

AMENDED IN SENATE JUNE 26, 2013

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN SENATE MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 625**

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**Introduced by Assembly Member Quirk**

February 20, 2013

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An act to amend Section 1185 of the Civil Code, ~~and to amend Section 8230 of the Government Code~~, relating to notaries *public*.

LEGISLATIVE COUNSEL'S DIGEST

AB 625, as amended, Quirk. Notaries ~~Public~~: *public*: acceptance of identification.

~~(1) Existing~~

*Existing* law relating to property transfers specifies certain documents as allowable forms of identification for a credible witness, who, by oath or affirmation, attests to the identity of an individual executing a written instrument in the presence of, and acknowledged by, a notary public. Existing law specifies that an inmate identification card that is current or has been issued within 5 years by the Department of Corrections and Rehabilitation if the inmate is in custody is an allowable form of identification, for purposes of these provisions, if it contains certain identifying information, including a photograph and description of the person named on it, is signed by the person, and has a serial or other identifying number.

This bill would recast those provisions to make an inmate identification card that is current or has been issued within 5 years by the department, if the inmate is in custody in prison, an allowable form

of identification for a credible witness to prove the identity of an individual who executes a written instrument, and to delete the requirement that the card have the additional identifying information.

~~(2) Existing law requires a notary public when notarizing a document that purports to identify the affiant, as specified, to verify the affiant's identity using either a certified copy of the person's birth certificate or an identification card or a driver's license issued by the Department of Motor Vehicles.~~

~~This bill would also authorize a notary public to accept as verification, an inmate identification card issued by the Department of Corrections and Rehabilitation, if the inmate identification card contains the inmate's date of birth and the inmate is in custody in prison.~~

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

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

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) The state and its counties have a financial and public safety
- 3 interest in ensuring the children of people convicted of felonies
- 4 and sentenced to state prison time have access to appropriate
- 5 schooling and medical treatment. Eighty percent of imprisoned
- 6 women are mothers and the vast majority were the primary care
- 7 provider of minor children at the time of their arrest and
- 8 imprisonment. These minor children's access to school and medical
- 9 treatment may be unnecessarily interrupted should their
- 10 incarcerated parent lack timely and affordable access to a notary
- 11 necessary for them to complete paperwork to establish temporary
- 12 guardianship for their children.
- 13 (b) The state and its counties have a financial and public safety
- 14 interest in ensuring people convicted of felonies and sentenced to
- 15 state prison time are able to successfully reenter their communities
- 16 upon completion of their sentences and live a crime-free life.
- 17 Evidence-based research demonstrates a clear connection between
- 18 decreased recidivism rates and strength of familial bonds during
- 19 periods of incarceration. These bonds are weakened when minor
- 20 children are unnecessarily prevented from visiting incarcerated
- 21 parents due merely to the incarcerated parents' lack of timely and
- 22 affordable access to a notary public required to complete required
- 23 visitation forms.

1 (c) The state has taken significant measures to ensure due  
2 process and accuracy in determining the identity of people  
3 convicted of felonies and held in control of the Department of  
4 Corrections and Rehabilitation, and in tracking these individuals'  
5 appropriate identity through issuance and monitoring of state  
6 inmate identification cards.

7 SEC. 2. Section 1185 of the Civil Code is amended to read:

8 1185. (a) The acknowledgment of an instrument shall not be  
9 taken unless the officer taking it has satisfactory evidence that the  
10 person making the acknowledgment is the individual who is  
11 described in and who executed the instrument.

12 (b) For purposes of this section, "satisfactory evidence" means  
13 the absence of information, evidence, or other circumstances that  
14 would lead a reasonable person to believe that the person making  
15 the acknowledgment is not the individual he or she claims to be  
16 and any one of the following:

17 (1) (A) The oath or affirmation of a credible witness personally  
18 known to the officer, whose identity is proven to the officer upon  
19 presentation of a document satisfying the requirements of paragraph  
20 (3) or (4), that the person making the acknowledgment is personally  
21 known to the witness and that each of the following are true:

22 (i) The person making the acknowledgment is the person named  
23 in the document.

24 (ii) The person making the acknowledgment is personally known  
25 to the witness.

26 (iii) That it is the reasonable belief of the witness that the  
27 circumstances of the person making the acknowledgment are such  
28 that it would be very difficult or impossible for that person to  
29 obtain another form of identification.

30 (iv) The person making the acknowledgment does not possess  
31 any of the identification documents named in paragraphs (3) and  
32 (4).

33 (v) The witness does not have a financial interest in the  
34 document being acknowledged and is not named in the document.

35 (B) A notary public who violates this section by failing to obtain  
36 the satisfactory evidence required by subparagraph (A) shall be  
37 subject to a civil penalty not exceeding ten thousand dollars  
38 (\$10,000). An action to impose this civil penalty may be brought  
39 by the Secretary of State in an administrative proceeding or a public  
40 prosecutor in superior court, and shall be enforced as a civil

1 judgment. A public prosecutor shall inform the secretary of any  
2 civil penalty imposed under this subparagraph.

3 (2) The oath or affirmation under penalty of perjury of two  
4 credible witnesses, whose identities are proven to the officer upon  
5 the presentation of a document satisfying the requirements of  
6 paragraph (3) or (4), that each statement in paragraph (1) is true.

7 (3) Reasonable reliance on the presentation to the officer of any  
8 one of the following, if the document is current or has been issued  
9 within five years:

10 (A) An identification card or driver's license issued by the  
11 Department of Motor Vehicles.

12 (B) A passport issued by the Department of State of the United  
13 States.

14 (C) An inmate identification card issued by the Department of  
15 Corrections and Rehabilitation, if the inmate is in custody in prison.

16 (4) Reasonable reliance on the presentation of any one of the  
17 following, provided that a document specified in subparagraphs  
18 (A) to (E), inclusive, shall either be current or have been issued  
19 within five years and shall contain a photograph and description  
20 of the person named on it, shall be signed by the person, shall bear  
21 a serial or other identifying number, and, in the event that the  
22 document is a passport, shall have been stamped by the United  
23 States Citizenship and Immigration Services of the Department of  
24 Homeland Security:

25 (A) A passport issued by a foreign government.

26 (B) A driver's license issued by a state other than California or  
27 by a Canadian or Mexican public agency authorized to issue  
28 driver's licenses.

29 (C) An identification card issued by a state other than California.

30 (D) An identification card issued by any branch of the Armed  
31 Forces of the United States.

32 (E) An employee identification card issued by an agency or  
33 office of the State of California, or by an agency or office of a city,  
34 county, or city and county in this state.

35 (c) An officer who has taken an acknowledgment pursuant to  
36 this section shall be presumed to have operated in accordance with  
37 the provisions of law.

38 (d) A party who files an action for damages based on the failure  
39 of the officer to establish the proper identity of the person making

1 the acknowledgment shall have the burden of proof in establishing  
2 the negligence or misconduct of the officer.

3 (e) A person convicted of perjury under this section shall forfeit  
4 any financial interest in the document.

5 ~~SEC. 3. Section 8230 of the Government Code is amended to~~  
6 ~~read:~~

7 ~~8230. If a notary public executes a jurat and the statement~~  
8 ~~sworn or subscribed to is contained in a document purporting to~~  
9 ~~identify the affiant, and includes the birthdate or age of the person~~  
10 ~~and a purported photograph or fingerprint or thumbprint of the~~  
11 ~~person so swearing or subscribing, the notary public shall require,~~  
12 ~~as a condition to executing the jurat, that the person verify the~~  
13 ~~birthdate or age contained in the statement by showing any of the~~  
14 ~~following:~~

15 ~~(a) A certified copy of the person's birth certificate.~~

16 ~~(b) An identification card or driver's license issued by the~~  
17 ~~Department of Motor Vehicles.~~

18 ~~(c) An inmate identification card issued by the Department of~~  
19 ~~Corrections and Rehabilitation, if the inmate identification card~~  
20 ~~contains the inmate's date of birth and the inmate is in custody in~~  
21 ~~prison.~~

22 ~~For the purposes of preparing for submission of forms required~~  
23 ~~by the United States Immigration and Naturalization Service, and~~  
24 ~~only for these purposes, a notary public may also accept for~~  
25 ~~identification any documents or declarations acceptable to the~~  
26 ~~United States Immigration and Naturalization Service.~~