

AMENDED IN SENATE JUNE 21, 2000

AMENDED IN ASSEMBLY APRIL 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2735

Introduced by Assembly Member Cox

February 25, 2000

~~An act to add Article 6.5 (commencing with Section 103415) to Chapter 11 of Part 1 of Division 102 of the Health and Safety Code, to amend Section 100430 of, to add Section 103735 to, and to add Article 8 (commencing with Section 103446) to Chapter 11 of Part 1 of Division 102 of, the Health and Safety Code, relating to vital statistics.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, as amended, Cox. Birth certificates.

Under existing law, the State Registrar is required to amend or revise a birth certificate under certain circumstances.

This bill would permit an individual, or the parent, legal guardian, or conservator, of a minor or incompetent person, to ~~have a new birth certificate issued if clear and convincing evidence exists that an error was made on the birth certificate in gender identification~~ apply to the State Registrar for the establishment and issuance of a new birth certificate and the sealing of the original, upon finding that the birthing hospital or local registrar made a gender error when completing the original birth certificate. The bill would require the applicant to pay to the State Registrar a \$19 fee for the establishment of

a new record of birth under these circumstances. The bill would authorize the fee amount to be adjusted annually, in accordance with specified provisions.

This bill would specify the duties of the State Registrar, as well as local registrars and county recorders in this regard. By imposing new duties on local registrars and county recorders, the bill would create 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, 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.

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

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

1 ~~SECTION 1. Article 6.5 (commencing with Section~~
2 ~~103415) is added to Chapter 11 of Part 1 of Division 102~~
3 ~~of the Health and Safety Code, to read:~~

4
5 ~~Article 6.5. Amendment of Birth Certificate to~~
6 ~~Correct Errors in Gender Identification~~
7

8 ~~103415. (a) A person born in this state, or, in the case~~
9 ~~of a minor or incompetent person, his or her parent, legal~~
10 ~~guardian, or conservator, may, upon provision of clear~~
11 ~~and convincing evidence that a birth certificate contains~~
12 ~~an error in gender identification, require the State~~
13 ~~Registrar to issue a new birth certificate which shall~~
14 ~~contain the correct gender of the individual.~~

15 ~~(b) In order to obtain a new birth certificate pursuant~~
16 ~~to subdivision (a), the individual, or his or her parent,~~
17 ~~legal guardian, or conservator shall file an affidavit stating~~



1 ~~the gender identification error made on the birth~~
2 ~~certificate. This subdivision shall not be construed as~~
3 ~~requiring the State Registrar to correct a birth certificate~~
4 ~~without evidence in addition to the affidavit required by~~
5 ~~this subdivision.~~

6 ~~103420. The State Registrar shall furnish a certified~~
7 ~~copy of the new birth certificate prepared under~~
8 ~~authority of this article to the registrant, upon receipt of~~
9 ~~the fee required pursuant to Section 103725.~~

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

12 100430. (a) The fees or charges for a record search or
13 for the issuance of any license, permit, registration, or any
14 other document pursuant to Sections 26832, 26840, and
15 26859 of the Government Code, or Sections 102525,
16 102625, 102670, 102725, 102750, 103050, 103065, 103225,
17 103325, 103400, 103425, 103450, 103525, 103590, 103595,
18 103625, 103650, 103675, 103690, 103695, 103700, 103705,
19 103710, 103715, 103720, 103725, ~~and~~ 103730, *and 103735* of
20 this code, may be adjusted annually by the percentage
21 change determined pursuant to Section 100425.

22 The base amount to be adjusted shall be the statutory
23 base amount of the fee or charge plus the sum of the prior
24 adjustments to the statutory base amount. Whenever the
25 statutory base amount is amended, the base amount shall
26 be the new statutory base amount plus the sum of
27 adjustments to the new statutory base amount calculated
28 subsequent to the statutory base amendment. The actual
29 dollar fee or charge shall be rounded to the next highest
30 whole dollar.

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

38 *SEC. 2. Article 8 (commencing with Section 103446)*
39 *is added to Chapter 11 of Part 1 of Division 102 of the*
40 *Health and Safety Code, to read:*



1 Article 8. Revision of Birth Records to Correct
2 Gender Errors Made by Birthing Hospitals or Local
3 Registrars
4

5 103446. It is the intent of the Legislature that this
6 article provide a remedy for the correction of birth
7 certificates that contain gender errors made by the
8 birthing hospital or local registrar when completing the
9 original birth certificate.

10 103447. (a) Notwithstanding any other provision of
11 this chapter, any person born in this state, or, in the case
12 of a minor or incompetent person, his or her parent, legal
13 guardian, or conservator, may apply to the State Registrar
14 for the establishment and issuance of a new birth
15 certificate and the sealing of the original, upon finding
16 that the birthing hospital or local registrar made a gender
17 error when completing the original birth certificate.

18 (b) The application shall be accompanied by the
19 sworn affidavit of the administrator of the local hospital,
20 a representative designated by the administrator, or a
21 representative of the local registrar, verifying that the
22 incorrect gender information entered on the birth
23 certificate was due to hospital or local agency
24 administrative error.

25 103447.5. Upon receipt of the application and sworn
26 affidavit, and upon payment of the fee required by
27 Section 103735, the State Registrar shall establish a new
28 birth certificate for the person.

29 103448. The new birth certificate established
30 pursuant to this article shall in no way indicate that it is
31 not the original birth certificate of the applicant. The new
32 birth certificate shall supplant any birth certificate
33 previously registered for the applicant, and shall be the
34 only birth certificate open to public inspection.

35 103448.5. The State Registrar shall transmit a certified
36 copy of a birth certificate established pursuant to this
37 article to the applicant, without additional charge.

38 103449. (a) When a new birth certificate is
39 established pursuant to this article, the State Registrar
40 shall so inform the local registrar and the county recorder



1 *whose records contain copies of the original certificate,*
2 *who shall forward those copies to the State Registrar for*
3 *filing with the original certificate, if he or she determines*
4 *that it is practical for him or her to do so.*

5 *(b) If the local registrar or county recorder*
6 *determines that it would be impractical to forward the*
7 *copies of the original certificate to the State Registrar, he*
8 *or she shall cover and seal the copies in a manner that does*
9 *not deface or destroy them, and shall forward a verified*
10 *statement of this action to the State Registrar.*

11 *SEC. 3. Section 103735 is added to the Health and*
12 *Safety Code, to read:*

13 *103735. A fee of nineteen dollars (\$19) shall be paid to*
14 *the State Registrar by an applicant for the establishment*
15 *of a new record of birth pursuant to Article 8*
16 *(commencing with Section 103446) of Chapter 11.*

17 *SEC. 4. Notwithstanding Section 17610 of the*
18 *Government Code, if the Commission on State Mandates*
19 *determines that this act contains costs mandated by the*
20 *state, reimbursement to local agencies and school*
21 *districts for those costs shall be made pursuant to Part 7*
22 *(commencing with Section 17500) of Division 4 of Title*
23 *2 of the Government Code. If the statewide cost of the*
24 *claim for reimbursement does not exceed one million*
25 *dollars (\$1,000,000), reimbursement shall be made from*
26 *the State Mandates Claims Fund.*

