

**Assembly Bill No. 1851**

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Passed the Assembly August 31, 2000

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*Chief Clerk of the Assembly*

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Passed the Senate August 31, 2000

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 100430 and 103425 of, to add Section 103735 to, and to add Article 9 (commencing with Section 103449.1) to Chapter 11 of Part 1 of Division 102 of, the Health and Safety Code, relating to vital records.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1851, Longville. Vital records: change of sex.

Existing law provides that whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared for the person reflecting the change of gender and any change of name. Existing law requires that a petition for the issuance of a new birth certificate in those cases be filed with the superior court of the county where the petitioner resides.

This bill would permit these petitions also to be filed in the county where the petitioner was born. The bill would also establish a procedure, including the imposition of a fee, for the issuance of a certificate of change of sex to California residents who do not have a California birth certificate. The imposition of this new procedure on counties would create a state-mandated local program.

Existing law authorizes the fees or charges for a record search or for the issuance or renewal of specified permits, licenses, registrations, or documents to be adjusted annually by the percentage change determined to specified existing law.

This bill would include fees for a new birth certificate and a certificate of change of sex among those documents for which fees may be adjusted annually.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000



statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 100430 of the Health and Safety Code is amended to read:

100430. (a) The fees or charges for a record search or for the issuance of any license, permit, registration, or any other document pursuant to Sections 26832, 26840, and 26859 of the Government Code, or Sections 102525, 102625, 102670, 102725, 102750, 103050, 103065, 103225, 103325, 103400, 103425, 103450, 103525, 103590, 103595, 103625, 103650, 103675, 103690, 103695, 103700, 103705, 103710, 103715, 103720, 103725, 103730, and 103735 of this code, may be adjusted annually by the percentage change determined pursuant to Section 100425.

The base amount to be adjusted shall be the statutory base amount of the fee or charge plus the sum of the prior adjustments to the statutory base amount. Whenever the statutory base amount is amended, the base amount shall be the new statutory base amount plus the sum of adjustments to the new statutory base amount calculated subsequent to the statutory base amendment. The actual dollar fee or charge shall be rounded to the next highest whole dollar.

(b) Beginning January 1, 1983, the department shall annually publish a list of the actual numerical fee charges as adjusted pursuant to this section. This adjustment of fees and the publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 103425 of the Health and Safety Code is amended to read:



103425. Whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States. A petition for the issuance of a new birth certificate in those cases shall be filed with the superior court of the county where the petitioner resides or in the county where the petitioner was born.

SEC. 3. Article 9 (commencing with Section 103449.1) is added to Chapter 11 of Part 1 of Division 102 of the Health and Safety Code, to read:

#### Article 9. Certification of Change of Sex

103449.1. Whenever a California resident who does not have a California birth certificate has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a certificate of change of sex may be prepared for the resident reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States. A petition for the issuance of a certificate of change of sex in those cases shall be filed with the superior court of the county where the petitioner resides. A petition for the issuance of a certificate of change of sex may not be filed unless the petitioner has been a resident of this state for six months and of the county in which the petition is to be filed for three months.

103449.2. (a) The petition shall be accompanied by an affidavit of a physician documenting the sex change and a certified copy of the court order changing the petitioner's name, if applicable.

(b) The petition shall be heard at the time appointed by the court and objections may be filed by any person who can, in those objections, show to the court good



reason against the certificate of change of sex. At the hearing, the court may examine under oath the petitioner, and any other person having knowledge of facts relevant to the petition. At the conclusion of the hearing, the court shall make an order to issue a certificate, or dismissing the petition, as to the court may seem right and proper.

(c) A certified copy of the decree of the court ordering the certificate of change of sex shall, within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof, together with the fee prescribed in Section 103735, the State Registrar shall issue a certificate of change of sex for the petitioner.

(d) The certificate of change of sex shall indicate the sex of the registrant as it has been surgically altered and shall reflect any change of name specified in the petition if accompanied by a court order, as prescribed in Section 103449.1.

(e) All records and information specified in this article, other than the certificate of change of sex, shall be available only upon written request of the registrant or an order of a court of record.

(f) The State Registrar shall transmit a certified copy of the certificate of change of sex established under this article to the registrant without additional charge.

103449.3. In lieu of separate proceedings, a single petition of a change of name and issuance of a certificate of change of sex may be filed with the superior court. A petition for the issuance of a certificate of change of sex may not be filed unless the petitioner has been a resident of this state for six months and of the county in which the petition is to be filed for three months. With respect to such a petition, the court shall follow the procedure set forth in Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure. A certified copy of the decree of the court issued pursuant to this section shall, within 30 days, be filed with the State Registrar. Upon its receipt, the State Registrar shall establish a certificate of change of sex as provided in this article.



SEC. 4. Section 103735 is added to the Health and Safety Code, to read:

103735. A fee of twenty dollars (\$20) shall be paid to the State Registrar by the applicant for a certificate of change of sex under Article 9 (commencing with Section 103449.1).

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved \_\_\_\_\_, 2000

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*Governor*

