

**ASSEMBLY BILL**

**No. 1577**

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**Introduced by Assembly Member Atkins**

January 30, 2014

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An act to amend Section 102875 of the Health and Safety Code, relating to certificates of death.

LEGISLATIVE COUNSEL'S DIGEST

AB 1577, as introduced, Atkins. Certificates of death: transgender decedent.

Existing law establishes the State Department of Public Health under the direction of the State Public Health Officer. Existing law sets forth its powers and duties of the State Public Health Officer, including, but not limited to, designation as the State Registrar of Vital Statistics, having supervisory powers over local registrars and responsible for the uniform and thorough enforcement of provisions relating to the registration of certain vital statistics.

Existing law requires that each death be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found. Existing law sets forth the persons responsible for completing the certificate of death and the required contents of the certificate, including, but not limited to, the decedent's name, sex, and birthplace. Certain violations of these requirements are a crime.

This bill would require a person completing the certificate of death to record the decedent's gender as that reported by the informant, unless the person completing the certificate is presented with a legal document that memorializes the decedent's gender transition, in which case the document would control. The bill would grant immunity from liability

for costs or damages arising from any claims based upon a person entering a decedent’s gender as required by this bill.

By changing the definition of existing crimes, and by increasing the responsibility 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.

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 102875 of the Health and Safety Code
- 2 is amended to read:
- 3 102875. The certificate of death shall be divided into two
- 4 sections.
- 5 (a) The first section shall contain those items necessary to
- 6 establish the fact of the death, including all of the following and
- 7 those other items as the State Registrar may designate:
- 8 (1) (A) Personal data concerning decedent including full name,
- 9 sex, color or race, marital status, name of spouse, date of birth and
- 10 age at death, birthplace, usual residence, and occupation and
- 11 industry or business.
- 12 (B) *If the decedent’s sex was transgender, a person completing*
- 13 *the certificate shall record the decedent’s gender as that reported*
- 14 *by the informant, unless the person completing the certificate is*
- 15 *presented with a legal document that memorializes the decedent’s*
- 16 *gender transition, including, but not limited to, a birth certificate,*
- 17 *a driver’s license, a court order approving a name change, a social*
- 18 *security card, an advanced health care directive, or proof of*
- 19 *clinical treatment for gender transition. In cases where the person*
- 20 *with the right to control the disposition of the remains, as set forth*
- 21 *in Section 7100, is in disagreement with the most recently dated*

1 *document presented, the document memorializing the decedent's*  
2 *gender transition shall prevail.*

3 (C) *A person completing the death certificate in compliance*  
4 *with subparagraph (B) is not liable for any damages or costs*  
5 *arising from claims related to the sex of the decedent as entered*  
6 *on the certificate of death.*

7 (2) Date of death, including month, day, and year.

8 (3) Place of death.

9 (4) Full name of father and birthplace of father, and full maiden  
10 name of mother and birthplace of mother.

11 (5) Informant.

12 (6) Disposition of body information including signature and  
13 license number of embalmer if body embalmed or name of  
14 embalmer if affixed by attorney-in-fact; name of funeral director,  
15 or person acting as such; and date and place of interment or  
16 removal. Notwithstanding any other provision of law to the  
17 contrary, an electronic signature substitute, or some other indicator  
18 of authenticity, approved by the State Registrar may be used in  
19 lieu of the actual signature of the embalmer.

20 (7) Certification and signature of attending physician and  
21 surgeon or certification and signature of coroner when required to  
22 act by law. Notwithstanding any other provision of law to the  
23 contrary, the person completing the portion of the certificate setting  
24 forth the cause of death may attest to its accuracy by use of an  
25 electronic signature substitute, or some other indicator of  
26 authenticity, approved by the State Registrar in lieu of a signature.

27 (8) Date accepted for registration and signature of local  
28 registrar. Notwithstanding any other provision of law to the  
29 contrary, the local registrar may elect to use an electronic signature  
30 substitute, or some other indicator of authenticity, approved by  
31 the State Registrar in lieu of a signature.

32 (b) The second section shall contain those items relating to  
33 medical and health data, including all of the following and other  
34 items as the State Registrar may designate:

35 (1) Disease or conditions leading directly to death and  
36 antecedent causes.

37 (2) Operations and major findings thereof.

38 (3) Accident and injury information.

39 (4) Information indicating whether the decedent was pregnant  
40 at the time of death, or within the year prior to the death, if known,

1 as determined by observation, autopsy, or review of the medical  
2 record. This paragraph shall not be interpreted to require the  
3 performance of a pregnancy test on a decedent, or to require a  
4 review of medical records in order to determine pregnancy.

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

14 However, if the Commission on State Mandates determines that  
15 this act contains other costs mandated by the state, reimbursement  
16 to local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.