

Introduced by Senators Margett and Hollingsworth
(Coauthors: Assembly Members Benoit, Horton, Huff, Maze, and
Ruskin)

February 21, 2008

An act to amend Section 103526 of the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1398, as introduced, Margett. Birth and death records: certified copies: identification.

Existing law requires the State Public Health Officer, as the State Registrar of Vital Statistics, to administer the registration of births, deaths, fetal deaths, and marriages. Existing law provides that the State Registrar, local registrar, or county recorder may provide a certified copy of a birth or death record to an authorized person, as defined, who submits a statement sworn under penalty of perjury that the requester is an authorized person.

This bill would, in addition, require any person who requests, in person, a certified copy of a birth or death certificate, to provide the official with valid identification, as prescribed.

This bill would require that any person who has been the victim of identity theft who requests, in person, a certified copy of a birth or death certificate, submit a statement sworn under penalty of perjury that he or she is an authorized person and provide evidence, as prescribed, that he or she has been the victim of identify theft.

By increasing the duties of local officials who furnish copies of birth and death records, and by changing the definition of a crime, this bill would create 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 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.

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 103526 of the Health and Safety Code
2 is amended to read:

3 103526. (a) (1) If the State Registrar, local registrar, or county
4 recorder receives a written or faxed request for a certified copy of
5 a birth or death record pursuant to Section 103525, or a military
6 service record pursuant to Section 6107 of the Government Code,
7 that is accompanied by a notarized statement sworn under penalty
8 of perjury, or a faxed copy of a notarized statement sworn under
9 penalty of perjury, that the requester is an authorized person, as
10 defined in this section, that official may furnish a certified copy
11 to the applicant in accordance with Section 103525 and in
12 accordance with Section 6107 of the Government Code.¶

13 (2) *If* a written request for a certified copy of a military service
14 record is submitted to a county recorder by fax, the county recorder
15 may furnish a certified copy of the military record to the applicant
16 in accordance with Section 103525. A faxed notary
17 acknowledgment accompanying a faxed request received pursuant
18 to this subdivision for a certified copy of a birth or death record
19 or a military service record shall be legible and, if the notary’s seal
20 is not photographically reproducible, show the name of the notary,
21 the county of the notary’s principal place of business, the notary’s
22 telephone number, the notary’s registration number, and the
23 notary’s commission expiration date typed or printed in a manner
24 that is photographically reproducible below, or immediately
25 adjacent to, the notary’s signature in the acknowledgment.¶

1 (3) *If a request for a certified copy of a birth or death record is*
2 *made in person, the official shall take a statement sworn under*
3 *penalty of perjury that the requester is signing his or her own legal*
4 *name and is an authorized ~~person~~, person. Except as provided in*
5 *paragraph (4), the applicant shall also provide the official with a*
6 *driver’s license or other government issued identification*
7 *containing the date of birth and a photograph of the requester,*
8 *and that official may then furnish a certified copy to the applicant.*

9 (4) *If a request for a certified copy of a birth or death record*
10 *is made in person by an individual who has been the victim of*
11 *identity theft, the official shall take a statement sworn under penalty*
12 *of perjury that the requester is signing his or her own legal name*
13 *and is an authorized person. The applicant shall also provide the*
14 *official with either a police report received pursuant to subdivision*
15 *(a) of Section 530.6 of the Penal Code, a copy of a court order*
16 *certifying factual innocence as described in subdivision (b) of*
17 *Section 530.6 of the Penal Code, or authorization to access the*
18 *data base of individuals who have been victims of identity theft as*
19 *described in subdivision (c) of Section 530.7 of the Penal Code,*
20 *and that official may then furnish a certified copy to the applicant.*

21 (b) In all other circumstances, the certified copy provided to the
22 applicant shall be an informational certified copy and shall display
23 a legend that states “INFORMATIONAL, NOT A VALID
24 DOCUMENT TO ESTABLISH IDENTITY.” The legend shall
25 be placed on the certificate in a manner that will not conceal
26 information.

27 (c) For purposes of this section, an “authorized person” is any
28 of the following:

29 (1) The registrant or a parent or legal guardian of the registrant.

30 (2) A party entitled to receive the record as a result of a court
31 order, or an attorney or a licensed adoption agency seeking the
32 birth record in order to comply with the requirements of Section
33 3140 or 7603 of the Family Code.

34 (3) A member of a law enforcement agency or a representative
35 of another governmental agency, as provided by law, who is
36 conducting official business.

37 (4) A child, grandparent, grandchild, sibling, spouse, or domestic
38 partner of the registrant.

1 (5) An attorney representing the registrant or the registrant's
2 estate, or any person or agency empowered by statute or appointed
3 by a court to act on behalf of the registrant or the registrant's estate.
4 (6) Any agent or employee of a funeral establishment who acts
5 within the course and scope of his or her employment and who
6 orders certified copies of a death certificate on behalf of any
7 individual specified in paragraphs (1) to (5), inclusive, of
8 subdivision (a) of Section 7100.
9 (d) Any person who asks the agent or employee of a funeral
10 establishment to request a death certificate on his or her behalf
11 warrants the truthfulness of his or her relationship to the decedent,
12 and is personally liable for all damages occasioned by, or resulting
13 from, a breach of that warranty.
14 (e) Notwithstanding any other provision of law:
15 (1) Any member of a law enforcement agency or a representative
16 of a state or local government agency, as provided by law, who
17 orders a copy of a record to which subdivision (a) applies in
18 conducting official business may not be required to provide the
19 notarized statement required by subdivision (a).
20 (2) An agent or employee of a funeral establishment who acts
21 within the course and scope of his or her employment and who
22 orders death certificates on behalf of individuals specified in
23 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100
24 shall not be required to provide the notarized statement required
25 by subdivision (a).
26 (f) Informational certified copies of birth and death certificates
27 issued pursuant to subdivision (b) shall only be printed from the
28 single statewide database prepared by the State Registrar and shall
29 be electronically redacted to remove any signatures for purposes
30 of compliance with this section. Local registrars and county
31 recorders shall not issue informational certified copies of birth and
32 death certificates from any source other than the statewide database
33 prepared by the State Registrar. This subdivision shall become
34 operative on July 1, 2007, but only after the statewide database
35 becomes operational and the full calendar year of the birth and
36 death indices and images is entered into the statewide database
37 and is available for the respective year of the birth or death
38 certificate for which an informational copy is requested. The State
39 Registrar shall provide written notification to local registrars and

1 county recorders as soon as a year becomes available for issuance
2 from the statewide database.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution for certain
5 costs that may be incurred by a local agency or school district
6 because, in that regard, this act creates a new crime or infraction,
7 eliminates a crime or infraction, or changes the penalty for a crime
8 or infraction, within the meaning of Section 17556 of the
9 Government Code, or changes the definition of a crime within the
10 meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 However, if the Commission on State Mandates determines that
13 this act contains other costs mandated by the state, reimbursement
14 to local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.