

**Assembly Bill No. 2735**

**CHAPTER 780**

An act to amend Sections 100430 and 103700 of, 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.

[Approved by Governor September 27, 2000. Filed  
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, 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 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, or upon the filing of sworn affidavits by the attending physician and the mother or father or a relative who was at least 5 years old at the time of the applicant's birth that the applicant's gender was different from that indicated on the original birth certificate. This 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.



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

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

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

103447. (a) Notwithstanding any other provision of this chapter, any person born in this state, or, in the case of a minor or incompetent person, his or her parent, legal guardian, or conservator, may 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.

(b) The application shall be accompanied by one of the following:

(1) The sworn affidavit of the administrator of the hospital where the applicant was born or by a representative designated by the



administrator, verifying that the incorrect gender information entered on the birth certificate was due to a hospital error.

(2) The sworn affidavit of the representative of the local registrar, verifying that the incorrect gender information entered on the birth certificate was due to an administrative error of the local registrar.

(3) The sworn affidavit of the physician attending the birth of the applicant and the sworn affidavit of the applicant's mother or father or a relative who was at least five years old at the time of the applicant's birth, verifying that, at the time of birth, the applicant's gender was different from that indicated on the original birth certificate.

103447.5. Upon receipt of the application and sworn affidavit or affidavits, and upon payment of the fee required by Section 103700, the State Registrar shall establish a new birth certificate for the person.

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

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

103449. (a) When a new birth certificate is established pursuant to this article, the State Registrar shall so inform the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward those copies to the State Registrar for filing with the original certificate, if he or she determines that it is practical for him or her to do so.

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

SEC. 3. Section 103700 of the Health and Safety Code is amended to read:

103700. A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for an amendment or revision to a birth, death, or marriage record under provisions of Articles 1 (commencing with Section 103225), 4 (commencing with Section 103325), 5 (commencing with Section 103350) and 8 (commencing with Section 103446) of Chapter 11, except for those amendments that are filed within one year of the date of occurrence of the event.

SEC. 4. 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.

