

AMENDED IN SENATE AUGUST 19, 2014

AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1577

Introduced by Assembly Member Atkins
(Coauthor: Assembly Member Ammiano)
(Coauthor: Senator Leno)

January 30, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1577, as amended, Atkins. Certificates of death: gender identity.

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 sex to reflect the decedent's gender identity. The bill would require the decedent's gender identity to be reported by the informant, unless the person completing the certificate is presented with a specified document *or documents memorializing the decedent's gender transition, as specified*, in which case the person completing the certificate would be required to record the decedent's sex as that which corresponds to the decedent's gender identity as indicated in that document, *as provided*. The bill would provide that if none of the specified documents are presented and the person with the right, or a majority of persons who have equal rights, to control the disposition of the remains is in disagreement with the gender identity reported by the informant, the gender identity of the decedent recorded on the death certificate is to be as reported by that person or majority of persons. The bill would also provide that if none of the specified documents are presented and a majority of persons who have equal rights to control the disposition of the remains do not agree on the gender identity of the decedent as reported by the informant, any one of those persons may petition the court to determine who among those persons will determine the gender identity of the decedent, as specified.

This 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. The bill would also require a person completing the death certificate to satisfy certain data and certification requirements, as specified, using the information available to him or her prior to the deadlines for completion.

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. This act shall be known, and may be cited, as the
2 Respect After Death Act.

3 SEC. 2. Section 102875 of the Health and Safety Code is
4 amended to read:

5 102875. The certificate of death shall be divided into two
6 sections.

7 (a) The first section shall contain those items necessary to
8 establish the fact of the death, including all of the following and
9 those other items as the State Registrar may designate:

10 (1) (A) Personal data concerning decedent including full name,
11 sex, color or race, marital status, name of spouse, date of birth and
12 age at death, birthplace, usual residence, and occupation and
13 industry or business.

14 (B) A person completing the certificate shall record the
15 decedent's sex to reflect the decedent's gender identity. The
16 decedent's gender identity shall be reported by the informant,
17 unless the person completing the certificate is presented with *a*
18 *document that memorializes the decedent's gender transition,*
19 *including, but not limited to,* a birth certificate, a driver's license,
20 a social security record, a court order approving a name or gender
21 change, a passport, an advanced health care directive, or proof of
22 clinical treatment for gender transition, in which case the person
23 completing the certificate shall record the decedent's sex as that
24 which corresponds to the decedent's gender identity as indicated
25 in that document. *If the documents provided are in conflict*
26 *regarding the decedent's gender and are issued on the same date,*
27 *the document evidencing the transition shall prevail. If the*
28 *documents provided are in conflict regarding the decedent's gender*
29 *and issued on different dates, the most recent document shall*
30 *prevail.* If none of these documents are presented and the person
31 with the right, or a majority of persons who have equal rights, to
32 control the disposition of the remains pursuant to Section 7100 is
33 in disagreement with the gender identity reported by the informant,
34 the gender identity of the decedent recorded on the death certificate
35 shall be as reported by that person or majority of persons.

36 (C) If a document specified in subparagraph (B) is not presented
37 and a majority of persons who have equal rights to control the
38 disposition of the remains pursuant to Section 7100 do not agree

1 with the gender identity of the decedent as reported by the
2 informant, any one of those persons may file a petition, in the
3 superior court in the county in which the decedent resided at the
4 time of his or her death, or in which the remains are located,
5 naming as a party to the action those persons who otherwise have
6 equal rights to control the disposition and seeking an order of the
7 court determining, as appropriate, who among those parties shall
8 determine the gender identity of the decedent.

9 (D) A person completing the death certificate in compliance
10 with subparagraph (B) is not liable for any damages or costs arising
11 from claims related to the sex of the decedent as entered on the
12 certificate of death.

13 (E) A person completing the death certificate shall comply with
14 the data and certification requirements described in Section 102800
15 by using the information available to him or her prior to the
16 deadlines for completion specified in that section.

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

18 (3) Place of death.

19 (4) Full name of father and birthplace of father, and full maiden
20 name of mother and birthplace of mother.

21 (5) Informant.

22 (6) Disposition of body information including signature and
23 license number of embalmer if body embalmed or name of
24 embalmer if affixed by attorney-in-fact; name of funeral director,
25 or person acting as such; and date and place of interment or
26 removal. Notwithstanding any other provision of law to the
27 contrary, an electronic signature substitute, or some other indicator
28 of authenticity, approved by the State Registrar may be used in
29 lieu of the actual signature of the embalmer.

30 (7) Certification and signature of attending physician and
31 surgeon or certification and signature of coroner when required to
32 act by law. Notwithstanding any other provision of law to the
33 contrary, the person completing the portion of the certificate setting
34 forth the cause of death may attest to its accuracy by use of an
35 electronic signature substitute, or some other indicator of
36 authenticity, approved by the State Registrar in lieu of a signature.

37 (8) Date accepted for registration and signature of local registrar.
38 Notwithstanding any other provision of law to the contrary, the
39 local registrar may elect to use an electronic signature substitute,

1 or some other indicator of authenticity, approved by the State
2 Registrar in lieu of a signature.

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

6 (1) Disease or conditions leading directly to death and
7 antecedent causes.

8 (2) Operations and major findings thereof.

9 (3) Accident and injury information.

10 (4) Information indicating whether the decedent was pregnant
11 at the time of death, or within the year prior to the death, if known,
12 as determined by observation, autopsy, or review of the medical
13 record. This paragraph shall not be interpreted to require the
14 performance of a pregnancy test on a decedent, or to require a
15 review of medical records in order to determine pregnancy.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution for certain
18 costs that may be incurred by a local agency or school district
19 because, in that regard, this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty for a crime
21 or infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime within the
23 meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 However, if the Commission on State Mandates determines that
26 this act contains other costs mandated by the state, reimbursement
27 to local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.