

**ASSEMBLY BILL**

**No. 102**

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**Introduced by Assembly Member Ma**

January 3, 2007

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An act to amend Section 355 of the Family Code, and to amend Sections 103175 and 103180 of the Health and Safety Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

AB 102, as introduced, Ma. Marriage: licenses: name.

Existing law requires that, before entering into or declaring a marriage, the parties first obtain a marriage license from a county clerk. Existing law requires the State Department of Public Health to prescribe the forms for the marriage license.

This bill would require that the forms for the marriage license contain spaces for either party to indicate a change in his or her last name to his or her spouse's last name.

Existing law, effective January 1, 2008, requires that a marriage license contain certain information, including the maiden name of the female, if previously married.

This bill would require, instead, that a marriage license include the name used prior to marriage by each party who was previously married and whose name has been changed.

Existing law requires that each marriage performed be registered by the person performing the ceremony. Existing law creates an exemption from this requirement for members of a religious society or denomination not having clergy. Existing law requires those persons to file a License and Certificate of Declaration of Marriage containing

specified information, including the maiden name of the female, if previously married and if her name has been changed.

This bill would require, instead, that the certificate include the name used prior to marriage by each party who was previously married and whose name has been changed.

By requiring counties to alter their forms to conform with these requirements, the bill would impose a state-mandated local program.

This bill would make other technical, nonsubstantive changes.

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 355 of the Family Code, as amended by  
2 Section 11 of Chapter 816 of the Statutes of 2006, is amended to  
3 read:

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

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

12 (c) *The forms for the marriage license shall contain spaces for*  
13 *either party to indicate a change in his or her last name to the last*  
14 *name of his or her spouse.*

15 SEC. 2. Section 103175 of the Health and Safety Code, as  
16 amended by Section 46 of Chapter 816 of the Statutes of 2006, is  
17 amended to read:

18 103175. (a) The marriage license shall contain as nearly as  
19 can be ascertained all of the following and other items as the State  
20 Registrar may designate:

21 (1) The first section shall include the personal data of ~~parties~~  
22 *each party* married, including the date of birth, full given name at

1 birth or by court order, birthplace, mailing address, names and  
2 birthplaces of ~~the each party's~~ parents, maiden name of ~~the mothers~~  
3 ~~each party's mother~~, the number of previous marriages, marital  
4 status, and the ~~maiden name of the female if~~ *name used prior to*  
5 *marriage by each party who was previously married and whose*  
6 *name has been changed.*

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

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

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

20 SEC. 3. Section 103180 of the Health and Safety Code, as  
21 amended by Section 47 of Chapter 816 of the Statutes of 2006, is  
22 amended to read:

23 103180. (a) Sections 103150 and 103175 do not apply to  
24 marriages entered into pursuant to Section 307 of the Family Code.  
25 Subdivisions (b) and (c) govern the registration and the content of  
26 the License and Certificate of Declaration of Marriage of those  
27 marriages.

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

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

37 (1) The personal data of ~~parties~~ *each party* married, including  
38 the date of birth, full given ~~legal names~~ *name* at birth or by court  
39 order, birthplace, mailing address, names and birthplaces of ~~their~~  
40 ~~each party's~~ parents, maiden name of ~~their mothers~~ *each party's*

1 *mother*, the number of previous marriages, marital status, and the  
2 ~~maiden name of the female, if name used prior to marriage by~~  
3 ~~each party who was previously married and if her~~ *whose name has*  
4 *been changed.*

5 (2) The license to marry.

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

7 (4) The marriage license number.

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

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

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

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

16 (6) The signatures of the parties married.

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

18 ~~The~~

19 *(d) The License and Certificate of Declaration of Marriage shall*  
20 *not contain any reference to the race or color of parties married or*  
21 *to a person performing or solemnizing the marriage.*

22 SEC. 4. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 a local agency or school district has the authority to levy service  
25 charges, fees, or assessments sufficient to pay for the program or  
26 level of service mandated by this act, within the meaning of Section  
27 17556 of the Government Code.