

**ASSEMBLY BILL**

**No. 2080**

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**Introduced by Assembly Member Gallagher**

February 17, 2016

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An act to amend Section 8200 of the Probate Code, relating to probate.

LEGISLATIVE COUNSEL'S DIGEST

AB 2080, as introduced, Gallagher. Probate of wills: death certificates.

Existing law requires the custodian of a will to, within 30 days after having knowledge of the death of the testator, or upon a petition for probate of the will being filed earlier, deliver the will to the clerk of the superior court of the county in which the estate is administered and mail a copy of the will to the executor or as otherwise specified. Existing law requires the clerk of the court to release a copy of a will delivered under those provisions for attachment to a petition for probate of the will or on receipt of payment of the required fee and either a court order for production of the will or a certified copy of a death certificate of the decedent.

This bill would additionally require the release of the copy of the will upon the payment of the required fee and receipt of an informational certified copy of a death certificate, as specified.

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 8200 of the Probate Code is amended to  
2 read:

3 8200. (a) Unless a petition for probate of the will is earlier  
4 filed, the custodian of a will shall, within 30 days after having  
5 knowledge of the death of the testator, do both of the following:

6 (1) Deliver the will to the clerk of the superior court of the  
7 county in which the estate of the decedent may be administered.

8 (2) Mail a copy of the will to the person named in the will as  
9 executor, if the person’s whereabouts is known to the custodian,  
10 or if not, to a person named in the will as a beneficiary, if the  
11 person’s whereabouts is known to the custodian.

12 (b) A custodian of a will who fails to comply with the  
13 requirements of this section shall be liable for all damages sustained  
14 by any person injured by the failure.

15 (c) The clerk shall release a copy of a will delivered under this  
16 section for attachment to a petition for probate of the will or  
17 otherwise on receipt of payment of the required fee and either a  
18 court order for production of the will or a certified copy of a death  
19 certificate of the decedent. *For purposes of this subdivision,*  
20 *“certified copy of a death certificate” shall include an*  
21 *informational certified copy, as described in Section 103526 of*  
22 *the Health and Safety Code.*

23 (d) The fee for delivering a will to the clerk of the superior court  
24 pursuant to paragraph (1) of subdivision (a) shall be as provided  
25 in Section 70626 of the Government Code. If an estate is  
26 commenced for the decedent named in the will, the fee for any  
27 will delivered pursuant to paragraph (1) of subdivision (a) shall  
28 be reimbursable from the estate as an expense of administration.

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