

Assembly Bill No. 1143

CHAPTER 512

An act to amend Section 306.5 of the Family Code, relating to vital records.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1143, Ma. Marriage: name.

Existing law allows one or both parties to a marriage to change the middle or last name by which that party wishes to be known after solemnization of the marriage. Existing law also requires the adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application to be made only at the time the license is issued, as provided.

This bill would allow one or both parties to change both the middle and last names by which that party wishes to be known after solemnization of the marriage. This bill would also allow for an amendment to be issued to correct a clerical error in the new name fields on the marriage license, as provided.

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

SECTION 1. Section 306.5 of the Family Code is amended to read:

306.5. (a) Parties to a marriage shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon marriage unless that person elects to change his or her name pursuant to subdivision (b).

(b) (1) One party or both parties to a marriage may elect to change the middle or last names, or both, by which that party wishes to be known after solemnization of the marriage by entering the new name in the spaces provided on the marriage license application without intent to defraud.

(2) A person may adopt any of the following last names pursuant to paragraph (1):

(A) The current last name of the other spouse.

(B) The last name of either spouse given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either spouse given at birth.

(D) A hyphenated combination of last names.

(3) A person may adopt any of the following middle names pursuant to paragraph (1):

(A) The current last name of either spouse.

(B) The last name of either spouse given at birth.

(C) A hyphenated combination of the current middle name and the current last name of the person or spouse.

(D) A hyphenated combination of the current middle name and the last name given at birth of the person or spouse.

(4) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of a marriage certificate containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a marriage certificate shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a marriage outside of this state.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(5) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate may not be amended to add a new name or change the name adopted pursuant to paragraph (1). An amendment may be issued to correct a clerical error in the new name fields on the marriage license. In this instance, the amendment must be signed by one of the parties to the marriage and the county clerk or his or her deputy, and the reason for the amendment must be stated as correcting a clerical error. A clerical error as used in this part is an error made by the county clerk, his or her deputy, or a notary authorized to issue confidential marriage licenses, whereby the information shown in the new name field does not match the information shown on the marriage license application. This requirement shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(d) This section shall become operative on January 1, 2009.

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