

Assembly Bill No. 1179

CHAPTER 6

An act to amend Section 6107 of, and to add Section 27201.5 to, the Government Code, and to amend Section 103526 of the Health and Safety Code, relating to public records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 21, 2004. Filed with Secretary of State January 22, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1179, Parra. Public records.

Existing law prohibits any public entity from charging any fee for recording, indexing, or issuing certified copies of specified documents related to service in the Armed Forces of the United States, including any public record required to apply for and receive benefits from the Veterans Administration or any other federal or state benefits. Existing law further requires that recording, indexing, or issuing certified copies of these documents be rendered on request of a United States official, a claimant or applicant, or the guardian, conservator, or attorney of the claimant or applicant, or any other person acting on behalf of the claimant or applicant.

This bill would provide that a certified copy of a veteran's records shall be made available only to the person who is the subject of the record upon presentation of proper photo identification, to a family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record, or to a county office that provides veteran's benefits services or a United States official upon written request.

Under existing law, if the State Registrar of Vital Statistics, local registrar, or county recorder receives a written request for a certified copy of a birth or death record that is accompanied by a notarized statement sworn under penalty of perjury that the requester is an authorized person, as defined, that official may furnish a certified copy to the applicant. Under existing law, an authorized person for these purposes includes a funeral director.

This bill would also apply that authorization to requests for certified military service records received by the State Registrar of Vital Statistics, local registrar, or county recorder, and would authorize the State Registrar of Vital Statistics, local registrar, or county recorder to

issue the certified copy to an applicant pursuant to the receipt of an electronic facsimile copy of a notarized statement sworn under penalty of perjury, in accordance with specified requirements. This bill would also specify that if a written request for a copy of a military service record is submitted to the county recorder by electronic facsimile, the county recorder may furnish a certified copy of the military record to the applicant. This bill would change references to a funeral director, as contained in the foregoing provisions, to instead refer to an agent or employee of a funeral establishment acting within the scope of employment.

Existing law requires a county recorder to accept for recordation any instrument, paper, or notice that is authorized or required by statute or court order to be recorded, if specified requirements are met and the instrument, paper, or notice is photographically reproducible.

This bill would specify that a notary acknowledgment shall be deemed complete for recording purposes without a photographically reproducible official seal of the notary public if the official seal is present and legible, and specified information is typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. The bill would also require, when a request for a certified copy of a birth or death record is received by mail, that a notarized statement accompany the request stating that the requester is an authorized person.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 6107 of the Government Code is amended to read:

6107. (a) No public entity, including the state, a county, city, or other political subdivision, nor any officer or employee thereof, including notaries public, shall demand or receive any fee or compensation for doing any of the following:

(1) Recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States.

(2) Furnishing a certified copy of, or searching for, any public record that is to be used in an application or claim for a pension, allotment, allowance, compensation, insurance (including automatic insurance), or any other benefits under any act of Congress for service in the Armed



Forces of the United States or under any law of this state relating to veterans' benefits.

(3) Furnishing a certified copy of, or searching for, any public record that is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration.

(4) Rendering any other service in connection with an application or claim referred to in paragraph (2) or (3).

(b) A certified copy of any record referred to in subdivision (a) may be made available only to one of the following:

(1) The person who is the subject of the record upon presentation of proper photo identification.

(2) A family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record.

(3) A county office that provides veteran's benefits services upon written request of that office.

(4) A United States official upon written request of that official. A public officer or employee is liable on his or her official bond for failure or refusal to render the services.

SEC. 2. Section 27201.5 is added to the Government Code, to read:

27201.5. (a) A notary acknowledgment shall be deemed complete for recording purposes without a photographically reproducible official seal of the notary public if the seal, as described in Section 8207, is present and legible, and the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date are typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment.

(b) If a request for a certified copy of a birth or death record is received by mail, a notarized statement sworn under penalty of perjury shall accompany the request, stating that the requester is an authorized person, as defined by law.

SEC. 3. Section 103526 of the Health and Safety Code is amended to read:

103526. (a) If the State Registrar, local registrar, or county recorder receives a written or faxed request for a certified copy of a birth or death record pursuant to Section 103525, or a military service record pursuant to Section 6107 of the Government Code, that is accompanied by a notarized statement sworn under penalty of perjury, or a faxed copy of a notarized statement sworn under penalty of perjury, that the requester is an authorized person, as defined in this section, that official may



furnish a certified copy to the applicant in accordance with Section 103525 and in accordance with Section 6107 of the Government Code. If a written request for a certified copy of a military service record is submitted to a county recorder by fax, the county recorder may furnish a certified copy of the military record to the applicant in accordance with Section 103525. A faxed notary acknowledgment accompanying a faxed request received pursuant to this subdivision for a certified copy of a birth or death record or a military service record shall be legible and, if the notary's seal is not photographically reproducible, show the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment. If a request for a certified copy of a birth or death record is made in person, the official shall take a statement sworn under penalty of perjury that the requester is signing his or her own legal name and is an authorized person, and that official may then furnish a certified copy to the applicant.

(b) In all other circumstances, the certified copy provided to the applicant shall be an informational certified copy and shall display a legend that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY." The legend shall be placed on the certificate in a manner that will not conceal information.

(c) For purposes of this section, an "authorized person" is any of the following:

- (1) The registrant or a parent or legal guardian of the registrant.
- (2) A party entitled to receive the record as a result of a court order, or an attorney or a licensed adoption agency seeking the birth record in order to comply with the requirements of Section 3140 or 7603 of the Family Code.
- (3) A member of a law enforcement agency or a representative of another governmental agency, as provided by law, who is conducting official business.
- (4) A child, grandparent, grandchild, sibling, spouse, or domestic partner of the registrant.
- (5) An attorney representing the registrant or the registrant's estate, or any person or agency empowered by statute or appointed by a court to act on behalf of the registrant or the registrant's estate.
- (6) Any agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders certified copies of a death certificate on behalf of any individual specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100.



(d) Any person who asks the agent or employee of a funeral establishment to request a death certificate on his or her behalf warrants the truthfulness of his or her relationship to the decedent, and is personally liable for all damages occasioned by, or resulting from, a breach of that warranty.

(e) Notwithstanding any other provision of law:

(1) Any member of a law enforcement agency or a representative of a state or local government agency, as provided by law, who orders a copy of a record to which subdivision (a) applies in conducting official business may not be required to provide the notarized statement required by subdivision (a).

(2) An agent or employee of a funeral establishment who acts within the course and scope of his or her employment and who orders death certificates on behalf of individuals specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100 shall not be required to provide the notarized statement required by subdivision (a).

(f) Informational certified copies of birth and death certificates issued pursuant to subdivision (b) shall only be printed from the single statewide database prepared by the State Registrar and shall be electronically redacted to remove any signatures for purposes of compliance with this section. Local registrars and county recorders shall not issue informational certified copies of birth and death certificates from any source other than the statewide database prepared by the State Registrar. This subdivision shall become operative on January 1, 2006.

(g) This section shall become operative on July 1, 2003.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to timely establish appropriate procedures for the acquisition of military service records, it is necessary that this act take effect immediately.

