

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2636

Introduced by Assembly Members Linder and Dababneh
(Coauthors: Assembly Members Brough, Chang, Chávez,
Cristina Garcia, Kim, Lackey, Mathis, Mullin, Obernolte,
O'Donnell, and Olsen)
(Coauthor: Senator Hertzberg)

February 19, 2016

An act to amend Section 103526 of the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2636, as amended, Linder. Certified copies of marriage, birth, and death certificates: electronic application.

Under existing law, a certified copy of a birth, death, marriage, or military service record may only be supplied by the State Registrar, local registrar, or county recorder to an authorized person, as defined, who submits a written, faxed, or digitized image request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person.

This bill would, if the request for a certified copy of a birth, death, or marriage record is made electronically, authorize the official to accept electronic acknowledgment verifying the identity of the ~~requester~~ *applicant* using a *multilayered* remote identity proofing process ~~aligned with federal~~ *that includes* guidelines for security and privacy, and satisfying other specified requirements, ensuring that the ~~requester~~

applicant is an authorized person. *If an applicant's identity cannot be established electronically, the applicant shall include with his or her request a statement of identity notarized pursuant to existing law.* The bill would require the verification to comply with specified provisions and protect the personal information of the ~~requester~~ *applicant* and guard against identity theft.

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

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

1 SECTION 1. Section 103526 of the Health and Safety Code
 2 is amended to read:
 3 103526. (a) (1) If the State Registrar, local registrar, or county
 4 recorder receives a written, faxed, electronic, or digitized image
 5 of a request for a certified copy of a birth, death, or marriage record
 6 pursuant to Section 103525 that is accompanied by a notarized
 7 statement sworn under penalty of perjury, or a faxed copy or
 8 digitized image of a notarized statement sworn under penalty of
 9 perjury, that the ~~requester~~ *applicant* is an authorized person, as
 10 defined in this section, that official may furnish a certified copy
 11 to the applicant pursuant to Section 103525.
 12 (2) A faxed or digitized image of the notary acknowledgment
 13 accompanying a faxed request received pursuant to this subdivision
 14 for a certified copy of a birth, death, or marriage record shall be
 15 legible and, if the notary's seal is not photographically
 16 reproducible, show the name of the notary, the county of the
 17 notary's principal place of business, the notary's telephone number,
 18 the notary's registration number, and the notary's commission
 19 expiration date typed or printed in a manner that is photographically
 20 reproducible below, or immediately adjacent to, the notary's
 21 signature in the acknowledgment. If a request for a certified copy
 22 of a birth, death, or marriage record is made in person, the official
 23 shall take a statement sworn under penalty of perjury that the
 24 ~~requester~~ *applicant* is signing his or her own legal name and is an
 25 authorized person, and that official may then furnish a certified
 26 copy to the applicant.
 27 (3) (A) If a request for a certified copy of a birth, death, or
 28 marriage record is made electronically, the official may accept an
 29 electronic acknowledgment verifying the identity of the ~~requester~~

1 *applicant* using a *multilayered* remote identity proofing process
2 ensuring that the requester is an authorized person. The identity
3 proofing process shall be aligned with the federal guidelines for
4 security and privacy and shall include dynamic knowledge-based
5 authentication or an identity proofing method consistent with the
6 electronic authentication guidelines of the National Institute of
7 Standards and Technology. The verification shall comply with the
8 Uniform Electronic Transactions Act and all other applicable state
9 and federal laws and regulations to protect the personal information
10 of the requester and guard against identity theft. If a requester's
11 identity cannot be established electronically pursuant to this
12 paragraph, the requester may accompany his or her request with
13 a notarized statement of identity pursuant to paragraph (1). *that*
14 *complies with all of the following requirements:*

15 (i) *Meets or exceeds the National Institute of Standards and*
16 *Technology (NIST) electronic authentication guideline for*
17 *multilayered remote identity proofing.*

18 (ii) (I) *Verifies all of the following information provided by the*
19 *applicant:*

20 (ia) *A valid government-issued identification number.*

21 (ib) *A financial or utility account number.*

22 (II) *The verification pursuant to this subparagraph shall occur*
23 *through record checks with the state or local agency or a credit*
24 *reporting agency or similar database and shall confirm that the*
25 *name, date of birth, address, or other personal information in the*
26 *record checks are consistent with the information provided by the*
27 *applicant.*

28 (iii) *Meets or exceeds the information security requirements of*
29 *the Uniform Electronic Transactions Act (Title 2.5 (commencing*
30 *with Section 1633.1) of Part 2 of Division 3 of the Civil Code) and*
31 *the Federal Information Security Management Act of 2002 (Public*
32 *Law 107-347) and all other applicable state and federal laws and*
33 *regulations to protect the personal information of the applicant*
34 *and guard against identity theft.*

35 (iv) *Retains for each electronic verification, as required by the*
36 *NIST electronic authentication guideline, a record of the applicant*
37 *whose identity has been verified and the steps taken to verify the*
38 *identity.*

39 (B) *If an applicant's identity cannot be established electronically*
40 *pursuant to this paragraph, the applicant shall include with his*

1 *or her request a statement of identity notarized pursuant to*
2 *paragraph (1).*

3 (4) For purposes of this subdivision, “digitized image” means
4 an image of an original paper request for a certified copy of a birth,
5 death, or marriage record.

6 (b) (1) If the person requesting a certified copy of a birth, death,
7 or nonconfidential marriage record is not an authorized person or
8 is an authorized person who is otherwise unable to satisfy the
9 requirements of subdivision (a), the certified copy provided to the
10 applicant shall be an informational certified copy and shall display
11 a legend that states “INFORMATIONAL, NOT A VALID
12 DOCUMENT TO ESTABLISH IDENTITY.” The legend shall
13 be placed on the certificate in a manner that will not conceal
14 information.

15 (2) If the person requesting a certified copy of a confidential
16 marriage record is not an authorized person or is an authorized
17 person who is otherwise unable to satisfy the requirements of
18 subdivision (a), the official shall not release a certified copy of the
19 confidential marriage record unless otherwise authorized by law.

20 (c) For purposes of this section, an “authorized person” means:

21 (1) For purposes of requests for certified copies of confidential
22 marriage records, only a party to the confidential marriage.

23 (2) For purposes of requests for certified copies of birth, death,
24 or nonconfidential marriage records, a person who is any of the
25 following:

26 (A) The registrant or a parent or legal guardian of the registrant.

27 (B) A party entitled to receive the record as a result of a court
28 order, or an attorney or a licensed adoption agency seeking the
29 birth record in order to comply with the requirements of Section
30 3140 or 7603 of the Family Code.

31 (C) A member of a law enforcement agency or a representative
32 of another governmental agency, as provided by law, who is
33 conducting official business.

34 (D) A child, grandparent, grandchild, sibling, spouse, or
35 domestic partner of the registrant.

36 (E) An attorney representing the registrant or the registrant’s
37 estate, or any person or agency empowered by statute or appointed
38 by a court to act on behalf of the registrant or the registrant’s estate.

39 (F) An agent or employee of a funeral establishment who acts
40 within the course and scope of his or her employment and who

1 orders certified copies of a death certificate on behalf of an
2 individual specified in paragraphs (1) to (5), inclusive, of
3 subdivision (a) of Section 7100.

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

9 (e) Notwithstanding any other law:

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

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

21 (f) Informational certified copies of birth and death certificates
22 issued pursuant to subdivision (b) shall only be printed from the
23 single statewide database prepared by the State Registrar and shall
24 be electronically redacted to remove any signatures for purposes
25 of compliance with this section. Local registrars and county
26 recorders shall not issue informational certified copies of birth and
27 death certificates from a source other than the statewide database
28 prepared by the State Registrar. This subdivision shall become
29 operative on July 1, 2007, but only after the statewide database
30 becomes operational and the full calendar year of the birth and
31 death indices and images is entered into the statewide database
32 and is available for the respective year of the birth or death
33 certificate for which an informational copy is requested. The State
34 Registrar shall provide written notification to local registrars and
35 county recorders as soon as a year becomes available for issuance
36 from the statewide database.

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