

AMENDED IN SENATE AUGUST 22, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 29, 2006

AMENDED IN SENATE JUNE 8, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1102

Introduced by Assembly Member Hancock

February 22, 2005

An act to amend Sections 300, 302, 303, 306, 307, 309, 351, 354, 355, 357, 358, 359, 360, 400, 420, 422, 425, 501, 502, 503, 505, 506, 508, 509, 510, 511, 530, 531, 532, 533, 534, 535, and 536 of, to amend the heading of Part 2 (commencing with Section 350) of Division 3 of, to add Sections 351.6, 426, and 500.5 to, and to repeal Sections 353 and 424 of, the Family Code, and to amend Sections 100430, 102130, 102140, 102310, 102325, 102355, 103125, 103175, 103180, 103200, 103235, 103780, and 103785 of, and to repeal Section 103595 of, the Health and Safety Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1102, as amended, Hancock. Marriage.

Existing law provides that marriage is a personal relation arising out of a civil contract between a man and a woman, and requires the licensure and solemnization thereof. Existing law provides for the issuance of marriage and confidential marriage licenses and sets the

fees thereof. Existing law further imposes duties on county clerks in that connection, as specified.

This bill would, operative January 1, 2008, revise and recast those provisions and related terms. Among other things, the bill would conform various statutory provisions of law to those changes. The bill would further regulate the issuance of confidential marriage licenses based upon an inability of the parties to appear, as specified, and would make related changes with regard to notaries public and the State Registrar. In issuing a duplicate marriage license or confidential marriage license, the bill would allow the county clerk to charge any fee to cover the actual costs of issuing that duplicate license, and would change the fee charged notaries public for approval to issue confidential marriage licenses to \$300. Operative January 1, 2007, the bill would also allow an applicant, witness, or person solemnizing or performing a marriage ceremony to use his or her business address or post office box for purposes of the certificate of registry or marriage license.

By adding to the duties of county employees to comply with the above-described changes, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 358 of the Family Code, proposed by AB 2051, to be operative January 1, 2007, only if AB 2051 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 300 of the Family Code is amended to
- 2 read:
- 3 300. (a) Marriage is a personal relation arising out of a civil
- 4 contract between a man and a woman, to which the consent of
- 5 the parties capable of making that contract is necessary. Consent

1 alone does not constitute marriage. Consent must be followed by
2 the issuance of a license and solemnization as authorized by this
3 division, except as provided by Section 425 and Part 4
4 (commencing with Section 500).

5 (b) For purposes of this part, the document issued by the
6 county clerk is a marriage license until it is registered with the
7 county recorder, at which time the license becomes a marriage
8 certificate.

9 SEC. 2. Section 302 of the Family Code is amended to read:

10 302. (a) An unmarried male or female under the age of 18
11 years is capable of consenting to and consummating marriage
12 upon obtaining a court order granting permission to the underage
13 person or persons to marry.

14 (b) The court order and written consent of the parents of each
15 underage person, or of one of the parents or the guardian of each
16 underage person shall be filed with the clerk of the court, and a
17 certified copy of the order shall be presented to the county clerk
18 at the time the marriage license is issued.

19 SEC. 3. Section 303 of the Family Code is amended to read:

20 303. If it appears to the satisfaction of the court by
21 application of a minor that the minor requires a written consent to
22 marry and that the minor has no parent or has no parent capable
23 of consenting, the court may make an order consenting to the
24 issuance of a marriage license and granting permission to the
25 minor to marry. The order shall be filed with the clerk of the
26 court and a certified copy of the order shall be presented to the
27 county clerk at the time the marriage license is issued.

28 SEC. 4. Section 306 of the Family Code is amended to read:

29 306. Except as provided in Section 307, a marriage shall be
30 licensed, solemnized, and authenticated, and the authenticated
31 marriage license shall be returned to the county recorder of the
32 county where the marriage license was issued, as provided in this
33 part. Noncompliance with this part by a nonparty to the marriage
34 does not invalidate the marriage.

35 SEC. 5. Section 307 of the Family Code is amended to read:

36 307. This division, so far as it relates to the solemnizing of
37 marriage, is not applicable to members of a particular religious
38 society or denomination not having clergy for the purpose of
39 solemnizing marriage or entering the marriage relation, if all of
40 the following requirements are met:

1 (a) The parties to the marriage sign and endorse on the form
2 prescribed by the State Department of Health Services, showing
3 all of the following:

4 (1) The fact, time, and place of entering into the marriage.

5 (2) The printed names, signatures, and mailing addresses of
6 two witnesses to the ceremony.

7 (3) The religious society or denomination of the parties to the
8 marriage, and that the marriage was entered into in accordance
9 with the rules and customs of that religious society or
10 denomination. The statement of the parties to the marriage that
11 the marriage was entered into in accordance with the rules and
12 customs of the religious society or denomination is conclusively
13 presumed to be true.

14 (b) The License and Certificate of Non-Clergy Marriage,
15 endorsed pursuant to subdivision (a), is returned to the county
16 recorder of the county in which the license was issued within 10
17 days after the ceremony.

18 SEC. 6. Section 309 of the Family Code is amended to read:

19 309. If either party to a marriage denies the marriage, or
20 refuses to join in a declaration of the marriage, the other party
21 may proceed, by action pursuant to Section 103450 of the Health
22 and Safety Code, to have the validity of the marriage determined
23 and declared.

24 SEC. 7. The heading of Part 2 (commencing with Section
25 350) of Division 3 of the Family Code is amended to read:

26
27 **PART 2. MARRIAGE LICENSE**

28
29 SEC. 8. Section 351 of the Family Code is amended to read:

30 351. The marriage license shall show all of the following:

31 (a) The identity of the parties to the marriage.

32 (b) The parties' full given names at birth or by court order, and
33 mailing addresses.

34 (c) The parties' dates of birth.

35 SEC. 8.5. Section 351.6 is added to the Family Code, to read:

36 351.6. Notwithstanding Section 307, 351, 351.5, 359, or 422
37 of this code, or Section 103175 or 103180 of the Health and
38 Safety Code, a mailing address used by an applicant, witness, or
39 person solemnizing or performing the marriage ceremony shall

1 be a residential address, a business address, or a United States
2 Postal Service post office box.

3 SEC. 9. Section 353 of the Family Code is repealed.

4 SEC. 10. Section 354 of the Family Code is amended to read:

5 354. (a) Each applicant for a marriage license shall be
6 required to present authentic photo identification acceptable to
7 the county clerk as to name and date of birth. A credible witness
8 affidavit or affidavits may be used in lieu of authentic photo
9 identification.

10 (b) For the purpose of ascertaining the facts mentioned or
11 required in this part, if the clerk deems it necessary, the clerk
12 may examine the applicants for a marriage license on oath at the
13 time of the application. The clerk shall reduce the examination to
14 writing and the applicants shall sign it.

15 (c) If necessary, the clerk may request additional documentary
16 proof as to the accuracy of the facts stated.

17 (d) Applicants for a marriage license shall not be required to
18 state, for any purpose, their race or color.

19 (e) If a marriage is to be entered into pursuant to subdivision
20 (b) of Section 420, the attorney in fact shall comply with the
21 requirements of this section on behalf of the applicant who is
22 overseas, if necessary.

23 SEC. 11. Section 355 of the Family Code is amended to read:

24 355. (a) The forms for the marriage license shall be
25 prescribed by the State Department of Health Services, and shall
26 be adapted to set forth the facts required in this part.

27 (b) The marriage license shall include an affidavit, which the
28 applicants shall sign, affirming that they have received the
29 brochure provided for in Section 358. If the marriage is to be
30 entered into pursuant to subdivision (b) of Section 420, the
31 attorney in fact shall sign the affidavit on behalf of the applicant
32 who is overseas.

33 SEC. 12. Section 357 of the Family Code is amended to read:

34 357. (a) The county clerk shall number each marriage license
35 issued and shall transmit at periodic intervals to the county
36 recorder a list or copies of the licenses issued.

37 (b) Not later than 60 days after the date of issuance, the county
38 recorder shall notify licenseholders whose marriage license has
39 not been returned of that fact and that the marriage license will
40 automatically expire on the date shown on its face.

1 (c) The county recorder shall notify the licenseholders of the
2 obligation of the person solemnizing their marriage to return the
3 marriage license to the recorder’s office within 10 days after the
4 ceremony.

5 SEC. 13. Section 358 of the Family Code is amended to read:

6 358. (a) The State Department of Health Services shall
7 prepare and publish a brochure that shall contain the following:

8 (1) Information concerning the possibilities of genetic defects
9 and diseases and a listing of centers available for the testing and
10 treatment of genetic defects and diseases.

11 (2) Information concerning acquired immunodeficiency
12 syndrome (AIDS) and the availability of testing for antibodies to
13 the probable causative agent of AIDS.

14 (3) Information concerning domestic violence, including
15 resources available to victims and a statement that physical,
16 emotional, psychological, and sexual abuse, and assault and
17 battery, are against the law.

18 (b) The State Department of Health Services shall make the
19 brochures available to county clerks who shall distribute a copy
20 of the brochure to each applicant for a marriage license,
21 including applicants for a confidential marriage license and
22 notaries public receiving a confidential marriage license pursuant
23 to Section 503.

24 (c) Each notary public issuing a confidential marriage license
25 under Section 503 shall distribute a copy of the brochure to the
26 applicants for a confidential marriage license.

27 (d) To the extent possible, the State Department of Health
28 Services shall seek to combine in a single brochure all statutorily
29 required information for marriage license applicants.

30 SEC. 13.5. Section 358 of the Family Code is amended to
31 read:

32 358. (a) The State Department of Health Services shall
33 prepare and publish a brochure that shall contain the following:

34 (1) Information concerning the possibilities of genetic defects
35 and diseases and a listing of centers available for the testing and
36 treatment of genetic defects and diseases.

37 (2) Information concerning acquired immunodeficiency
38 syndrome (AIDS) and the availability of testing for antibodies to
39 the probable causative agent of AIDS.

1 (3) Information concerning domestic violence, including
2 resources available to victims and a statement that physical,
3 emotional, psychological, and sexual abuse, and assault and
4 battery, are against the law.

5 (b) The State Department of Health Services shall make the
6 brochures available to county clerks who shall distribute a copy
7 of the brochure to each applicant for a marriage license,
8 including applicants for a confidential marriage license and
9 notaries public receiving a confidential marriage license pursuant
10 to Section 503. The department shall also make the brochure
11 available to the Secretary of State who shall distribute a copy of
12 the brochure to persons who qualify as domestic partners
13 pursuant to Section 297.

14 (c) The department shall prepare a lesbian, gay, bisexual, and
15 transgender specific domestic abuse brochure and make the
16 brochure available to the Secretary of State who shall print and
17 make available the brochure, as funding allows, pursuant to
18 Section 298.5.

19 (d) Each notary public issuing a confidential marriage license
20 under Section 503 shall distribute a copy of the brochure to the
21 applicants for a confidential marriage license.

22 (e) To the extent possible, the State Department of Health
23 Services shall seek to combine in a single brochure all statutorily
24 required information for marriage license applicants.

25 SEC. 14. Section 359 of the Family Code is amended to read:

26 359. (a) Except as provided in Sections 420 and 426,
27 applicants to be married shall first appear together in person
28 before the county clerk to obtain a marriage license.

29 (b) The contents of the marriage license are provided in Part 1
30 (commencing with Section 102100) of Division 102 of the
31 Health and Safety Code.

32 (c) The issued marriage license shall be presented to the
33 person solemnizing the marriage by the parties to be married.

34 (d) The person solemnizing the marriage shall complete the
35 solemnization sections on the marriage license, and shall cause to
36 be entered on the marriage license the printed name, signature,
37 and mailing address of at least one, and no more than two,
38 witnesses to the marriage ceremony.

1 (e) The marriage license shall be returned by the person
2 solemnizing the marriage to the county recorder of the county in
3 which the license was issued within 10 days after the ceremony.

4 (f) As used in this division, “returned” means presented to the
5 appropriate person in person, or postmarked, before the
6 expiration of the specified time period.

7 SEC. 15. Section 360 of the Family Code is amended to read:

8 360. (a) If a marriage license is lost, damaged, or destroyed
9 after the marriage ceremony, but before it is returned to the
10 county recorder, or deemed unacceptable for registration by the
11 county recorder, the person solemnizing the marriage, in order to
12 comply with Section 359, shall obtain a duplicate marriage
13 license by filing an affidavit setting forth the facts with the
14 county clerk of the county in which the license was issued.

15 (b) The duplicate marriage license may not be issued later than
16 one year after issuance of the original license and shall be
17 returned by the person solemnizing the marriage to the county
18 recorder within one year of the issuance date shown on the
19 original marriage license.

20 (c) The county clerk may charge a fee to cover the actual costs
21 of issuing a duplicate marriage license.

22 (d) If a marriage license is lost, damaged, or destroyed before
23 a marriage ceremony takes place, the applicants shall purchase a
24 new marriage license and the old license shall be voided.

25 SEC. 16. Section 400 of the Family Code is amended to read:

26 400. Marriage may be solemnized by any of the following
27 who is of the age of 18 years or older:

28 (a) A priest, minister, rabbi, or authorized person of any
29 religious denomination.

30 (b) A judge or retired judge, commissioner of civil marriages
31 or retired commissioner of civil marriages, commissioner or
32 retired commissioner, or assistant commissioner of a court of
33 record in this state.

34 (c) A judge or magistrate who has resigned from office.

35 (d) Any of the following judges or magistrates of the United
36 States:

37 (1) A justice or retired justice of the United States Supreme
38 Court.

1 (2) A judge or retired judge of a court of appeals, a district
2 court, or a court created by an act of Congress the judges of
3 which are entitled to hold office during good behavior.

4 (3) A judge or retired judge of a bankruptcy court or a tax
5 court.

6 (4) A United States magistrate or retired magistrate.

7 (e) A legislator or constitutional officer of this state or a
8 Member of Congress who represents a district within this state,
9 while that person holds office.

10 SEC. 17. Section 420 of the Family Code is amended to read:

11 420. (a) No particular form for the ceremony of marriage is
12 required for solemnization of the marriage, but the parties shall
13 declare, in the physical presence of the person solemnizing the
14 marriage and necessary witnesses, that they take each other as
15 husband and wife.

16 (b) Notwithstanding subdivision (a), a member of the Armed
17 Forces of the United States who is stationed overseas and serving
18 in a conflict or a war and is unable to appear for the licensure and
19 solemnization of the marriage may enter into that marriage by the
20 appearance of an attorney in fact, commissioned and empowered
21 in writing for that purpose through a power of attorney. The
22 attorney in fact must personally appear at the county clerk's
23 office with the party who is not stationed overseas, and present
24 the original power of attorney duly signed by the party stationed
25 overseas and acknowledged by a notary or witnessed by two
26 officers of the United States Armed Forces. Copies in any form,
27 including by facsimile, are not acceptable. The power of attorney
28 shall state the full given names at birth, or by court order, of the
29 parties to be married, and that the power of attorney is solely for
30 the purpose of authorizing the attorney in fact to obtain a
31 marriage license on the person's behalf and participate in the
32 solemnization of the marriage. The original power of attorney
33 shall be a part of the marriage certificate upon registration.

34 (c) No contract of marriage, if otherwise duly made, shall be
35 invalidated for want of conformity to the requirements of any
36 religious sect.

37 SEC. 18. Section 422 of the Family Code is amended to read:

38 422. The person solemnizing a marriage shall, sign and print
39 or type upon the marriage license a statement, in the form

1 prescribed by the State Department of Health Services, showing
2 all of the following:

3 (a) The fact, date (month, day, year), and place (city and
4 county) of solemnization.

5 (b) The printed names, signatures, and mailing addresses of at
6 least one, and no more than two, witnesses to the ceremony.

7 (c) The official position of the person solemnizing the
8 marriage, or of the denomination of which that person is a priest,
9 minister, rabbi, or other authorized person of any religious
10 denomination.

11 (d) The person solemnizing the marriage shall also type or
12 print his or her name and mailing address.

13 SEC. 19. Section 424 of the Family Code is repealed.

14 SEC. 20. Section 425 of the Family Code is amended to read:

15 425. If no record of the solemnization of a California
16 marriage previously contracted under this division for that
17 marriage is known to exist, the parties may purchase a License
18 and Certificate of Declaration of Marriage from the county clerk
19 in the parties' county of residence one year or more from the date
20 of the marriage. The license and certificate shall be returned to
21 the county recorder of the county in which the license was
22 issued.

23 SEC. 21. Section 426 is added to the Family Code, to read:

24 426. If for sufficient reason, as described in subdivision (d),
25 either or both of the parties to be married are physically unable to
26 appear in person before the county clerk, a marriage license may
27 be issued by the county clerk to the person solemnizing the
28 marriage if the following requirements are met:

29 (a) The person solemnizing the marriage physically presents
30 an affidavit to the county clerk explaining the reason for the
31 inability to appear.

32 (b) The affidavit is signed under penalty of perjury by the
33 person solemnizing the marriage and by both parties.

34 (c) The signature of any party to be married who is unable to
35 appear in person before the county clerk is authenticated by a
36 notary public or a court prior to the county clerk issuing the
37 marriage license.

38 (d) Sufficient reason includes proof of hospitalization,
39 incarceration, or any other reason proved to the satisfaction of the
40 county clerk.

1 SEC. 22. Section 500.5 is added to the Family Code, to read:

2 500.5. For purposes of this part, the document issued by the
3 county clerk is a marriage license until it is registered with the
4 county clerk, at which time the license becomes a marriage
5 certificate.

6 SEC. 23. Section 501 of the Family Code is amended to read:

7 501. Except as provided in Section 502, a confidential
8 marriage license shall be issued by the county clerk upon the
9 personal appearance together of the parties to be married and
10 their payment of the fees required by Sections 26840.1 and
11 26840.8 of the Government Code and any fee imposed pursuant
12 to the authorization of Section 26840.3 of the Government Code.

13 SEC. 24. Section 502 of the Family Code is amended to read:

14 502. If for sufficient reason, as described in subdivision (d),
15 either or both of the parties to be married are physically unable to
16 appear in person before the county clerk, a confidential marriage
17 license may be issued by the county clerk to the person
18 solemnizing the marriage if the following requirements are met:

19 (a) The person solemnizing the marriage physically presents
20 an affidavit to the county clerk explaining the reason for the
21 inability to appear.

22 (b) The affidavit is signed under penalty of perjury by the
23 person solemnizing the marriage and by both parties.

24 (c) The signature of any party to be married who is unable to
25 appear in person before the county clerk is authenticated by a
26 notary public or a court prior to the county clerk issuing the
27 confidential marriage license.

28 (d) Sufficient reason includes proof of hospitalization,
29 incarceration, or any other reason proved to the satisfaction of the
30 county clerk.

31 SEC. 25. Section 503 of the Family Code is amended to read:

32 503. The county clerk shall issue a confidential marriage
33 license upon the request of a notary public approved by the
34 county clerk to issue confidential marriage licenses pursuant to
35 Chapter 2 (commencing with Section 530) and upon payment by
36 the notary public of the fees specified in Sections 26840.1 and
37 26840.8 of the Government Code. The parties shall reimburse a
38 notary public who issues a confidential marriage license for the
39 amount of the fees.

40 SEC. 26. Section 505 of the Family Code is amended to read:

1 505. (a) The form of the confidential marriage license shall
2 be prescribed by the State Registrar of Vital Statistics.

3 (b) The form shall be designed to require that the parties to be
4 married declare or affirm that they meet all of the requirements
5 of this chapter.

6 (c) The form shall include an affidavit, which the bride and
7 groom shall sign, affirming that they have received the brochure
8 provided for in Section 358.

9 SEC. 27. Section 506 of the Family Code is amended to read:

10 506. (a) The confidential marriage license shall be presented
11 to the person solemnizing the marriage.

12 (b) Upon performance of the ceremony, the solemnization
13 section on the confidential marriage license shall be completed
14 by the person solemnizing the marriage.

15 (c) The confidential marriage license shall be returned by the
16 person solemnizing the marriage to the office of the county clerk
17 in the county in which the license was issued within 10 days after
18 the ceremony.

19 SEC. 28. Section 508 of the Family Code is amended to read:

20 508. Upon issuance of a confidential marriage license, parties
21 shall be provided with an application to obtain a certified copy of
22 the confidential marriage certificate from the county clerk.

23 SEC. 29. Section 509 of the Family Code is amended to read:

24 509. (a) A party to a confidential marriage may obtain a
25 certified copy of the confidential marriage certificate from the
26 county clerk of the county in which the certificate is filed in any
27 of the following ways:

28 (1) By submitting the application for a certified copy of the
29 confidential marriage certificate provided to the parties pursuant
30 to Section 508.

31 (2) By personally appearing before a notary public or at the
32 county clerk's office in the party's county of residence,
33 producing valid photo identification, obtaining a certificate
34 attesting to the party's identity from the notary public or county
35 clerk, and mailing or faxing that certificate, together with a
36 request for the certified copy of the confidential marriage
37 certificate, to the county clerk of the county with which the
38 certificate is filed.

39 (3) By personally appearing at the county clerk's office where
40 the certificate is filed and producing proper identification.

1 (b) Copies of a confidential marriage certificate may be issued
2 to the parties to the marriage upon payment of the fee equivalent
3 to that charged for copies of a marriage certificate.

4 SEC. 30. Section 510 of the Family Code is amended to read:

5 510. (a) If a confidential marriage license is lost, damaged,
6 or destroyed after the performance of the marriage, but before it
7 is returned to the county clerk, or deemed unacceptable for
8 registration by the county clerk, the person solemnizing the
9 marriage, in order to comply with Section 506, shall obtain a
10 duplicate marriage license by filing an affidavit setting forth the
11 facts with the county clerk of the county in which the license was
12 issued.

13 (b) The duplicate license may not be issued later than one year
14 after issuance of the original license and shall be returned by the
15 person solemnizing the marriage to the county clerk within one
16 year of the issuance date shown on the original marriage license.

17 (c) The county clerk may charge a fee to cover the actual costs
18 of issuing a duplicate marriage license.

19 (d) If a marriage license is lost, damaged, or destroyed before
20 a marriage ceremony takes place, the applicants shall purchase a
21 new marriage license and the old license shall be voided.

22 SEC. 31. Section 511 of the Family Code is amended to read:

23 511. (a) Except as provided in subdivision (b), the county
24 clerk shall maintain confidential marriage certificates filed
25 pursuant to Section 506 as permanent records which shall not be
26 open to public inspection except upon order of the court issued
27 upon a showing of good cause. The confidential marriage license
28 is a confidential record and not open to public inspection without
29 an order from the court.

30 (b) The county clerk shall keep all original certificates of
31 confidential marriages for one year from the date of filing. After
32 one year, the clerk may reproduce the certificates pursuant to
33 Section 26205 of the Government Code, and dispose of the
34 original certificates. The county clerk shall promptly seal and
35 store at least one original negative of each microphotographic
36 film made in a manner and place as reasonable to ensure its
37 preservation indefinitely against loss, theft, defacement, or
38 destruction. The microphotograph shall be made in a manner that
39 complies with the minimum standards or guidelines, or both,
40 recommended by the American National Standards Institute or

1 the Association for Information and Image Management. Every
 2 reproduction shall be deemed and considered an original. A
 3 certified copy of any reproduction shall be deemed and
 4 considered a certified copy of the original.

5 (c) The county clerk may conduct a search for a confidential
 6 marriage certificate for the purpose of confirming the existence
 7 of a marriage, but the date of the marriage and any other
 8 information contained in the certificate shall not be disclosed
 9 except upon order of the court.

10 (d) *The county clerk shall, not less than quarterly, transmit*
 11 *copies of all original confidential marriage certificates retained,*
 12 *or originals of reproduced confidential marriage certificates*
 13 *filed after January 1, 1982, to the State Registrar of Vital*
 14 *Statistics. The registrar may destroy the copies so transmitted*
 15 *after they have been indexed. The registrar may respond to an*
 16 *inquiry as to the existence of a marriage performed pursuant to*
 17 *this chapter, but shall not disclose the date of the marriage.*

18 SEC. 32. Section 530 of the Family Code is amended to read:

19 530. (a) No notary public shall issue a confidential marriage
 20 license pursuant to this part unless the notary public is approved
 21 by the county clerk to issue confidential marriage licenses
 22 pursuant to this chapter.

23 (b) A violation of subdivision (a) is a misdemeanor punishable
 24 by a fine not to exceed one thousand dollars (\$1,000) or six
 25 months in jail.

26 SEC. 33. Section 531 of the Family Code is amended to read:

27 531. (a) An application for approval to authorize confidential
 28 marriages pursuant to this part shall be submitted to the county
 29 clerk in the county in which the notary public who is applying for
 30 the approval resides. The county clerk shall exercise reasonable
 31 discretion as to whether to approve applications.

32 (b) The application shall include all of the following:

- 33 (1) The full name of the applicant.
- 34 (2) The date of birth of the applicant.
- 35 (3) The applicant's current residential address and telephone
 36 number.
- 37 (4) The address and telephone number of the place where the
 38 applicant will issue confidential marriage licenses.
- 39 (5) The full name of the applicant's employer if the applicant
 40 is employed by another person.

1 (6) Whether or not the applicant has engaged in any of the acts
2 specified in Section 8214.1 of the Government Code.

3 (c) The application shall be accompanied by the fee provided
4 for in Section 536.

5 SEC. 34. Section 532 of the Family Code is amended to read:

6 532. No approval, or renewal of the approval, shall be granted
7 pursuant to this chapter unless the notary public shows evidence
8 of successful completion of a course of instruction concerning
9 the issuance of confidential marriage licenses that was conducted
10 by the county clerk in the county of registration. The course of
11 instruction shall not exceed six hours in duration.

12 SEC. 35. Section 533 of the Family Code is amended to read:

13 533. An approval to issue confidential marriage licenses
14 pursuant to this chapter is valid for one year. The approval may
15 be renewed for additional one-year periods provided the
16 following conditions are met:

17 (a) The applicant has not violated any of the provisions
18 provided for in Section 531.

19 (b) The applicant has successfully completed the course
20 prescribed in Section 532.

21 (c) The applicant has paid the renewal fee provided for in
22 Section 536.

23 SEC. 36. Section 534 of the Family Code is amended to read:

24 534. (a) The county clerk shall maintain a list of the notaries
25 public who are approved to issue confidential marriage licenses.
26 The list shall be available for inspection by the public.

27 (b) It is the responsibility of a notary public approved to issue
28 confidential marriage licenses pursuant to this chapter to keep
29 current the information required in paragraphs (1), (3), (4), and
30 (5) of subdivision (b) of Section 531. This information shall be
31 used by the county clerk to update the list required to be
32 maintained by this section.

33 SEC. 37. Section 535 of the Family Code is amended to read:

34 535. (a) If, after an approval to issue confidential marriage
35 licenses is granted pursuant to this chapter, it is discovered that
36 the notary public has engaged in any of the actions specified in
37 Section 8214.1 of the Government Code, the approval shall be
38 revoked, and the county clerk shall notify the Secretary of State
39 for whatever action the Secretary of State deems appropriate.

1 Any fees paid by the notary public shall be retained by the
2 county clerk.

3 (b) If a notary public who is approved to authorize confidential
4 marriages pursuant to this chapter is alleged to have violated a
5 provision of this division, the county clerk shall conduct a
6 hearing to determine if the approval of the notary public should
7 be suspended or revoked. The notary public may present any
8 evidence as is necessary in the notary public’s defense. If the
9 county clerk determines that the notary public has violated a
10 provision of this division, the county clerk may place the notary
11 public on probation or suspend or revoke the notary public’s
12 registration, and any fees paid by the notary public shall be
13 retained by the county clerk. The county clerk shall report the
14 findings of the hearing to the Secretary of State for whatever
15 action the Secretary of State deems appropriate.

16 SEC. 38. Section 536 of the Family Code is amended to read:

17 536. (a) The fee for an application for approval to authorize
18 confidential marriages pursuant to this chapter is three hundred
19 dollars (\$300).

20 (b) The fee for renewal of an approval is three hundred dollars
21 (\$300).

22 (c) Fees received pursuant to this chapter shall be deposited in
23 a trust fund established by the county clerk. The money in the
24 trust fund shall be used exclusively for the administration of the
25 programs described in this chapter.

26 SEC. 39. Section 100430 of the Health and Safety Code is
27 amended to read:

28 100430. (a) The fees or charges for a record search or for the
29 issuance of any license, permit, registration, or any other
30 document pursuant to Section 26832 or 26840 of the Government
31 Code, or Section 102525, 102625, 102670, 102725, 102750,
32 103050, 103065, 103225, 103325, 103400, 103425, 103450,
33 103525, 103590, 103625, 103650, 103675, 103690, 103695,
34 103700, 103705, 103710, 103715, 103720, 103725, or 103735 of
35 this code, may be adjusted annually by the percentage change
36 determined pursuant to Section 100425.

37 The base amount to be adjusted shall be the statutory base
38 amount of the fee or charge plus the sum of the prior adjustments
39 to the statutory base amount. Whenever the statutory base
40 amount is amended, the base amount shall be the new statutory

1 base amount plus the sum of adjustments to the new statutory
2 base amount calculated subsequent to the statutory base
3 amendment. The actual dollar fee or charge shall be rounded to
4 the next highest whole dollar.

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

11 SEC. 40. Section 102130 of the Health and Safety Code is
12 amended to read:

13 102130. All marriage licenses shall be written legibly and
14 shall be photographically and micrographically reproducible. A
15 marriage license is not complete and correct that does not supply
16 all of the items of information called for, or satisfactorily account
17 for their omission.

18 SEC. 41. Section 102140 of the Health and Safety Code is
19 amended to read:

20 102140. No alteration or change in any respect shall be made
21 on any marriage license or certificate after its acceptance for
22 registration by the local registrar, or on other records made in
23 pursuance of this part, except where supplemental information
24 required for statistical purposes is furnished.

25 SEC. 42. Section 102310 of the Health and Safety Code is
26 amended to read:

27 102310. The local registrar of marriages shall carefully
28 examine each license before acceptance for registration and, if it
29 is incomplete or unsatisfactory, he or she shall require any further
30 information to be furnished as may be necessary to make the
31 record satisfactory before acceptance for registration.

32 SEC. 43. Section 102325 of the Health and Safety Code is
33 amended to read:

34 102325. The local registrar shall number each marriage
35 certificate consecutively beginning with the number one for
36 either the first event occurring, or first event registered in, each
37 calendar year. Numbering may be based on either the year that
38 the event occurs or the year of registration.

39 SEC. 44. Section 102355 of the Health and Safety Code is
40 amended to read:

1 102355. The local registrar of marriages shall transmit to the
2 State Registrar not less than quarterly all original marriage
3 certificates accepted for registration by him or her during the
4 preceding quarter. Certificates shall be batched by calendar year
5 of event prior to transmission. Certificates may be transmitted at
6 more frequent intervals by arrangement with the State Registrar.

7 SEC. 45. Section 103125 of the Health and Safety Code is
8 amended to read:

9 103125. The forms for the marriage license shall be
10 prescribed by the State Registrar.

11 SEC. 46. Section 103175 of the Health and Safety Code is
12 amended to read:

13 103175. (a) The marriage license shall contain as nearly as
14 can be ascertained all of the following and other items as the
15 State Registrar may designate:

16 (1) The first section shall include the personal data of parties
17 married, including the date of birth, full given name at birth or by
18 court order, birthplace, mailing address, names and birthplaces of
19 the parents, maiden name of the mothers, the number of previous
20 marriages, marital status, and the maiden name of the female if
21 previously married.

22 (2) The second section shall include the signatures of parties
23 married, license to marry, county and date of issue of license, and
24 the marriage license number.

25 (3) The third section shall include the certification of one
26 person performing the ceremony, that shall show his or her
27 official position including the denomination if he or she is a
28 clergy or clergyperson, and the printed name, signature, and
29 mailing address of at least one, and no more than two, witnesses
30 to the marriage ceremony. The person performing the marriage
31 ceremony shall also type or print his or her name and mailing
32 address on the marriage license.

33 (b) The marriage license shall not contain any reference to the
34 race or color of parties married.

35 SEC. 47. Section 103180 of the Health and Safety Code is
36 amended to read:

37 103180. (a) Sections 103150 and 103175 do not apply to
38 marriages entered into pursuant to Section 307 of the Family
39 Code. Subdivisions (b) and (c) govern the registration and the

1 content of the License and Certificate of Declaration of Marriage
2 of those marriages.

3 (b) Each marriage entered into pursuant to Section 307 of the
4 Family Code shall be registered by the parties entering into the
5 marriage or by a witness who signed under paragraph (2) of
6 subdivision (a) of Section 307 within 10 days after the ceremony
7 with the local registrar of marriages for the county in which the
8 License and Certificate of Declaration of Marriage was issued.

9 (c) The License and Certificate of Declaration of Marriage
10 entered into pursuant to Section 307 of the Family Code shall
11 contain as nearly as can be ascertained the following:

12 (1) The personal data of parties married, including the date of
13 birth, full given legal names at birth or by court order, birthplace,
14 mailing address, names and birthplaces of their parents, maiden
15 name of their mothers, the number of previous marriages, marital
16 status, and the maiden name of the female, if previously married
17 and if her name has been changed.

18 (2) The license to marry.

19 (3) The county and date of issuance of the license.

20 (4) The marriage license number.

21 (5) The certification of the parties entering into the marriage,
22 that shall show the following:

23 (A) The fact, time, and place of entering into the marriage.

24 (B) The printed name, signature, and mailing address of two
25 witnesses to the marriage ceremony.

26 (C) The religious society or denomination of the parties
27 married, and that the marriage was entered into in accordance
28 with the rules and customs of that religious society or
29 denomination.

30 (6) The signatures of the parties married.

31 (7) Any other items that the State Registrar shall designate.

32 The License and Certificate of Declaration of Marriage shall
33 not contain any reference to the race or color of parties married
34 or to a person performing or solemnizing the marriage.

35 SEC. 48. Section 103200 of the Health and Safety Code is
36 amended to read:

37 103200. The clerk of the court of each county shall send a
38 copy of every judgment of dissolution of marriage, of legal
39 separation, and of declaration of nullity to the State Registrar
40 monthly. If a judgment of dissolution of marriage is vacated, the

1 clerk of the court shall send a copy of the order or dismissal to
2 the State Registrar.

3 SEC. 49. Section 103235 of the Health and Safety Code is
4 amended to read:

5 103235. If the amendment relates to a certificate or marriage
6 license that has not been transmitted to the State Registrar, the
7 local registrar shall review the amendment for acceptance for
8 filing, and if accepted shall file the amendment and shall note the
9 fact of the amendment, with its date, on the otherwise unaltered
10 original certificate or marriage license.

11 SEC. 50. Section 103595 of the Health and Safety Code is
12 repealed.

13 SEC. 51. Section 103780 of the Health and Safety Code is
14 amended to read:

15 103780. (a) Every person, except as provided in subdivision
16 (b), who willfully alters or knowingly possesses more than one
17 altered document, other than as permitted by this part, or falsifies
18 any certificate of birth, fetal death, or death, or marriage license,
19 or any record established by this part is guilty of a misdemeanor.

20 (b) Every licensee or registrant pursuant to Chapter 12
21 (commencing with Section 7600) or Chapter 19 (commencing
22 with Section 9600) of Division 3 of the Business and Professions
23 Code, and the agents and employees of the licensee, or any
24 unlicensed person acting in a capacity in which a license from the
25 Cemetery and Funeral Bureau is required, who willfully alters or
26 knowingly possesses more than one altered document, other than
27 as permitted by this part, or falsifies any certificate of death, is
28 guilty of a misdemeanor that shall be punishable by
29 imprisonment in a county jail not exceeding one year, by a fine
30 not exceeding ten thousand dollars (\$10,000), or by both that
31 imprisonment and fine.

32 SEC. 52. Section 103785 of the Health and Safety Code is
33 amended to read:

34 103785. Every person who is required to fill out a certificate
35 of birth, fetal death, or death, or marriage license and register it
36 with the local registrar, or deliver it, upon request, to any person
37 charged with the duty of registering it, and who fails, neglects, or
38 refuses to perform that duty in the manner required by this part is
39 guilty of a misdemeanor.

1 SEC. 53. Section 13.5 of this bill incorporates amendments to
2 Section 358 of the Family Code proposed by both this bill and
3 AB 2051. It shall only become operative if (1) both bills are
4 enacted and become effective on or before January 1, 2007, (2)
5 each bill amends Section 358 of the Family Code, and (3) this
6 bill is enacted after AB 2051, in which case Section 13 of this
7 bill shall not become operative.

8 SEC. 54. No reimbursement is required by this act pursuant
9 to Section 6 of Article XIII B of the California Constitution
10 because a local agency or school district has the authority to levy
11 service charges, fees, or assessments sufficient to pay for the
12 program or level of service mandated by this act, within the
13 meaning of Section 17556 of the Government Code.

14 SEC. 55. Notwithstanding Section 56, the provisions of
15 Section 8.5 shall become operative on January 1, 2007.
16 Notwithstanding Section 56, the provisions of Section 13.5 shall
17 also become operative on January 1, 2007, if Section 13.5
18 becomes operative pursuant to Section 53.

19 SEC. 56. The provisions of this act shall become operative on
20 January 1, 2008.