identification.

18 (b) Copies of a confidential marriage certificate may be issued
19 to the parties to the marriage upon ~~the~~ payment of ~~a~~ *the* fee
20 equivalent to that charged for copies of a ~~certificate of marriage~~
21 ~~certificate~~.

22 SEC. 29. Section 510 of the Family Code is amended to read:

23 510. (a) If a confidential marriage ~~certificate~~ *license* is lost,
24 damaged, or destroyed after the performance of the marriage ~~and~~
25 ~~, but before it is returned;~~ *to the county clerk* ~~may issue a~~
26 ~~replacement upon the payment of a fee of five dollars (\$5), or~~
27 ~~deemed unacceptable for registration by the county clerk, the~~
28 ~~person solemnizing the marriage, in order to comply with Section~~
29 ~~506, shall obtain a duplicate marriage license by filing an~~
30 ~~affidavit setting forth the facts with the county clerk of the county~~
31 ~~in which the license was issued.~~

32 (b) The duplicate license may not be issued later than one year
33 after issuance of the original license and shall be returned by the
34 person solemnizing the marriage to the county clerk within ~~10~~
35 ~~days after~~ *one year of the issuance date shown on the original*
36 ~~marriage license.~~

37 (c) *The county clerk may charge a fee to cover the actual costs*
38 *of issuing a duplicate marriage license.*

1 (d) *If a marriage license is lost, damaged, or destroyed before*
2 *a marriage ceremony takes place, the applicants shall purchase*
3 *a new marriage license and the old license shall be voided.*

4 SEC. 30. Section 511 of the Family Code is amended to read:

5 511. (a) Except as provided in subdivision (b), the county
6 clerk shall maintain confidential marriage certificates filed
7 pursuant to Section 506 as permanent records which shall not be
8 open to public inspection except upon order of the court issued
9 upon a showing of good cause. *The confidential marriage license*
10 *is a confidential record and not open to public inspection without*
11 *an order from the court.*

12 (b) The county clerk shall keep all original certificates of
13 confidential marriages for one year from the date of filing. After
14 one year, the clerk may ~~microfilm~~ *reproduce* the certificates
15 *pursuant to Section 26205 of the Government Code*, and dispose
16 of the original certificates ~~or microfilm the certificates and send~~
17 ~~the original certificates to the Office of the State Registrar.~~ The
18 county clerk shall promptly seal and store at least one original
19 negative of each microphotographic film made in a manner and
20 place as reasonable to ensure its preservation indefinitely against
21 loss, theft, defacement, or destruction. The microphotograph
22 shall be made in a manner that complies with the minimum
23 standards or guidelines, or both, recommended by the American
24 National Standards Institute or the Association for Information
25 and Image Management. Every reproduction shall be deemed and
26 considered an original. A certified copy of any reproduction shall
27 be deemed and considered a certified copy of the original.

28 (c) The county clerk may conduct a search for a confidential
29 marriage certificate for the purpose of confirming the existence
30 of a marriage, but the date of the marriage and any other
31 information contained in the certificate shall not be disclosed
32 except upon order of the court.

33 ~~(d) The county clerk shall, not less than quarterly, transmit~~
34 ~~copies of all original confidential marriage certificates retained,~~
35 ~~or originals of microfilmed confidential marriage certificates~~
36 ~~filed after January 1, 1982, to the State Registrar of Vital~~
37 ~~Statistics. The registrar may destroy the copies so transmitted~~
38 ~~after they have been indexed. The registrar may respond to an~~
39 ~~inquiry as to the existence of a marriage performed pursuant to~~
40 ~~this chapter, but shall not disclose the date of the marriage.~~

1 SEC. 31. Section 530 of the Family Code is amended to read:
 2 530. (a) No notary public shall ~~authorize~~ *issue* a confidential
 3 marriage *license* pursuant to this part unless the notary public is
 4 approved by the county clerk to ~~authorize~~ *issue* confidential
 5 ~~marriages~~ *marriage licenses* pursuant to this chapter.

6 (b) A violation of subdivision (a) is a misdemeanor punishable
 7 by a fine not to exceed one thousand dollars (\$1,000) or six
 8 months in jail.

9 SEC. 32. Section 531 of the Family Code is amended to read:

10 531. (a) ~~An~~ *The county clerk may, at his or her discretion,*
 11 *choose to establish a policy to accept applications for approval*
 12 *of a notary public to issue confidential marriage licenses. The*
 13 *notary public shall file an application for approval to ~~authorize~~*
 14 *issue confidential ~~marriages~~ marriage licenses pursuant to this*
 15 *part ~~shall be submitted to~~ with the county clerk in the county in*
 16 *which the notary public who is applying for the approval is*
 17 *commissioned and resides. The county clerk shall exercise*
 18 *reasonable discretion as to whether to approve applications. Any*
 19 *violation of the policy set forth by the county clerk shall result in*
 20 *the suspension or revocation of the authorization for the notary*
 21 *public to issue confidential marriage licenses.*

22 (b) The application shall include all of the following:

- 23 (1) The full name of the applicant.
- 24 (2) The date of birth of the applicant.
- 25 (3) The applicant’s current residential address and telephone
 26 number.
- 27 (4) The address and telephone number of the place where the
 28 applicant will issue authorizations for the performance of a
 29 marriage.
- 30 (5) The full name of the applicant’s employer if the applicant
 31 is employed by another person.

32 (6) Whether or not the applicant has engaged in any of the acts
 33 specified in Section 8214.1 of the Government Code.

34 (c) The application shall be accompanied by the fee provided
 35 for in Section 536.

36 SEC. 33. Section 532 of the Family Code is amended to read:

37 532. No approval, *or renewal of the approval*, shall be
 38 granted pursuant to this chapter unless the notary public shows
 39 evidence of successful completion of a course of instruction
 40 concerning the ~~authorization~~ *issuance* of confidential ~~marriages~~

1 ~~that shall be conducted by the county clerk~~ *marriage licenses*
2 *that was conducted by the county clerk in the county of*
3 *registration. The course of instruction shall not exceed two hours*
4 ~~in duration~~ *be given by the county clerk at a date and time set*
5 *forth in the policy established by the county clerk.*

6 SEC. 34. Section 533 of the Family Code is amended to read:

7 533. An approval to ~~authorize issue~~ *confidential marriages*
8 *marriage licenses* pursuant to this chapter is valid for one year.
9 The approval may be renewed for additional one-year periods
10 ~~upon payment of~~ *provided the following conditions are met:*

11 (a) *The applicant has not violated any of the provisions*
12 *provided for in Section 531.*

13 (b) *The applicant has successfully completed the course*
14 *prescribed in Section 532.*

15 (c) *The applicant has paid the renewal fee provided for in*
16 *Section 536.*

17 SEC. 35. Section 534 of the Family Code is amended to read:

18 534. (a) The county clerk shall maintain a list of the notaries
19 public who are approved to ~~authorize issue~~ *confidential*
20 ~~marriages~~ *marriage licenses*. The list shall be available for
21 inspection by the public.

22 (b) It is the responsibility of a notary public approved to
23 ~~authorize issue~~ *confidential marriages marriage licenses* pursuant
24 to this chapter to keep current the information required in
25 paragraphs (1), (3), (4), and (5) of subdivision (b) of Section 531.
26 This information shall be used by the county clerk to update the
27 list required to be maintained by this section.

28 SEC. 36. Section 535 of the Family Code is amended to read:

29 535. (a) If, after an approval to ~~authorize issue~~ *confidential*
30 ~~marriages~~ *marriage licenses* is granted pursuant to this chapter, it
31 is discovered that the notary public has engaged in any of the
32 actions specified in Section 8214.1 of the Government Code, the
33 approval shall be revoked, and ~~any~~ *the county clerk shall notify*
34 *the Secretary of State for whatever action the Secretary of State*
35 *deems appropriate. Any fees paid by the notary public may shall*
36 *be retained by the county clerk.*

37 (b) If a notary public who is approved to authorize confidential
38 marriages pursuant to this chapter is alleged to have violated a
39 provision of this ~~divison~~ *division*, the county clerk shall conduct
40 a hearing to determine if the approval of the notary public should

1 be suspended or revoked. The notary public may present such
 2 evidence as is necessary in the notary public’s defense. If the
 3 county clerk determines that the notary public has violated a
 4 provision of this division, the county clerk may place the notary
 5 public on probation or suspend or revoke the notary public’s
 6 registration, and any fees paid by the notary public ~~may~~ shall be
 7 retained by the county clerk. The county clerk shall report the
 8 findings of the hearing to the Secretary of State for whatever
 9 action the Secretary of State deems appropriate.

10 SEC. 37. Section 536 of the Family Code is amended to read:

11 536. ~~(a) The fee for an application for approval and~~
 12 ~~administration of this program, or renewal of application for~~
 13 ~~approval to authorize issue confidential marriages marriage~~
 14 ~~licenses pursuant to this chapter is one hundred seventy-five~~
 15 ~~_____ dollars (\$175) (\$_____).~~

16 ~~(b) The fee for a renewal of an approval is one hundred~~
 17 ~~seventy-five dollars (\$175).~~

18 ~~(c) Fees received pursuant to this chapter shall be deposited in~~
 19 ~~a trust fund established by the county clerk. The money in the~~
 20 ~~trust fund shall be used exclusively for the administration of the~~
 21 ~~program described in this chapter.~~

22 SEC. 38. Section 100430 of the Health and Safety Code is
 23 amended to read:

24 100430. (a) The fees or charges for a record search or for the
 25 issuance of any license, permit, registration, or any other
 26 document pursuant to Sections 26832, 26840, and 26859 of the
 27 Government Code, or Sections 102525, 102625, 102670,
 28 102725, 102750, 103050, 103065, 103225, 103325, 103400,
 29 103425, 103450, 103525, 103590, ~~103595~~, 103625, 103650,
 30 103675, 103690, 103695, 103700, 103705, 103710, 103715,
 31 103720, 103725, 103730, and 103735 of this code, may be
 32 adjusted annually by the percentage change determined pursuant
 33 to Section 100425.

34 The base amount to be adjusted shall be the statutory base
 35 amount of the fee or charge plus the sum of the prior adjustments
 36 to the statutory base amount. Whenever the statutory base
 37 amount is amended, the base amount shall be the new statutory
 38 base amount plus the sum of adjustments to the new statutory
 39 base amount calculated subsequent to the statutory base

1 amendment. The actual dollar fee or charge shall be rounded to
2 the next highest whole dollar.

3 (b) Beginning January 1, 1983, the department shall annually
4 publish a list of the actual numerical fee charges as adjusted
5 pursuant to this section. This adjustment of fees and the
6 publication of the fee list shall not be subject to the requirements
7 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code.

9 SEC. 39. Section 102130 of the Health and Safety Code is
10 amended to read:

11 102130. All ~~certificates of registry of marriage~~ *licenses* shall
12 be written legibly and shall be photographically and
13 micrographically reproducible. A ~~certificate of registry of~~
14 *marriage license* is not complete and correct that does not supply
15 all of the items of information called for, or satisfactorily account
16 for their omission.

17 SEC. 40. Section 102140 of the Health and Safety Code is
18 amended to read:

19 102140. No alteration or change in any respect shall be made
20 on any *marriage license or certificate* after its acceptance for
21 registration by the local registrar, or on other records made in
22 pursuance of this part, except where supplemental information
23 required for statistical purposes is furnished.

24 SEC. 41. Section 102310 of the Health and Safety Code is
25 amended to read:

26 102310. The local registrar of marriages shall carefully
27 examine each ~~certificate~~ *license* before acceptance for
28 registration and, if it is incomplete or unsatisfactory, he or she
29 shall require any further information to be furnished as may be
30 necessary to make the record satisfactory before acceptance for
31 registration.

32 SEC. 42. Section 102325 of the Health and Safety Code is
33 amended to read:

34 102325. The local registrar shall number each ~~certificate of~~
35 *marriage certificate* consecutively beginning with the number
36 one for either the first event occurring, or first event registered in,
37 each calendar year. Numbering may be based on either the year
38 that the event occurs or the year of registration.

39 SEC. 43. Section 102355 of the Health and Safety Code is
40 amended to read:

1 102355. The local registrar of marriages shall transmit to the
2 State Registrar ~~on or before the fifth day of each month~~ *not less*
3 *than quarterly* all original ~~certificates of registry of marriage~~
4 *certificates* accepted for registration by him or her ~~during the~~
5 ~~preceding month~~. Certificates shall be batched by calendar year
6 of event prior to transmission. Certificates may be transmitted at
7 more frequent intervals by arrangement with the State Registrar.

8 SEC. 44. Section 103125 of the Health and Safety Code is
9 amended to read:

10 103125. The forms for the ~~application for license to marry,~~
11 ~~the certificate of registry of marriage including the license to~~
12 ~~marry, and the marriage certificate~~ *license* shall be prescribed by
13 the State Registrar.

14 SEC. 45. Section 103175 of the Health and Safety Code is
15 amended to read:

16 103175. The ~~certificate of registry of marriage~~ *license* shall
17 contain as nearly as can be ascertained all of the following and
18 other items as the State Registrar may designate: The first section
19 shall include the personal data of parties married, including the
20 date of birth, full *given name at birth or by court order*,
21 birthplace, ~~residence~~ *mailing address*, names and birthplaces of
22 the parents, maiden name of the mothers, the number of previous
23 marriages, marital status, and the maiden name of the female if
24 previously married; the second section shall include the
25 signatures of parties married, license to marry, county and date of
26 issue of license, and the marriage license number; and the third
27 section shall include the certification of ~~the one~~ person
28 performing the ceremony, that shall show his or her official
29 position including the denomination if he or she is a ~~priest,~~
30 ~~minister or clergy or clergyperson~~, and the *printed name*,
31 signature, and *mailing address of at least one* ~~or, and no more~~
32 *than two*, witnesses to the marriage ceremony. The person
33 performing the marriage ceremony shall also type or print his or
34 her name and *mailing address on the certificate marriage license*.
35 The ~~certificate marriage license~~ shall not contain any reference
36 to the race or color of parties married.

37 SEC. 46. Section 103180 of the Health and Safety Code is
38 amended to read:

39 103180. (a) Sections 103150 and 103175 do not apply to
40 marriages entered into pursuant to Section 307 of the Family

1 Code. Subdivisions (b) and (c) govern the registration and the
2 content of the License and Certificate of Declaration of Marriage
3 of those marriages.

4 (b) Each marriage entered into pursuant to Section 307 of the
5 Family Code shall be registered by the parties entering into the
6 marriage or by a witness who signed under paragraph (2) of
7 subdivision (a) of Section 307 within ~~four~~ 10 days after the
8 ceremony with the local registrar of marriages for the county in
9 which the License and Certificate of Declaration of Marriage was
10 issued.

11 (c) The License and Certificate of Declaration of Marriage
12 entered into pursuant to Section 307 of the Family Code shall
13 contain as nearly as can be ascertained the following:

14 (1) The personal data of parties married, including the date of
15 birth, full ~~name~~ *given legal names at birth or by court order*,
16 birthplace, ~~residence~~ *mailing address*, names and birthplaces of
17 their parents, maiden name of their mothers, the number of
18 previous marriages, marital status, and the maiden name of the
19 female, if previously married and if her name has been changed.

20 (2) The license to marry.

21 (3) The county and date of issuance of the license.

22 (4) The marriage license number.

23 (5) The certification of the parties entering into the marriage,
24 that shall show the following:

25 (A) The fact, time, and place of entering into the marriage.

26 (B) The *printed name*, signature, and *mailing* address of two
27 witnesses to the marriage ceremony.

28 (C) The religious society or denomination of the parties
29 married, and that the marriage was entered into in accordance
30 with the rules and customs of that religious society or
31 denomination.

32 (6) The signatures of the parties married.

33 (7) Any other items that the State Registrar shall designate.

34 The License and Certificate of Declaration of Marriage shall
35 not contain any reference to the race or color of parties married
36 or to a person performing or solemnizing the marriage.

37 SEC. 47. Section 103200 of the Health and Safety Code is
38 amended to read:

39 103200. The ~~county~~ *clerk of the court* of each county shall
40 send a copy of every judgment of dissolution of marriage, of

1 legal separation, and of declaration of nullity to the State
2 Registrar monthly. If a judgment of dissolution of marriage is
3 vacated, the ~~county~~ clerk *of the court* shall send a copy of the
4 order or dismissal to the State Registrar.

5 SEC. 48. Section 103235 of the Health and Safety Code is
6 amended to read:

7 103235. If the amendment relates to a certificate *or marriage*
8 *license* that has not been transmitted to the State Registrar, the
9 local registrar shall review the amendment for acceptance for
10 filing, and if accepted shall file the amendment and shall note the
11 fact of the amendment, with its date, on the otherwise unaltered
12 original certificate *or marriage license*.

13 SEC. 49. Section 103595 of the Health and Safety Code is
14 repealed.

15 ~~103595. (a) The State Registrar shall, upon request and~~
16 ~~payment of a fee, as provided in subdivision (c), supply to any~~
17 ~~applicant a decorative heirloom certificate, as described in~~
18 ~~subdivision (b), of any marriage registered with that official.~~

19 ~~(b) The decorative heirloom certificate issued under~~
20 ~~subdivision (a) shall be of a distinctive design as determined by~~
21 ~~the state department and shall include the seal of the State of~~
22 ~~California and a facsimile of the State Registrar's signature, but~~
23 ~~shall include no elected official's signature. The certificate shall~~
24 ~~only contain identification information, as determined by the~~
25 ~~State Registrar.~~

26 ~~(c) The fee required for the decorative heirloom certificate~~
27 ~~issued pursuant to this section shall be fifteen dollars (\$15). The~~
28 ~~fee shall be utilized to reimburse the state department for the~~
29 ~~administrative costs of developing, preparing, and providing the~~
30 ~~decorative heirloom certificate and for a public awareness and~~
31 ~~advertising program to inform the public of the availability of the~~
32 ~~decorative heirloom certificate. The fee shall be deposited into~~
33 ~~the General Fund.~~

34 SEC. 50. Section 103730 of the Health and Safety Code is
35 amended to read:

36 103730. A fee of eleven dollars (\$11) for each individual
37 being adopted shall be paid to the ~~county~~ clerk *of the court* at the
38 time of filing the petition in an adoption proceeding, except for
39 agency adoptions in which the adoption fee is waived and a
40 statement from the agency to this effect is filed with the petition,

1 and that fee shall be paid monthly by the ~~county~~ clerk of the
2 court to the State Registrar of Vital Statistics for the services
3 required by statute of that office.

4 SEC. 51. Section 103780 of the Health and Safety Code is
5 amended to read:

6 103780. (a) Every person, except as provided in subdivision
7 (b), who willfully alters or knowingly possesses more than one
8 altered document, other than as permitted by this part, or falsifies
9 any certificate of birth, fetal death, or death, or ~~registry of~~
10 marriage *license*, or any record established by this part is guilty
11 of a misdemeanor.

12 (b) Every licensee or registrant pursuant to Chapter 12
13 (commencing with Section 7600) or Chapter 19 (commencing
14 with Section 9600) of Division 3 of the Business and Professions
15 Code, and the agents and employees of the licensee, or any
16 unlicensed person acting in a capacity in which a license from the
17 Cemetery and Funeral Bureau is required, who willfully alters or
18 knowingly possesses more than one altered document, other than
19 as permitted by this part, or falsifies any certificate of death, is
20 guilty of a misdemeanor that shall be punishable by
21 imprisonment in a county jail not exceeding one year, by a fine
22 not exceeding ten thousand dollars (\$10,000), or by both that
23 imprisonment and fine.

24 SEC. 52. Section 103785 of the Health and Safety Code is
25 amended to read:

26 103785. Every person who is required to fill out a certificate
27 of birth, fetal death, or death, or ~~registry of~~ marriage *license* and
28 register it with the local registrar, or deliver it, upon request, to
29 any person charged with the duty of registering it, and who fails,
30 neglects, or refuses to perform ~~such~~ that duty in the manner
31 required by this part is guilty of a misdemeanor.

32 SEC. 53. If the Commission on State Mandates determines
33 that this act contains costs mandated by the state, reimbursement
34 to local agencies and school districts for those costs shall be
35 made pursuant to Part 7 (commencing with Section 17500) of
36 Division 4 of Title 2 of the Government Code.