

AMENDED IN ASSEMBLY JANUARY 13, 2016

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1238

Introduced by Assembly ~~Member Linder~~ *Members Linder and
Dababneh*

February 27, 2015

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

LEGISLATIVE COUNSEL’S DIGEST

AB 1238, as amended, Linder. Certified copies of marriage, birth, and death certificates: electronic application.

Under existing law, a certified copy of a birth, death, marriage, or military service record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a written, faxed, or digitized image request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person.

This bill would, if the request for a certified copy of a birth, death, or marriage record is made electronically, authorize the official to accept electronic ~~acknowledgment, sworn under penalty of perjury,~~ *acknowledgment verifying the identity of the requestor using a remote identity proofing process aligned with federal guidelines for security and privacy, and satisfying other specified requirements, ensuring that the requester is an authorized person.* The bill would require the request to provide a method for the official to establish the identity of the

requester electronically and would require the system or product used to process the electronic request and to establish the requester's identity verification to comply with specified provisions and protect the personal information of the requester and guard against identity theft.

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

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, faxed, or digitized image of a request
5 for a certified copy of a birth, death, or marriage record pursuant
6 to Section 103525 that is accompanied by a notarized statement
7 sworn under penalty of perjury or a faxed copy or digitized image
8 of a notarized statement sworn under penalty of perjury that the
9 requester is an authorized person, as defined in this section, that
10 official may furnish a certified copy to the applicant pursuant to
11 Section 103525.

12 (2) A faxed or digitized image of the notary acknowledgment
13 accompanying a faxed request received pursuant to this subdivision
14 for a certified copy of a birth, death, or marriage record shall be
15 legible and, if the notary's seal is not photographically
16 reproducible, show the name of the notary, the county of the
17 notary's principal place of business, the notary's telephone number,
18 the notary's registration number, and the notary's commission
19 expiration date typed or printed in a manner that is photographically
20 reproducible below, or immediately adjacent to, the notary's
21 signature in the acknowledgment. If a request for a certified copy
22 of a birth, death, or marriage record is made in person, the official
23 shall take a statement sworn under penalty of perjury that the
24 requester is signing his or her own legal name and is an authorized
25 person, and that official may then furnish a certified copy to the
26 applicant.

27 (3) If a request for a certified copy of a birth, death, or marriage
28 record is made electronically, the official may accept an electronic
29 acknowledgment, sworn under penalty of perjury, that the requester
30 is an authorized person pursuant to this section. The request shall
31 also provide a method for the official to establish the identity of

1 ~~the requester electronically, pursuant to this section. A system or~~
2 ~~product used to process the electronic request and establish the~~
3 ~~requester's identity~~ *acknowledgment verifying the identity of the*
4 *requestor using a remote identity proofing process ensuring that*
5 *the requester is an authorized person. The identity proofing process*
6 *shall be aligned with the federal guidelines for security and privacy*
7 *and shall include dynamic knowledge based authentication or an*
8 *identity proofing method consistent with the electronic*
9 *authentication guidelines of the National Institute of Standards*
10 *and Technology. The verification shall comply with the provisions*
11 *of the California Uniform Electronic Transactions Act and all other*
12 *applicable state and federal laws and regulations to protect the*
13 *personal information of the requester and guard against identity*
14 *theft. If a requester's identity cannot be established electronically*
15 *pursuant to this paragraph, the requester may accompany his or*
16 *her request with a notarized statement of identity pursuant to*
17 *paragraph (1).*

18 (4) For purposes of this subdivision, "digitized image" means
19 an image of an original paper request for a certified copy of a birth,
20 death, or marriage record.

21 ~~(5) Willfully obtaining or assisting another person in obtaining~~
22 ~~a vital record when he or she is not authorized to receive that record~~
23 ~~is a crime pursuant to Section 530.5 of the Penal Code.~~

24 (b) (1) If the person requesting a certified copy of a birth, death,
25 or nonconfidential marriage record is not an authorized person or
26 is an authorized person who is otherwise unable to satisfy the
27 requirements of subdivision (a), the certified copy provided to the
28 applicant shall be an informational certified copy and shall display
29 a legend that states "INFORMATIONAL, NOT A VALID
30 DOCUMENT TO ESTABLISH IDENTITY." The legend shall
31 be placed on the certificate in a manner that will not conceal
32 information.

33 (2) If the person requesting a certified copy of a confidential
34 marriage record is not an authorized person or is an authorized
35 person who is otherwise unable to satisfy the requirements of
36 subdivision (a), the official shall not release a certified copy of the
37 confidential marriage record unless otherwise authorized by law.

38 (c) For purposes of this section, an "authorized person" means:

39 (1) For purposes of requests for certified copies of confidential
40 marriage records, only a party to the confidential marriage.

1 (2) For purposes of requests for certified copies of birth, death,
2 or nonconfidential marriage records, a person who is any of the
3 following:

4 (A) The registrant or a parent or legal guardian of the registrant.

5 (B) A party entitled to receive the record as a result of a court
6 order, or an attorney or a licensed adoption agency seeking the
7 birth record in order to comply with the requirements of Section
8 3140 or 7603 of the Family Code.

9 (C) A member of a law enforcement agency or a representative
10 of another governmental agency, as provided by law, who is
11 conducting official business.

12 (D) A child, grandparent, grandchild, sibling, spouse, or
13 domestic partner of the registrant.

14 (E) An attorney representing the registrant or the registrant's
15 estate, or any person or agency empowered by statute or appointed
16 by a court to act on behalf of the registrant or the registrant's estate.

17 (F) An agent or employee of a funeral establishment who acts
18 within the course and scope of his or her employment and who
19 orders certified copies of a death certificate on behalf of an
20 individual specified in paragraphs (1) to (5), inclusive, of
21 subdivision (a) of Section 7100.

22 (d) A person who asks the agent or employee of a funeral
23 establishment to request a death certificate on his or her behalf
24 warrants the truthfulness of his or her relationship to the decedent
25 and is personally liable for all damages occasioned by, or resulting
26 from, a breach of that warranty.

27 (e) Notwithstanding any other law:

28 (1) A member of a law enforcement agency or a representative
29 of a state or local government agency, as provided by law, who
30 orders a copy of a record to which subdivision (a) applies in
31 conducting official business shall not be required to provide the
32 notarized statement required by subdivision (a).

33 (2) An agent or employee of a funeral establishment who acts
34 within the course and scope of his or her employment and who
35 orders death certificates on behalf of individuals specified in
36 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100
37 shall not be required to provide the notarized statement required
38 by subdivision (a).

39 (f) Informational certified copies of birth and death certificates
40 issued pursuant to subdivision (b) shall only be printed from the

1 single statewide database prepared by the State Registrar and shall
2 be electronically redacted to remove any signatures for purposes
3 of compliance with this section. Local registrars and county
4 recorders shall not issue informational certified copies of birth and
5 death certificates from a source other than the statewide database
6 prepared by the State Registrar. This subdivision shall become
7 operative on July 1, 2007, but only after the statewide database
8 becomes operational and the full calendar year of the birth and
9 death indices and images is entered into the statewide database
10 and is available for the respective year of the birth or death
11 certificate for which an informational copy is requested. The State
12 Registrar shall provide written notification to local registrars and
13 county recorders as soon as a year becomes available for issuance
14 from the statewide database.

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