

Assembly Bill No. 1102

Passed the Assembly August 29, 2006

Chief Clerk of the Assembly

Passed the Senate August 28, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

SECTION 1. Section 300 of the Family Code is amended to read:

300. (a) Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as authorized by this division, except as provided by Section 425 and Part 4 (commencing with Section 500).

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

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

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

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

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

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

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

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

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

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

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

- (1) The fact, time, and place of entering into the marriage.
- (2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony.
- (3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.

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

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

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

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

PART 2. MARRIAGE LICENSE

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

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

- (a) The identity of the parties to the marriage.
- (b) The parties' full given names at birth or by court order, and mailing addresses.
- (c) The parties' dates of birth.

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

351.6. Notwithstanding Section 307, 351, 351.5, 359, or 422 of this code, or Section 103175 or 103180 of the Health and Safety Code, a mailing address used by an applicant, witness, or person solemnizing or performing the marriage ceremony shall be a residential address, a business address, or a United States Postal Service post office box.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) A United States magistrate or retired magistrate.

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

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

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

(b) Notwithstanding subdivision (a), a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of the marriage may enter into that marriage by the appearance of an attorney in fact, commissioned and empowered in writing for that purpose through a power of attorney. The

attorney in fact must personally appear at the county clerk's office with the party who is not stationed overseas, and present the original power of attorney duly signed by the party stationed overseas and acknowledged by a notary or witnessed by two officers of the United States Armed Forces. Copies in any form, including by facsimile, are not acceptable. The power of attorney shall state the full given names at birth, or by court order, of the parties to be married, and that the power of attorney is solely for the purpose of authorizing the attorney in fact to obtain a marriage license on the person's behalf and participate in the solemnization of the marriage. The original power of attorney shall be a part of the marriage certificate upon registration.

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

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

422. The person solemnizing a marriage shall, sign and print or type upon the marriage license a statement, in the form prescribed by the State Department of Health Services, showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The county clerk shall keep all original certificates of confidential marriages for one year from the date of filing. After one year, the clerk may reproduce the certificates pursuant to Section 26205 of the Government Code, and dispose of the original certificates. The county clerk shall promptly seal and store at least one original negative of each microphotographic film made in a manner and place as reasonable to ensure its preservation indefinitely against loss, theft, defacement, or destruction. The microphotograph shall be made in a manner that complies with the minimum standards or guidelines, or both, recommended by the American National Standards Institute or the Association for Information and Image Management. Every reproduction shall be deemed and considered an original. A certified copy of any reproduction shall be deemed and considered a certified copy of the original.

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

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

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

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

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

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

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

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

- (1) The full name of the applicant.
- (2) The date of birth of the applicant.
- (3) The applicant's current residential address and telephone number.
- (4) The address and telephone number of the place where the applicant will issue confidential marriage licenses.

(5) The full name of the applicant's employer if the applicant is employed by another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 39. 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 Section 26832 or 26840 of the Government Code, or Section 102525, 102625, 102670, 102725, 102750, 103050, 103065, 103225, 103325, 103400, 103425, 103450, 103525, 103590, 103625, 103650, 103675, 103690, 103695, 103700, 103705, 103710, 103715, 103720, 103725, or 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. 40. Section 102130 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The first section shall include the personal data of parties married, including the date of birth, full given name at birth or by court order, birthplace, mailing address, names and birthplaces of the parents, maiden name of the mothers, the number of previous

marriages, marital status, and the maiden name of the female if previously married.

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

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

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

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

103180. (a) Sections 103150 and 103175 do not apply to marriages entered into pursuant to Section 307 of the Family Code. Subdivisions (b) and (c) govern the registration and the content of the License and Certificate of Declaration of Marriage of those marriages.

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

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

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

(2) The license to marry.

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

(4) The marriage license number.

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

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

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

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

(6) The signatures of the parties married.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 2006

Governor