

# **EXCERPTS FROM CALIFORNIA VITAL RECORD LAWS**



**State of California**

**Department of Public Health**

**Office of Vital Records  
Policy, Compliance, and Standards Section  
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*Excerpts from the*

***CALIFORNIA CODE OF REGULATIONS, TITLE 17  
BUSINESS AND PROFESSIONS CODE  
CIVIL CODE  
CODE OF CIVIL PROCEDURE  
EDUCATION CODE  
ELECTIONS CODE  
EVIDENCE CODE  
FAMILY CODE  
GOVERNMENT CODE  
HEALTH AND SAFETY CODE  
PENAL CODE  
WELFARE AND INSTITUTIONS CODE***

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**TITLE 17. PUBLIC HEALTH  
(Register 84, No. 12-3-24-84)**

**DIVISION 1. STATE DEPARTMENT OF HEALTH SERVICES**

**Excerpts from  
CHAPTER 1. ADMINISTRATION**

**SUBCHAPTER 4. RECORDS AND STATISTICS  
(Originally printed 8-15-45)**

**Article 1. Access to the Records in the Office of the State  
Registrar and in the Offices of Local Registrars**

\* \* \*

**901. Access to the Records in the Office of the State Registrar and in the Offices of Local Registrars.** Records of birth, death, and marriage in the Office of the State Registrar and in offices of local registrars for which access is not specifically prohibited by statute shall be open for examination by the public during regularly scheduled office hours subject to the restrictions listed in Health and Safety Code, Sections 10125.5 and 10129.

The principal researcher who needs access to confidential information shall submit a signed agreement to the State Registrar with a copy to the local registrar when appropriate, assuring that any report shall not identify an individual and that working papers which may permit such identification shall be destroyed as set forth in the agreement. Any breach of the signed agreement shall result in denial of further access to the data.

No person, except as authorized by law, shall copy or retain copies of confidential data unless procedures in this section are followed.

*NOTE: Authority cited: Section 6253, Government Code and Sections 10001 and 10001.1(b), Health and Safety Code. Reference: Sections 10066 and 10125.5, Health and Safety Code.*

*HISTORY:*

- 1. Amendment filed 1-9-78; effective thirtieth day thereafter (Register 78, No. 2). For prior history, see Register 76, No. 12.*
- 2. Amendment filed 2-8-78 as an emergency; effective upon filing (Register 78, No. 6).*
- 3. Certificate of Compliance filed 5-1-78 (Register 78, No. 18).*
- 4. Amendment filed 2-13-85; effective thirtieth day thereafter (Register 85, No. 7).*

**902. Conditions of Examination.** (a) Authorization to examine the index or records in the Office of the State Registrar and in offices of the local registrars must be obtained from the registrar or deputy in charge.

Written application shall be made by the applicant stating sufficient information to identify the record or records to be examined.

The following information for the type of record specified below should, whenever possible, be provided by the applicant:

- (1) Birth

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- (A) Name of child;
  - (B) Maiden name of mother;
  - (C) Date or year of birth.
- (2) Death
- (A) Name of decedent;
  - (B) Date or year of death, or date last known alive;
  - (C) Date or year of birth.
- (3) Marriage
- (A) Name of groom or maiden name of bride;
  - (B) Date or year of marriage.

Where the above information is not available, the applicant shall provide whatever information is available, and the State Registrar or local registrar shall make all reasonable effort to locate the requested records.

- (b) The State Registrar or local registrar shall supervise the examination of the records.

*NOTE: Authority cited: Section 6253, Government Code; and Sections 10001 and 10001.1, Health and Safety Code.*

*Reference: Section 10066, Health and Safety Code.*

### *HISTORY:*

1. Amendment filed 12-24-75 as an emergency; effective upon filing (Register 75, No. 52). For prior history, see Register 64, No. 4.
2. Amendment filed 2-27-76 as an emergency; effective upon filing (Register 76, No. 9).
3. Certificate of Compliance as to the 12-24-75 and 2-27-76 filings filed 3-18-76 (Register 76, No. 12).
4. Amendment filed 2-13-85; effective thirtieth day thereafter (Register 85, No. 7).

\* \* \*

## **Article 2. Late Registration of Births and Deaths**

\* \* \*

**908. Late Registration of Births and Deaths.** The local registrar and the State Registrar of Vital Statistics shall accept for registration only those records of birth and death which are received by the local registrar within one year of the date of the occurrence of the event, except as provided under Division 9, Chapters 9 and 10 of the Health and Safety Code.

*NOTE: Authority cited: Section 10001, Health and Safety Code.*

*Reference: Section 10577, Health and Safety Code.*

### *HISTORY:*

1. New section filed 2-4-47 (Register 7).
2. Amendment filed 3-8-55; effective thirtieth day thereafter (Register 55, No. 4).
3. Amendment filed 10-22-57; effective thirtieth day thereafter (Register 57, No. 18).
4. Editorial correction of NOTE filed 3-22-84 (Register 84, No. 12).



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## Article 3. Birth Certificates of Deceased Persons

\* \* \*

**910. Responsibilities of Local Registrar or County Recorder.** (a) Upon notification by the State Registrar that a person whose birth is registered in the local office is deceased, the local registrar or county recorder of such office shall make at least one of the following:

(1) A notation of the death in the birth index.

(2) A notation of the date of death and the death certificate number upon the record of birth.

(b) The local registrar or county recorder shall notify the State Registrar of any application for a certified copy of a deceased person's birth certificate in which it is indicated that the requested birth record is the applicant's own birth record.

(c) A birth card form shall not be issued where the birth record indicates the registrant is deceased.

*NOTE: Authority cited: Sections 10001 and 10575.5, Health and Safety Code.*

*Reference: Sections 10038 and 10575.5, Health and Safety Code.*

### *HISTORY:*

1. *Renumbering of Article 3 to Article 4 and new Article 3 (Sections 910-912) filed 5-1-78; effective thirtieth day thereafter (Register 78, No. 18)*

2. *Editorial correction of NOTE filed 3-22-84 (Register 84, No. 12).*

**911. Identification of Deceased Registrants by Local Registrars and County Recordors.**

Local registrars and county recorders may match deaths occurring in their jurisdictions to births registered in their office and, for any registrants thereby identified as deceased, make any of the notations specified in Section 910 (a) (1) and (2).

*NOTE: Authority cited: Sections 10001 and 10575.5, Health and Safety Code.*

*Reference: Sections 10038 and 10575.5, Health and Safety Code.*

### *HISTORY:*

1. *New NOTE filed 3-22-84 (Register 84, No. 12).*

**912. Certified Copies of Birth Certificates of Deceased Persons.** (a) All certified copies of birth records for which the registrant is identified as deceased shall display the legend "DECEASED," which shall be in bold face style not less than one-half inch in height, near the space reserved for the registrant's name.

(1) Unless produced by a photographic process or through the medium of an overlay employed in the copying process, the legend "DECEASED" shall be printed or stamped in indelible ink.

(2) The local registrar or county recorder shall obtain prior approval by the State Registrar of the method to be employed in producing the legend "DECEASED."

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*NOTE: Authority cited: Sections 10001 and 10575.5, Health and Safety Code.  
Reference: Sections 10038 and 10575.5, Health and Safety Code.*

### *HISTORY:*

1. *New NOTE filed 3-22-84 (Register 84, No. 12).*

### **Article 4. Definitions of Live Birth and Fetal Death**

\* \* \*

**915. Live Birth.** “Live birth” means the complete expulsion or extraction from its mother of a product of conception (irrespective of the duration of pregnancy) which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

*NOTE: Authority cited: Section 10001, Health and Safety Code.  
Reference: Sections 10100 and 10102, Health and Safety Code.*

### *HISTORY:*

1. *New article 3 (Sections 915 and 916) filed 6-14-56; effective thirtieth day thereafter (Register 56, No. 12). For history of former Article 3, see Register 55, No. 4.*
2. *Renumbering of Article 3 to Article 4 (Sections 915 and 916) filed 5-1-78; effective thirtieth day thereafter (Register 78, No. 18).*
3. *Editorial correction of NOTE filed 3-22-84 (Register 84, No. 12).*

**916. Fetal Death.** “Fetal death” means a death prior to the complete expulsion or extraction from its mother of a product of conception (irrespective of the duration of pregnancy); the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Registration of fetal deaths is subject to the provisions of Division 9, Chapter 4 of the Health and Safety Code.

*NOTE: Authority cited: Section 10001, Health and Safety Code.  
Reference: Section 10175, Health and Safety Code.*

### *HISTORY:*

1. *Amendment filed 10-22-57; effective thirtieth day thereafter (Register 57, No. 18).*
2. *New NOTE filed 3-22-84 (Register 84, No. 12).*

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## Excerpts from CHAPTER 3. LOCAL HEALTH SERVICE

### SUBCHAPTER 1. STANDARDS FOR STATE AID FOR LOCAL HEALTH ADMINISTRATION (Originally printed 11-1-47)

#### Article 1. Organization

\* \* \*

**1250. Health Officer.** The health department shall be under the direction of the health officer devoting full time to official duties and these duties shall constitute his primary responsibility and no other activities shall interfere with performance of his official duties.

*NOTE: Authority cited: Sections 208, 1111 and 1130, Health and Safety Code.  
Reference: Sections 454 and 1130, Health and Safety Code.*

#### *HISTORY:*

- 1. New Sections 1250 to 1329, inclusive, filed 10-1-47 as an emergency (Register 10, No.1).*
- 2. Amendment filed 9-24-71; effective thirtieth day thereafter (Register 71, No. 39).*
- 3 OAL Notice of Erroneous Filing filed 7-18-85; purported editorial correction of Section 1250 filed in error on 7-1-85 is null and void and text as filed with Secretary of State on 9-24-71 remains in effect uninterrupted (Register 85, No. 30).*
- 4. Editorial correction of NOTE filed 8-19-85; effective thirtieth day thereafter (Register 85, No. 34).*

#### Article 3. Personnel

\* \* \*

**1300. Health Officer.** The health officer shall be a graduate of medical school of good standing and repute and shall be eligible for a license to practice medicine and surgery in the State of California; provided however that those health officers on a full-time basis as of September 19, 1947, shall be considered as meeting the requirements of this section.

*NOTE: Authority cited: Sections 208, 1111 and 1130, Health and Safety Code.  
Reference: Sections 454 and 1130, Health and Safety Code.*

#### *HISTORY:*

- 1. OAL Notice of Erroneous Filing filed 7-18-85; purported editorial correction of Section 1300 filed in error on 7-1-85 is null and void and text as filed with Secretary of State on 10-1-47 remains in effect uninterrupted (Register 85, No. 30).*
- 2. New NOTE filed 8-19-85; effective thirtieth day thereafter (Register 85, No. 34).*

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## TITLE 17. PUBLIC HEALTH

(Register 84, No. 12-3-24-84)

(Register 89, No. 14-4-8-89)

### CHAPTER 4. PREVENTIVE MEDICAL SERVICE

(Originally printed 8-15-45)

#### Excerpts from SUBCHAPTER 1. REPORTABLE DISEASES AND CONDITIONS

##### Article 1. Reporting

\* \* \*

**2500. Reporting to the Local Health Authority.** (a) The following definitions shall govern the interpretation of this Subchapter.

(1) 'CDC' means the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

(2) 'CSTE' means the Council of State and Territorial Epidemiologists.

(3) 'MMWR' means the Morbidity and Mortality Weekly Report.

(4) 'Case' means (A) a person who has been diagnosed by a health care provider, who is lawfully authorized to diagnose, using clinical judgment or laboratory evidence, to have a particular disease or condition listed in subsection (j); or (B) a person who meets the definition of a case in Section 2654: Diarrhea of the Newborn, Section 2574 - Food Poisoning, Section 2612, Salmonella Infections (Other than Typhoid Fever), Section 2628, Typhoid Fever, or Section 2636 - Venereal Disease; or (C) a person who is considered a case of a disease or condition that satisfies the most recent communicable disease surveillance case definitions established by the CDC and published in the Morbidity and Mortality Weekly Report (MMWR) or its supplements; or (D) an animal that has been determined, by a person authorized to do so, to have rabies or plague.

(5) 'Clinical signs' means the objective evidence of disease.

(6) 'Clinical symptoms' means the subjective sensation of disease felt by the patient.

(7) 'Communicable disease' means an illness due to a specific microbiological or parasitic agent or its toxic products which arises through transmission of that agent or its products from an infected person, animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment.

(8) 'Director' means State Director of Health Services.

(9) 'Drug susceptibility testing' means the process where at least one isolate from a culture of a patient's specimen is subjected to antimicrobial testing to determine if growth is inhibited by drugs commonly used to treat such infections.

(10) 'Epidemiological risk factors' means those attributes, behaviors, exposures, or other factors that alter the probability of disease.

(11) 'Epidemiologically linked case' means a case in which the patient has/had contact with one or more persons who have/had the disease, and transmission of the agent by the usual modes of transmission is plausible.

(12) 'Foodborne disease' means illness suspected by a health care provider to have resulted from consuming a contaminated food.

(13) 'Foodborne disease outbreak' means an incident in which two or more persons experience a similar illness after ingestion of a common food, and epidemiologic analysis implicates the

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food as the source of the illness. There are two exceptions: even one case of botulism or chemical poisoning constitutes an outbreak if laboratory studies identify the causative agent in the food.

(14) 'Health care provider' means a physician and surgeon, a veterinarian, a podiatrist, a nurse practitioner, a physician assistant, a registered nurse, a nurse midwife, a school nurse, an infection control practitioner, a medical examiner, a coroner, or a dentist.

(15) 'Health officer' and 'local health officer' as used in this subchapter includes county, city, and district health officers.

(16) 'In attendance' means the existence of the relationship whereby a health care provider renders those services which are authorized by the health care provider's licensure or certification.

(17) 'Infection control practitioner' means any person designated by a hospital, nursing home, clinic, or other health care facility as having responsibilities which include the detection, reporting, control and prevention of infections within the institution.

(18) 'Laboratory findings' means (A) the results of a laboratory examination of any specimen derived from the human body which yields microscopical, cultural, immunological, serological, or other evidence suggestive of a disease or condition made reportable by these regulations; or (B) the results of a laboratory examination of any specimen derived from an animal which yields evidence of rabies or plague.

(19) 'Multi-drug-resistant Mycobacterium tuberculosis' means a laboratory culture or subculture of Mycobacterium tuberculosis which is determined by anti-microbial susceptibility testing to be resistant to at least isoniazid and rifampin.

(20) 'Outbreak' means the occurrence of cases of a disease (illness) above the expected or baseline level, usually over a given period of time, in a geographic area or facility, or in a specific population group. The number of cases indicating the presence of an outbreak will vary according to the disease agent, size and type of population exposed, previous exposure to the agent, and the time and place of occurrence. Thus, the designation of an outbreak is relative to the usual frequency of the disease in the same facility or community, among the specified population, over a comparable period of time. A single case of a communicable disease long absent from a population or the first invasion by a disease not previously recognized requires immediate reporting and epidemiologic investigation.

(21) 'Personal information' means any information that identifies or describes a person, including, but not limited to, his or her name, social security number, date of birth, physical description, home address, home telephone number, and medical or employment history.

(22) 'Sexually Transmitted Diseases' means Chancroid, Lymphogranuloma Venereum, Granuloma Inguinale, Syphilis, Gonorrhea, Chlamydia, Pelvic Inflammatory Disease, and Nongonococcal Urethritis.

(23) 'Suspected case' means (A) a person whom a health care provider believes, after weighing signs, symptoms, and/or laboratory evidence, to probably have a particular disease or condition listed in subsection (j); or (B) a person who is considered a probable case, or an epidemiologically-linked case, or who has supportive laboratory findings under the most recent communicable disease surveillance case definition established by CDC and published in the Morbidity and Mortality Weekly Report (MMWR) or its supplements; or (C) an animal which has been determined by a veterinarian to exhibit clinical signs or which has laboratory findings suggestive of rabies or plague.

(24) 'Unusual disease' means a rare disease or a newly apparent or emerging disease or syndrome of uncertain etiology which a health care provider has reason to believe could possibly be caused by a transmissible infectious agent or microbial toxin.

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(25) 'Water-associated disease' means an illness in which there is evidence to suggest that the illness could possibly have resulted from physical contact with or swallowing water from a microbiologically or chemically contaminated source. Examples of such potentially contaminated water sources are lakes, rivers, streams, irrigation water, wells, public and private drinking water, bottled water, reclaimed water, ocean and bay waters, hot springs, hot tubs, whirlpool spas, and swimming pools. Epidemiologic investigation by public health authorities is required to demonstrate that a suspected water-associated illness was likely to have been waterborne and related to the suspected source.

(26) 'Waterborne disease outbreak' means an incident in which two or more persons experienced a similar illness after consumption or use of the same water intended for drinking or after water contact such as by immersion, and epidemiologic investigation by public health authorities implicates the same water as the source of the waterborne illness. There is one exception: a single case of waterborne chemical poisoning constitutes an outbreak if laboratory studies indicate that the source water is contaminated by the chemical.

(b) It shall be the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases or conditions listed in subsection (j) of this section, to report to the local health officer for the jurisdiction where the patient resides as required in subsection (h) of this section. Where no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the diseases or conditions listed in subsection (j) of this section may make such a report to the local health officer for the jurisdiction where the patient resides.

(c) The administrator of each health facility, clinic or other setting where more than one health care provider may know of a case, a suspected case or an outbreak of disease within the facility shall establish and be responsible for administrative procedures to assure that reports are made to the local health officer.

(d) Each report made pursuant to subsection (b) shall include all of the following information if known:

(1) Name of the disease or condition being reported; the date of onset; the date of diagnosis; the name, address, telephone number, occupation, race/ethnic group, Social Security number, sex, age, and date of birth for the case or suspected case; the date of death if death has occurred; and the name, address and telephone number of the person making the report.

(2) If the disease reported pursuant to subsection (b) is hepatitis, a sexually transmitted disease or tuberculosis, then the report shall include the following applicable information, if known: (A) hepatitis information as to the type of hepatitis, type-specific laboratory findings, and sources of exposure, (B) sexually transmitted disease information as to the specific causative agent, syphilis-specific laboratory findings, and any complications of gonorrhea or chlamydia infections, or (C) tuberculosis information on the diagnostic status of the case or suspected case, bacteriologic, radiologic and tuberculin skin test findings, information regarding the risk of transmission of the disease to other persons, and a list of the anti-tuberculosis medications administered to the patient.

(e) Confidential Morbidity Report forms, PM 110 (1/90), are available from the local health department for reporting as required by this section.

(f) Information reported pursuant to this section is acquired in confidence and shall not be disclosed by the local health officer except as authorized by these regulations, as required by state or federal law, or with the written consent of the individual to whom the information pertains or the legal representative of the individual.

(g) Upon the Department of Health Services' request, a local health department shall provide to the Department the information reported pursuant to this section. Absent the individual's written

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consent, no information that would directly or indirectly identify the case or suspected case as an individual who has applied for or been given services for alcohol or other drug abuse by a federally assisted drug or alcohol abuse treatment program (as defined in federal law at 42 C.F.R. Section 2.11) shall be included.

(h) The urgency of reporting is identified by symbols in the list of diseases and conditions in subsection (j) of this section. Those diseases with a diamond (◆) are considered emergencies and shall be reported immediately by telephone. Those diseases and conditions with a cross (+) shall be reported by mailing, telephoning or electronically transmitting a report within one (1) working day of identification of the case or suspected case. Those diseases and conditions not otherwise identified by a diamond or a cross shall be reported by mailing a written report, telephoning, or electronically transmitting a report within seven (7) calendar days of the time of identification.

(i) For foodborne disease, the bullet (●) symbol indicates that, when two (2) or more cases or suspected cases of foodborne disease from separate households are suspected to have the same source of illness, they shall be reported immediately by telephone.

(j) Health care providers shall submit reports for the following diseases or conditions:

- Acquired Immune Deficiency Syndrome (AIDS)
- + Amebiasis
- ◆ Anthrax
- ◆ Avian Influenza (human)
- + Babesiosis
- ◆ Botulism (Infant, Foodborne, Wound, Other)
- ◆ Brucellosis
- + Campylobacteriosis
- Chancroid
- + Chickenpox (only hospitalization and deaths)
- Chlamydial Infections, including lymphogranuloma venereum (LGV)
- ◆ Cholera
- ◆ Ciguatera Fish Poisoning
- Coccidioidomycosis
- + Colorado Tick Fever
- + Conjunctivitis, Acute Infections of the Newborn, Specify Etiology
- Creutzfeldt-Jakob Disease (CJD) and other Transmissible Spongiform Encephalopathies (TSE)
- + Cryptosporidiosis
- Cysticercosis or taeniasis
- ◆ Dengue
- ◆ Diarrhea of the Newborn, Outbreaks
- ◆ Diphtheria
- ◆ Domoic Acid Poisoning (Amnesic Shellfish Poisoning)
- Ehrlichiosis
- + Encephalitis, Specify Etiology: Viral, Bacterial, Fungal, Parasitic
- ◆ *Escherichia coli*: shiga toxin producing (STEC) including *E. coli* O157
- + ● Foodborne Disease
- Giardiasis
- Gonococcal Infections
- + *Haemophilus influenzae*, invasive disease (report an incident of less than 15 years of age)
- ◆ Hantavirus Infections
- ◆ Hemolytic Uremic Syndrome

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- Hepatitis, Viral
- + Hepatitis, A
- Hepatitis, B (specify acute case or chronic)
- Hepatitis, C (specify acute case or chronic)
- Hepatitis D (Delta)
- Hepatitis, other, acute
- Influenza deaths (report an incident of less than 18 years of age)
- Kawasaki Syndrome (Mucocutaneous Lymph Node Syndrome)
- Legionellosis
- Leprosy (Hansen Disease)
- Leptospirosis
- + Listeriosis
- Lyme Disease
- + Malaria
- ◆ Measles (Rubeola)
- + Meningitis, Specify Etiology: Viral, Bacterial, Fungal, Parasitic
- ◆ Meningococcal Infections
- Mumps
- ◆ Paralytic Shellfish Poisoning
- Pelvic Inflammatory Disease (PID)
- + Pertussis (Whooping Cough)
- ◆ Plague, Human or Animal
- + Poliomyelitis, Paralytic
- + Psittacosis
- + Q Fever
- ◆ Rabies, Human or Animal
- + Relapsing Fever
- Rheumatic Fever, Acute
- Rocky Mountain Spotted Fever
- Rubella (German Measles)
- Rubella Syndrome, Congenital
- + Salmonellosis (Other than Typhoid Fever)
- ◆ Scrombroid Fish Poisoning
- ◆ Severe Acute Respiratory Infection (SARS)
- ◆ Shiga toxin (detected in feces)
- + Shigellosis
- ◆ Smallpox (Variola)
- + Streptococcal Infections (Outbreaks of Any Type and Individual Cases in Food Handlers and Dairy Case Workers Only)
- + Syphilis
- Tetanus
- Toxic Shock Syndrome
- Toxoplasmosis
- + Trichinosis
- + Tuberculosis
- ◆ Tularemia
- + Typhoid Fever, Cases and Carriers
- Typhus Fever



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- + *Vibrio* Infections
  - ◆ Viral Hemorrhagic Fevers (e.g., Crimean - Congo, Ebola, Lassa and Marburg Viruses)
  - + Water-Associated Disease (e.g., Swimmer's Itch and Hot Tub Rash)
  - + West Nile virus infection
  - ◆ Yellow Fever
  - + Yersiniosis
  - ◆ **OCCURRENCE of ANY UNUSUAL DISEASE**
  - ◆ **OUTBREAKS of ANY DISEASE** (Including diseases not listed in Section 2500.)  
Specify if institutional and/or open community.
- 

(◆) - To be reported immediately by telephone.

(+) - To be reported by mailing a report or telephoning, or electronically transmitting a report within one (1) working day of identification of the case or suspected case.

(No diamond or cross symbol) -- To be reported within seven (7) calendar days by mail, telephone, or electronic report from the time of identification.

(●) - When two (2) or more cases or suspected cases of foodborne illness from separate households are suspected to have the same source of illness, they should be reported immediately by telephone.

*NOTE: Authority cited: Sections 100180, 100275, and 120130, Health and Safety Code.*

*Reference: Sections 1603.1, 100180, 100325, 103925, 113150, 113155, 120125, 120130, 120140, 120175, 120245 and 120250, Health and Safety Code; Sections 551, 554 and 555, Business and Professions Code; Section 1798.3, Civil Code; 42 U.S.C. Sections 290ee-3 and 290dd-3; 42 C.F.R. Sections 2.11 and 2.12; Cal. Constitution Article 1, Section 1; and Section 1040 of the Evidence Code.*

### *HISTORY:*

1. Originally published 8-15-45 (Title 17).
2. Amendment filed 12-22-69; effective thirtieth day thereafter (Register 69, No. 52).  
For prior history, see Register 66, No. 39.
3. Amendment filed 12-14-79; effective thirtieth day thereafter (Register 79, No. 50).
4. Amendment of subsection (a) and new subsections (b)--(h) filed 3-30-89; operative 3-30-89 (Register 89, No. 14).
5. Editorial correction of HISTORY No. 4 printing error (Register 89, No. 23).
6. Editorial correction of subsection (g) (1) printing error (Register 90, No. 4).
7. Editorial correction of printing errors in subsection (g) (Register 91, No. 46).
8. Amendment of section and Note filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.

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9. *Amendment of section and Note, including amendment of subsection (j)(1) "Diphtheria", refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
10. *Certificate of Compliance as to 5-1-95 order, including amendment of section, transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5)*
11. *Editorial correction of subsections (j)(1) and (j)(2) (Register 97, No. 12).*
12. *Amendment of subsection (j), repealer of subsection (j) (1) designator and initial text, repealer of subsection (j) (2) and amendment of Note filed 5-17-2000; operative 10-2-2000 (Register 2000, No. 20).*
13. *Editorial correction restoring inadvertently deleted footnote (Register 2000, No. 33).*
14. *Amendment of subsection (j) and amendment of Note filed 11-5-2001 as an emergency; operative 11-5-2001 (Register 2001, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-6-2002 or emergency language will be repealed by operation of law on the following day.*
15. *Amendment of subsection (j) and amendment of Note refiled 3-1-2002 as an emergency; operative 3-1-2002 (Register 2002, No. 9). A Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.*
16. *Certificate of Compliance as to 3-1-2002 order, including amendment of Note, transmitted to OAL 6-26-2002 and filed 7-16-2002 (Register 2002, No. 29).*
17. *Amendment of subsection (j) filed 6-30-2005; operative 6-30-2005. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2005, No. 32).*
18. *Amendment of subsection (j) filed 10-26-2006; operative 10-26-2006. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130(a) and (d) (Register 2006, No. 43).*
19. *Amendment of subsection (j) filed 6-12-2007; operative 6-12-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).*
20. *Amendment of subsection (j) filed 7-30-2007; operative 7-30-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).*

**2501. Investigation of a Reported Case, Unusual Disease, or Outbreak of Disease.** (a) Upon receiving a report made pursuant to Section 2500 or 2505, the local health officer shall take whatever steps deemed necessary for the investigation and control of the disease, condition or outbreak reported. If the health officer finds that the nature of the disease and the circumstances of the case, unusual disease, or outbreak warrant such action, the health officer shall make or cause to be made an examination of any person who or animal which has been reported pursuant to Section 2500 or 2505, in order to verify the diagnosis, or the existence of an unusual disease, or outbreak, make an investigation to determine the source of infection, and take appropriate steps to prevent or control the spread of the disease. Whenever requested to do so by the Department, the health officer shall conduct a special morbidity and mortality study under Health and Safety Code Section 211 for any of the diseases made reportable by these regulations.

(b) If a disease is one in which the local health officer determines identification of the source of infection is important, and the source of infection is believed to be outside the local jurisdiction, the health officer shall notify the Director or the health officer under whose jurisdiction the infection was probably contracted if known. Similar notification shall be given if there are believed to be exposed persons, living outside the jurisdiction of the health officer, who should be quarantined or evaluated for evidence of the disease.

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*NOTE: Authority cited: Sections 207, 208 and 3123, Health and Safety Code; and Section 555(b), Business and Professions Code.*

*Reference: Sections 7, 200, 207, 211, 211.5, 304.5, 410, 1603.1, 3051, 3053, 3110, 3122, 3123, 3124, 3125, 3131 and 3132, Health and Safety Code; Sections 551, 554 and 555, Business and Professions Code.*

### *HISTORY:*

- 1. Amendment filed 5-24-55; effective thirtieth day thereafter (Register 55, No. 8).*
- 2. Amendment filed 3-30-89; operative 3-30-89 (Register 89, No. 14).*
- 3. Amendment of section and Note, including renumbering and amendment of former section 2512 to subsection 2501(b)(1)-(2), filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No.18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.*
- 4. Amendment of section and Note refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
- 5. Certificate of Compliance as to 5-1-95 order, including repealer and new section heading and amendment of section and Note transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5).*

**2502. Reports by Local Health Officers to State Department of Health Services.** (a) Summary Reports: Each local health officer shall report at least weekly, on the Weekly Morbidity by Place of Report form (DHS 8245 (11/95)) to the Director the number of cases of those diseases, conditions, unusual diseases or outbreaks of disease reported pursuant to Section 2500. Copies of the form are available from the Department's Division of Communicable Disease Control.

(b) Individual Case and Outbreak Reports: For the diseases listed below, the local health officer shall prepare and send to the Department along with the summary report described in (a) above an individual case or outbreak report for each individual case/outbreak of those diseases which the Department has identified as requiring epidemiological analysis reported pursuant to Section 2500.

At the discretion of the Director, the required individual case/outbreak report may be either a Confidential Morbidity Report (PM-110 1/90), its electronic equivalent or a hard copy 8.5x11 inch individual case/outbreak report form. The Weekly Morbidity by Place of Report form (DHS 8245 11/95)) indicates which format to use. Each individual case report shall include the following:

- (1) verification of information reported pursuant to Section 2500;
- (2) information on the probable source of infection, if known;
- (3) laboratory or radiologic findings, if any;
- (4) clinical signs and/or symptoms, if applicable; and
- (5) any known epidemiological risk factors. The Department or CDC has prepared forms that may be used for many of the diseases requiring individual case reports. Where a form exists, its identification number is listed in parentheses next to the diseases listed below. Copies of these case report forms are available from the Department's Division of Communicable Disease Control. An individual case report is required for the following diseases:

Acquired Immune Deficiency Syndrome (AIDS) (CDC 50.42B)

Anthrax (ACD-152)

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Avian Influenza (human) (pending) |  
Botulism (Infant, Foodborne, Wound, Other) (ACD-153)  
Brucellosis (262-101)  
Chickenpox (Varicella) deaths (separate reporting form required) |  
Chickenpox (Varicella) hospitalizations (separate reporting form required) |  
Cholera (CDC 52.79)  
Creutzfeldt-Jakob Disease (CJD) and other Transmissible Spongiform Encephalopathies  
(TSE) (pending) |  
Cysticercosis (pending)  
Diarrhea of the Newborn, Outbreaks (262-504)  
Diphtheria (262-505)  
*Escherichia coli*: shiga toxin producing (STEC) including *E. coli* O157 |  
Foodborne Disease Outbreak (CDC 52.13)  
*Haemophilus influenzae*, Invasive Disease (DHS 8449)  
Hantavirus Infections (pending)  
Hemolytic Uremic Syndrome (pending)  
Hepatitis A (CDC 53.1)  
Hepatitis B, acute only (CDC 53.1)  
Hepatitis C, acute only (CDC 53.1)  
Hepatitis D (Delta), acute only (CDC 53.1)  
Hepatitis, any other acute viral type (CDC 53.1)  
Influenza deaths (report an incident of less than 18 years of age) (pending) |  
Kawasaki Syndrome (Mucocutaneous Lymph Node Syndrome) (DHS 8468)  
Legionellosis (CDC 52.56)  
Leprosy (Hansen Disease) (CDC 52.18)  
Leptospirosis (262-102)  
Listeriosis (DHS 8296)  
Lyme Disease (DHS 8470)  
Malaria (CDC 54.1)  
Measles (Rubeola) (DHS 8345)  
Meningoccal Infections (DHS 8469)  
Outbreak of Disease Report (DHS 262-501)  
Pelvic Inflammatory Disease (PID)  
Pertussis (Whooping Cough) (DHS 8258)  
Plague (CDC 56.37)  
Poliomyelitis, Paralytic (DHS 8421)  
Psittacosis (8023-005)  
Q Fever (262-101)  
Rabies, Human or Animal (Humans 262-105, Animals PM 102)  
Relapsing Fever (262-107)  
Rocky Mountain Spotted Fever (CDC 55.1)  
Rubella (German Measles) (PM 358; for Congenital Rubella, CDC 71.17)  
Severe Acute Respiratory Infection (SARS) (pending)  
Shiga toxin (detected in feces) |  
Smallpox (pending)  
Streptococcal Outbreaks and Individual Cases in Food Handlers and Dairy Workers Only  
Syphilis (for Congenital Syphilis, CDC 73.126)  
Tetanus (CDC 71.15)  
Toxic Shock Syndrome (CDC 52.3)

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Trichinosis (CDC 54.7)  
Tuberculosis (CDC 72.9 A, B, and C)  
Tularemia (262-101)  
Typhoid Fever, Cases and Carriers (Cases, CDC 52.5; Carriers, CDC 4.383)  
Typhus Fever (262-107)  
Unusual Disease Report (DHS 262-501)  
*Vibrio* Infections (CDC 52.79)  
Viral Hemorrhagic Fevers (pending)  
Waterborne Disease Outbreak (CDC 52.12)  
West Nile virus infection (pending)  
Yellow Fever

(c) Immediate Reports: Cases and suspect cases of anthrax, botulism, brucellosis, cholera, dengue, diarrhea of the newborn (outbreaks), diphtheria, plague, rabies (human only), smallpox (variola), tularemia, varicella deaths, viral hemorrhagic fevers, yellow fever, occurrence of any unusual diseases, and outbreaks of any disease are to be reported by the local health officer to the Director immediately by telephone.

(d) Upon request of the Department, the local health officer shall submit an individual case report for any disease not listed in subsection (b) above.

(e) During any special morbidity and mortality study requested under Section 2501, the local health officer shall be the Director's agent for purposes of carrying out the powers conferred under Government Code Section 11181.

(f) Confidentiality: Information reported pursuant to this section is acquired in confidence and shall not be disclosed by the local health officer except as authorized by these regulations, as required by state or federal law, or with the written consent of the individual to whom the information pertains or to the legal representative of that individual.

(1) A health officer shall disclose any information, including personal information, contained in individual case report to state, federal or local public health officials in order to determine the existence of a disease, its likely cause or the measures necessary to stop its spread.

(2) A health officer may for purposes of his or her investigation disclose any information contained in an individual case report, including personal information, as may be necessary to prevent the spread of disease or occurrence of additional cases.

(3) A health officer may disclose any information contained in an individual case report to any person or entity if the disclosure may occur without linking the information disclosed to the individual to whom it pertains, and the purpose of the disclosure is to increase understanding of disease patterns, to develop prevention and control programs, to communicate new knowledge about a disease to the community, or for research.

(4) Notwithstanding subsections (1), (2), and (3) above, no information that would directly or indirectly identify an individual as one who has applied for or been given services for alcohol or other drug abuse by a federally assisted drug or alcohol abuse treatment program (as defined in 42 C.F.R. § 2.11) shall be included in an individual case report or otherwise disclosed absent the individual's written consent.

(g) Whenever the health officer collects personal information in order to prepare an individual case report required by subsection (b), the health officer shall notify the individual from whom the information is collected that: (1) supplying personal information related to the individual's disease is mandatory; (2) the only disclosure of personal information will be pursuant to subsections 2502(f)(1) and 2502(f)(2); and (3) non-personal information may be disclosed pursuant to subsection 2502(f)(3).

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*NOTE: Authority cited: Sections 100180, 100275, and 120130, Health and Safety Code; and Section 555(b), Business and Professions Code.*

*Reference: Sections 7, 1603.1, 100180, 100325, 100330, 103925, 113150, 113155, 120125, 120130, 120140, 120145, 120175, 120190, 120245, and 120250, Health and Safety Code; and Sections 551, 554 and 555, Business and Professions Code; Sections 11181 and 11182, Government Code; 42 U.S.C. sections 290ee-3 and 290dd-3; 42 C.F.R. Sections 2.11 and 2.12; Cal. Const. Art. 1, Section 1; Section 1040 of the Evidence Code; and Section 1798.3, Civil Code.*

### *HISTORY:*

- 1. Amendment filed 5-24-55; effective thirtieth day thereafter (Register 55, No. 8).*
- 2. Amendment filed 3-30-89; operative 3-30-89 (Register 89, No. 14).*
- 3. Amendment filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No., 18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.*
- 4. Amendment refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
- 5. Certificate of Compliance as to 5-1-95 order, including repealer and new section heading, section and Note transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5).*
- 6. Editorial correction of subsection (c) (Register 97, No. 12).*
- 7. Amendment of subsections (b)-(c) and amendment of Note filed 11-5-2001 as an emergency; operative 11-5-2001 (Register 2001, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2002 or emergency language will be repealed by operation of law on the following day.*
- 8. Amendment of subsections (b)-(c) and amendment of Note refiled 3-1-2002 as an emergency; operative 3-1-2002 (Register 2002, No. 9). A Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.*
- 9. Certificate of Compliance as to 3-1-2002 order transmitted to OAL 6-26-2002 and filed 7-16-2002 (Register 2002, No. 29).*
- 10. Amendment of subsection (b) filed 6-30-2005; operative 6-30-2005. Submitted to OAL for printing only pursuant to Health and Safety Code Section 120130 (Register 2005, No. 32).*
- 11. Amendment of subsection (b) 6-12-2007; operative 6-12-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).*
- 12. Amendment of subsection (b) filed 7-30-2007; operative 7-30-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).*

### **2503. Reporting Occurrence of Unusual Diseases.**

*NOTE: Authority cited: Sections 207, 208 and 3123, Health and Safety Code.*

*Reference: Sections 200, 207, 3053, 3110, 3123, 3124 and 3125, Health and Safety Code.*

### *HISTORY:*

- 1. New Section filed 5-24-55; effective thirtieth day thereafter (Register 55, No. 8).*
- 2. Amendment filed 3-30-89; operative 3-30-89 (Register 89, No. 14).*

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3. *Amendment of section heading and section filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.*
4. *Amendment of section heading and section refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
5. *Certificate of Compliance as to 5-1-95 order, including repealer of section transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5).*

**2504. Report by Health Care Provider of Out-of-State Laboratory Findings.** Whenever a health care provider's identification of a case or suspected case of tuberculosis includes laboratory findings from an out-of-state laboratory, the health care provider shall include those findings with the report made pursuant to Section 2500(b), and if the laboratory performed drug susceptibility testing, the results of such testing shall also be so reported.

*NOTE: Authority cited: Sections 207, 208 and 3123, Health and Safety Code.*

*Reference: Sections 200, 207, 3053, 3110, 3123, 3125 and 3285, Health and Safety Code.*

### HISTORY

1. *Amendment of section heading, repealer and new section, and new Note filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.*
2. *Repealer and new section refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
3. *Certificate of Compliance as to 5-1-95 order transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5).*

**2505. Notification by Laboratories.** (a) To assist the local health officer, the laboratory director, or the laboratory director's designee, of a clinical laboratory, an approved public health laboratory or a veterinary laboratory in which a laboratory examination of any specimen derived from the human body (or from an animal, in the case of rabies or plague testing) yields microscopical, cultural, immunological, serological, or other evidence suggestive of those diseases listed in subsections (e)(1) and (e)(2) below, shall report such findings to the health officer of the local health jurisdiction where the health care provider who first submitted the specimen is located.

(1) For those diseases listed in subsection (e)(1), the report of such findings shall be made within one hour after the laboratory notifies the health care provider or other persons authorized to receive the report. If the laboratory that makes the positive finding received the specimen from another laboratory, the laboratory making the positive finding shall notify the health officer of the jurisdiction in which the health care provider is located within one hour from the time the laboratory notifies the referring laboratory that submitted the specimen.

(2) For those diseases listed in subsection (e)(2), the report of such finding shall be made within one working day from the time that the laboratory notifies the health care provider or other person authorized to receive the report. If the laboratory that makes the positive finding received the specimen from another laboratory, the laboratory making the positive finding shall notify the health officer of the jurisdiction in which the health care provider is located within one

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working day from the time the laboratory notifies the referring laboratory that submitted the specimen.

(b) To permit local health officer follow-up of laboratory findings, all specimens submitted for laboratory tests or examinations related to a disease or condition listed in subsections 2505(e)(1) or 2502(e)(2) shall be accompanied by a test requisition which includes the name, gender, and age or date-of-birth of the person from whom the specimen was obtained and the name, address and telephone number of the health care provider or other authorized person who submitted the specimen. Whenever the specimen, or an isolate therefrom, is transferred between laboratories, a test requisition with the above patient and submitter information shall accompany the specimen. The laboratory that first receives a specimen shall be responsible for obtaining the patient and submitter information at the time the specimen is received by that laboratory.

(c) Each notification to the local health officer shall include the date the specimen was obtained, the patient identification number, the specimen accession number or other unique specimen identifier, the laboratory findings for the test performed, the date that any positive laboratory findings were identified, the name, gender, address, telephone number (if known) and age or date of birth of the person from whom the specimen was obtained, and the name, address, and telephone number of the health care provider for whom such examination or test was performed.

(d) The notification shall be submitted as specified in subsections (e)(1) and (e)(2) of this Section to the local health officer in the jurisdiction where the health care provider who submitted the specimen is located. When the specimen is from an out-of-state submitter, the state epidemiologist of the submitter shall be provided the same positive findings per subsections (e)(1) and (e)(2) of this Section. If the laboratory that finds evidence for any of those diseases listed in subsections (e)(1) and (e)(2) is an out-of-state laboratory, the California clinical laboratory that receives a report of such findings from the out-of-state laboratory shall notify the local health officer in the same way as if the finding had been made by the California laboratory.

(e) Laboratory reports to the local health officer shall include the information as specified in (c) of this Section and laboratories shall submit the reports within the following timeframes:

(1) The diseases specified shall be reported within one hour after the health care provider or other person authorized to receive the report has been notified. Laboratories shall make the initial reports to the local health officer by telephone and follow the initial report within one working day by a report in writing submitted by electronic facsimile transmission or electronic mail to the local health officer. The diseases reported pursuant to this requirement are:

Anthrax (see section 2551 for additional reporting instructions)

Avian Influenza (see (j) for additional reporting requirements)

Botulism (see section 2552 for additional reporting instructions)

Brucellosis, by isolation of *Brucella* species from a clinical specimen, or demonstration by immunofluorescence of *Brucella* species in a clinical specimen, or fourfold or greater rise in antibody titer to *Brucella* antigen between acute and convalescent phase serum specimens obtained two or more weeks apart and studied at the same laboratory, or elevated serum antibody to *Brucella* antigen at a titer of 1:160 or greater in a single serum specimen. (see section 2553 for special reporting instructions)

*Burkholderia pseudomallei* and *B. mallei*

Plague, animal or human (see section 2596 for additional reporting instructions)

Smallpox (*Variola*) (see section 2614 for additional reporting instructions)

Tularemia, by isolation of *Francisella tularensis* in a clinical specimen, or demonstration by immunofluorescence of *F. tularensis* in a clinical specimen, or fourfold or greater rise in antibody titer to *F. tularensis* antigen between acute and convalescent phase serum specimens obtained two or more weeks apart and studied at the same laboratory, or elevated antibody to *F. tularensis*



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antigen at a titer of 1:160 or greater in a single serum specimen. (see section 2626 for additional reporting instructions)

Viral Hemmohagiz Fever agents (e.g., Crimean-Congo, Ebola, Lassa, and Marburg viruses) (see section 2638 for additional reporting instructions)

(2) The diseases specified shall be reported within one working day after the health care provider or other person authorized to receive the report has been notified. Laboratories shall transmit these reports to the local health officer by courier, mail, electronic facsimile or electronic mail. The diseases reported pursuant to this requirement are:

- Acid fast bacillus (AFB) (see (g) for additional reporting requirements)
- Bordetella pertusis acute infection, by culture or molecular identification
- Borrelia burgdorferi infection
- Chlamydial Infections, including lymphogranuloma venereum (LGV)
- Cryptosporidiosis
- Cyclospora cayetanensis
- Diphtheria
- Encephalitis, arboviral
- Escherichia coli*: shiga toxin producing (STEC) including *E. coli* O157
- Gonorrhea
- Haemophilus influenzae (report an incident of less than 15 years of age, sterile site)
- Hepatitis A, acute infection, by IgM antibody test or positive viral antigen test
- Hepatitis B, acute infection, by IgM anti-HBc antibody test
- Hepatitis B surface antigen positively (specify gender)
- Hepatitis C (see (i) for additional reporting requirements)
- Legionella (antigen or culture)
- Listeria
- Malaria (see (h) for additional reporting requirements)
- Measles (Rubeola), acute infection, by IgM antibody test or positive viral antigen test
- Mycobacterium tuberculosis (see (f) for additional reporting requirements)
- Neisseria meningitidis (sterile site isolate)
- Rabies, animal or human
- Rubella, acute infection by IgM antibody test or culture
- Salmonella sp.
- Shiga toxin (detected in feces)
- Shigella sp.
- Syphilis
- Tuberculosis
- Typhoid
- Vibrio* species infections
- West Nile virus infection

(f) In addition to notifying the local health officer pursuant to subsection (a), any clinical laboratory or approved public health laboratory that isolates *Mycobacterium tuberculosis* from a patient specimen shall:

(1) Submit a culture as soon as available from the primary isolate on which a diagnosis of tuberculosis was established. Such a culture shall be submitted to the public health laboratory designated in Title 17 California Code of Regulations, Section 1075 for the local jurisdiction where the health care provider's office is located. The following information shall be submitted with the culture: the name, address, and the date of birth of the person from whom the specimen was obtained, the patient identification number, the specimen accession number or other unique specimen identifier, the date the specimen was obtained from the patient, and the name, address,

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and telephone number of the health care provider for whom such examination or test was performed. The public health laboratory shall retain the culture received (one culture from each culture-positive patient) in a viable condition for at least six months.

(2) Unless drug susceptibility testing has been performed by the clinical laboratory on a strain obtained from the same patient within the previous three months or the health care provider who submitted the specimen for laboratory examination informs the laboratory that such drug susceptibility testing has been performed by another laboratory on a culture obtained from that patient within the previous three months, the clinical laboratory shall:

(A) Perform or refer for drug susceptibility testing on at least one isolate from each patient from whom *Mycobacterium tuberculosis* was isolated; and

(B) Report the results of drug susceptibility testing to the local health officer of the city or county where the submitting physician's office is located within one working day from the time the health care provider or other authorized person who submitted the specimen is notified; and

(C) If the drug susceptibility testing determines the culture to be resistant to at least isoniazid and rifampin, in addition, submit one culture or subculture from each patient from whom multi-drug-resistant *Mycobacterium tuberculosis* was isolated to the official public health laboratory designated in Title 17, California Code of Regulations, Section 1075, for the local health jurisdiction in which the health care provider's office is located. The local public health laboratory shall forward such cultures to the Department's Microbial Diseases Laboratory. The following information shall be submitted with the culture: the name, address, and the date of birth of the person from whom the specimen was obtained, the patient identification number, the specimen accession number or other unique specimen identifier, the date the specimen was obtained from the patient, and the name, address, and telephone number of the health care provider for whom such examination or test was performed.

(g) Whenever a clinical laboratory finds that a specimen from a patient with known or suspected tuberculosis tests positive for acid fast bacillus (AFB) staining and the patient has not had a culture which identifies that acid fast organism within the past 30 days, the clinical laboratory shall culture and identify the acid fast bacteria or refer a subculture to another laboratory for those purposes.

(h) In addition to notifying the local health officer pursuant to subsection (a), any clinical laboratory that makes a finding of malaria parasites in the blood film of a patient shall immediately submit one or more such blood film slides for confirmation to the public health laboratory designated in Title 17, California Code of Regulations, Section 1075, for the local health jurisdiction where the health care provider is located. When requested, all blood films shall be returned to the submitter.

(i) Any laboratory with a positive hepatitis C virus (HCV) test that meets the CDC laboratory criteria for diagnosis of HCV infection in a California resident shall report the positive test to the local health officer.

The following test results are reportable.

- (1) All HCV positive recombinant immunoblot assay (RIBA) tests
- (2) All HCV RNA positive tests [e.g., nucleic acid tests (NAT)];
- (3) All HCV genotype reports; and
- (4) Anti-HCV reactive by a screening test (e.g., enzyme immunoassay [EIA] or chemiluminescence immunoassay [CIA]) with either:
  - (A) The exact signal-to-cut-off (s/co) ratio or index value; or

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(B) A comment that indicates whether or not the screening test s/co ratio or index value is predictive of a true positive as determined for the particular assay as defined by the CDC in the case definition for "laboratory criteria for diagnosis" of Hepatitis C virus infection, past or present. The url for the s/co ratios that meet the CDC case definition is [http://www.cdc.gov/ncidod/diseases/hepatitis/c/sc\\_ratios.htm](http://www.cdc.gov/ncidod/diseases/hepatitis/c/sc_ratios.htm).

If a laboratory chooses to report a reactive anti-HCV screening test (e.g., EIA or CIA test) with a s/co or index value that is lower than required to meet the CDC case definitions AND does not report the exact s/co or index value (i.e., the laboratory report is positive without a specific s/co or index value reported), then the laboratory report MUST include a comment to indicate that the s/co or index value is low and that supplemental testing (e.g., RIBA or NAT) is recommended by the CDC.

(j) Whenever a laboratory receives a specimen for the laboratory diagnosis of avian influenza in a human such laboratory shall communicate immediately by telephone with the Department's Viral and Rickettsial Disease Laboratory for instruction.

(k) All laboratory notifications herein required are acquired in confidence and shall not be disclosed by the local health officer except (1) as authorized by these regulations; (2) as required by state or federal law; or (3) with the written consent of the individual to whom the information pertains or the legal representative of that individual.

(l) The local health officer shall disclose any information, including personal information, contained in a laboratory notification to state, federal or local public health officials in order to determine the existence of the disease, its likely cause and the measures necessary to stop its spread.

*NOTE: Authority cited: Sections 100180, 100275, 120130 and 125095, Health and Safety Code. Reference: Sections 100180, 120125, 120130, 120140, 120175, 120575, 121365 and 125100, Health and Safety Code; Sections 1209, 1246.5 and 1288, Business and Professions Code; California Constitution, Article 1, Section 1; and Section 1040 of the Evidence Code.*

### *HISTORY:*

- 1. New section filed 3-26-62; effective thirtieth day thereafter (Register 62, No. 6).*
- 2. Amendment of subsections (a) and (b) filed 6-25-72 as an emergency; effective upon filing (Register 72, No. 27).*
- 3. Certificate of Compliance filed 10-24-72 (Register 72, No. 44).*
- 4. Amendment of subsection (d) filed 3-30-89; operative 3-30-89 (Register 89, No. 14).*
- 5. Amendment of section and Note filed 5-1-95 as an emergency; operative 5-1-95 (Register 95, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-29-95 or emergency language will be repealed by operation of law on the following day.*
- 6. Amendment of section and Note refiled 8-21-95 as an emergency; operative 8-21-95 (Register 95, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-19-95 or emergency language will be repealed by operation of law on the following day.*
- 7. Certificate of Compliance as to 5-1-95 order, including amendment of section, transmitted to OAL 12-19-95 and filed 2-2-96 (Register 96, No. 5).*
- 8. Change without regulatory effect amending subsection (c) filed 7-15-97 pursuant to Section 100, Title 1, California Code of Regulations (Register 97, No. 29).*
- 9. Amendment of subsections (a)-(d), repealer of subsection (e) and new subsections (e)-(e)(2) and amendment of Note filed 11-5-2001 as an emergency; operative 11-5-2001 (Register 2001, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-5-2002 or emergency language will be repealed by operation of law on the following day.*

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10. Amendment of subsections (a)-(d), repealer of subsection (e), new subsections (e)-(e)(2) and amendment of Note refiled 3-1-2002 as an emergency; operative 3-1-2002 (Register 2002, No. 9). A Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 3-1-2002 order, including further amendment of subsection (e)(1), transmitted to OAL 6-26-2002 and filed 7-16-2002 (Register 2002, No. 29).

12. Amendment of subsection (e)(2) filed 6-30-2005; operative 6-30-2005. Submitted to OAL for printing only pursuant to Health and Safety Code Section 120130 (Register 2005, No. 32).

13. Amendment of subsection (e)(2) filed 10-26-2006; operative 10-26-2006. Submitted to OAL for printing only pursuant to Health and Safety Code Section 120130(a) and (d) (Register 2006, No.43).

14. Amendment of subsections (e)(1)-(2), new subsections (i)-(j) and subsection relettering filed 6-12-2007; operative 6-12-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).

15. Amendment of subsection (e) (2) filed 7-30-2007; operative 7-30-2007. Submitted to OAL for printing only pursuant to Health and Safety Code section 120130 (Register 2007, No. 31).

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**2508. Reporting by Schools.** It shall be the duty of anyone in charge of a public or private school, kindergarten, boarding school, or day nursery to report at once to the local health officer the presence or suspected presence of any of the communicable diseases.

**2509. Records of Local Health Officer.** The local health officer shall maintain such records as he deems necessary in the performance of his duties, or as requested by the State Department of Health Services.

**2511. Determination of Morbidity Level.** It shall be the duty of the local health officer to determine the amount and kind of communicable disease occurring in his area by such methods as he deems necessary in order to obtain knowledge of the general level of morbidity in his jurisdiction.

### *HISTORY:*

1. New section filed 5-24-55; effective thirtieth day thereafter (Register 55, No. 8).

## **Article 2. General Instructions**

\* \* \*

**2536. Transportation of Communicable Disease Cases.** No person with a communicable disease subject to isolation not any contact subject to quarantine shall travel or be transported from one place to another within the local health jurisdiction, without the permissions of the local health officer, and no such person shall travel or be transported outside the area of jurisdiction of the health officer until the permission of the health officer into whose jurisdiction the patient is to be brought is obtained.

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An exception may be made in instances where the patient is to be admitted directly to a hospital for the treatment of the communicable disease, provided that the health officer from whose jurisdiction the case is to be transported shall insure that adequate precautions are taken to prevent dissemination of the disease by the patient or his contacts en route to the hospital.

### *HISTORY:*

*1. Amendment filed 5-24-55; effective thirtieth day thereafter (Register 55, No. 8).*

\* \* \*

**2538. Funerals.** Funeral services for individuals who have died of a communicable disease shall be conducted in accordance with instructions of the health officer. In diseases requiring quarantine of contacts, a public funeral service may be permitted only if the casket remains closed and those contacts subject to quarantine who attend the funeral are adequately segregated from the public.

\* \* \*

**2540. General Clause.** In addition to the requirements stipulated in these regulations, the local health officer shall, after suitable investigation, take such additional steps as he deems necessary to prevent the spread of communicable disease or a disease suspected of being communicable in order to protect the public health.

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**BUSINESS & PROFESSIONS  
CODE**

**BUSINESS AND PROFESSIONS CODE**

**Excerpts from  
DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS**

**CHAPTER 1. THE DEPARTMENT**

\* \* \*

**119. License Offenses.** Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends his or her license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to him or her as being his or her license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to him or her.

(f) Photographs, photostats, duplicates, manufactures or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**Excerpts from  
DIVISION 2. HEALING ARTS**

**CHAPTER 1. GENERAL PROVISIONS**

**Article 10. Federal Personnel**

\* \* \*

**715. License Requirements; Exemptions:** Unless otherwise required by federal law or regulation, no board under this division which licenses dentists, physicians and surgeons, podiatrists, or nurses may require a person to obtain or maintain any license to practice a profession or render services in the State of California if one of the following applies:

(a) The person practicing a profession or rendering services does so exclusively as an employee of a department, bureau, office, division, or similarly constituted agency of the federal government, and provides medical services exclusively on a federal reservation or at any facility wholly supported by and maintained by the United States government.



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(b) The person practicing a profession or rendering services does so solely pursuant to a contract with the federal government on a federal reservation or at any facility wholly supported and maintained by the United States government.

(c) The person practicing a profession or rendering services does so pursuant to, or as a part of a program or project conducted or administered by a department, bureau, office, division, or similarly constituted agency of the federal government which by federal statute expressly exempts persons practicing a profession or rendering services as part of the program or project from state laws requiring licensure.

*(Amended by Statutes 1986, Chapter 220, effective June 30, 1986.)*

**716. Denial of Issuance of License or Disciplinary Action to State License.** Notwithstanding any other provision of law, a board under this division may deny issuance of a license to an applicant or take disciplinary action against the holder of a California license for acts or omissions committed by the applicant or licensee in the course of professional practice or rendering services described in Section 715 if both of the following apply:

(a) The acts or omissions committed by the applicant or licensee constituted grounds for denial or discipline pursuant to the laws of this state governing licensees or applicants for licensure for the profession or vocation in question.

(b) The acts or omissions constituting the basis for denial or discipline by the agency were not authorized, exempted or rendered inconsistent by federal statute.

*(Added by Statutes 1983, Chapter 239.)*

**717. Limitations on Application of Article.** This article is not intended to address the scope of practice of a dentist, physician and surgeon, or nurse licensed under this division, and nothing in this article shall be construed to restrict, expand, alter, or modify the existing scope of practice established by federal statute or regulation.

*(Added by Statutes 1983, Chapter 239.)*

**718. Physicians and Surgeons in Medical Corps of Armed Forces; Authorization to Practice as Part of Residency, Fellowship, or Clinical Training Program; Conditions.** A physician and surgeon who is not licensed in this state but who is a commissioned officer on active duty in the medical corps of any branch of the armed forces of the United States may engage in the practice of medicine as part of a residency, fellowship, or clinical training program if all the following conditions are met:

(a) The residency, fellowship, or clinical training program is conducted by a branch of the armed forces of the United States at a health facility on a federal reservation and limited in enrollment to military physicians on active duty in the medical corps of a branch of the armed forces of the United States.

(b) The residency, fellowship, or clinical training program, as part of its program, contracts with or affiliates with a similar program in or at a health facility not on a federal reservation to offer specific courses or training not available at the facility located on the federal reservation.

(c) The officers enrolled in the residency, fellowship, or clinical training program restrict their practice only to patients who are seen as part of their duties in the program.

(d) The compensation received by the officers enrolled in the residency, fellowship, or clinical training program is limited to their regular pay and allowances as commissioned officers.

(e) The officers enrolled in the training programs or portions of training programs not conducted on a federal reservation shall register with the Division of Licensing of the Medical Board of California on a form provided by the division.

*(Amended by Statutes 1989, Chapter 886.)*

## BUSINESS AND PROFESSIONS CODE

### CHAPTER 2. CHIROPRACTORS

#### Article 1. General

\* \* \*

**1000. Laws Governing.** The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

*(Added by Statutes 1937, Chapter 399.)*

**1001. Directory.** In each year, the State Board of Chiropractic Examiners shall compile and may thereafter publish and sell a complete directory of all persons within the state who hold unforfeited and unrevoked certificates to practice chiropractic, and whose certificate in any manner authorizes the treatment of human beings for diseases, injuries, deformities, or any other physical or mental conditions.

The directory shall contain:

(a) The following information concerning each such person:

1. The name and address of such person.
2. The names and symbols indicating his title.
3. The school, attendance at which qualified him for examination or admission to practice.
4. The date of the issuance of his certificate.

(b) The annual report of the board for the prior year.

(c) Information relating to other laws of this state and the United States which the board determines to be of interest to persons licensed to practice chiropractic.

(d) Copies of opinions of the Attorney General relating to the practice of chiropractic.

(e) A copy of the provisions of this chapter and a copy of the act cited in Section 1000.

The board may require the persons designated in this section to furnish such information as it may deem necessary to enable it to compile the directory. Every person so designated shall report immediately each and every change of residence, giving both his old and new address.

The directory shall be evidence of the right of the persons named in it to practice unless his certificate to practice chiropractic has been canceled, suspended or revoked. The board may collect from each person who voluntarily subscribes to or purchases a copy of the directory the cost of publication and distribution thereof; except that one copy of the directory shall be distributed without charge to each certificate holder of the board.

*(Amended by Statutes 1980, Chapter 676.)*

**1002. Offenses; Injunction.** Whenever any person has engaged in or is about to engage in any acts or practices which constitute or will constitute an offense against the Chiropractic Act or its rules or regulations, the superior court of any county, on application of the State Board of Chiropractic Examiners, or on application of 10 or more persons licensed under the Chiropractic Act may issue an injunction or other appropriate order restraining that conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

*(Added by Statutes 1989, Chapter 288.)*

**BUSINESS AND PROFESSIONS CODE**

**CHAPTER 5. MEDICINE**

**Article 3. License Required and Exemptions**

\* \* \*

**2050. Form of Certificate.** The Division of Licensing shall issue one form of certificate to all physicians and surgeons licensed by the board which shall be designated as a "physician's and surgeon's certificate."

*(Added by Statutes 1980, Chapter 1313.)*

**2051. Practice Authorized by Certificate.** The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.

*(Added by Statutes 1980, Chapter 1313.)*

**2052. Practice, Attempt or Advertising Without Certificate; Misdemeanor.** (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter, or without being authorized to perform such act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided by law.  
*(Amended by Statutes 2002, Chapter 1085.) (SB 1950)*

**2052.5. Practicing Across State Lines; Proposed Registration Program; Exceptions.** (a) The proposed registration program developed pursuant to subdivision (b) shall provide that, for purposes of the proposed registration program:

(1) A physician and surgeon practices medicine in this state across state lines when that person is located outside of this state but, through the use of any medium, including an electronic medium, practices or attempts to practice, or advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person in this state.

(2) A doctor of podiatric medicine practices podiatric medicine in this state across state lines when that person is located outside of this state but, through the use of any medium, including an electronic medium, practices or attempts to practice podiatric medicine, as defined in Section 2472, in this state.

(3) The proposed registration program shall not apply to any consultation described in Section 2060.

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(b) The board may, at its discretion, develop a proposed registration program to permit a physician and surgeon, or a doctor of podiatric medicine, located outside this state to register with the board to practice medicine or podiatric medicine in this state across state lines.

(1) The proposed registration program shall include proposed requirements for registration, including, but not limited to, licensure in the state or country where the physician and surgeon, or the doctor of podiatric medicine, resides, and education and training requirements.

(2) The proposed registration program may also include all of the following: (A) standards for confidentiality, format, and retention of medical records, (B) access to medical records by the board, (C) registration fees, renewal fees, delinquency fees, and replacement document fees in an amount not to exceed the actual cost of administering the registration program, and (D) provisions ensuring that enforcement and consumer education shall be integral parts of administering the registration program.

(3) The proposed registration program may also provide all of the following:

(A) All laws, rules, and regulations that govern the practice of medicine or podiatric medicine in this state, including, but not limited to, confidentiality and reporting requirements, shall apply to a physician and surgeon, or a doctor of podiatric medicine, who is registered by the board to practice medicine or podiatric medicine in this state across state lines.

(B) The board may deny an application for registration or may suspend, revoke, or otherwise discipline a registrant for any of the following: (i) on any ground prescribed by this chapter, (ii) failure to possess or to maintain a valid license in the state where the registrant resides, or (iii) if the applicant or registrant is not licensed by the state or country in which he or she resides, and that state or country prohibits the practice of medicine or podiatric medicine from that state or country into any other state or country without a valid registration or license issued by the state or country in which the applicant or registrant practices. Action to deny or discipline a registrant shall be taken in the manner provided for in this chapter.

(C) Any of the following shall be grounds for discipline of a registrant: (i) to allow any person to engage in the practice of medicine or podiatric medicine in this state across state lines under his or her registration, including, but not limited to, any nurse, physician assistant, medical assistant, or other person, (ii) to fail to include his or her registration number on any invoice or other type of billing statement submitted for care or treatment provided to a patient located in this state, (iii) to practice medicine or podiatric medicine in any other state or country without meeting the legal requirements to practice medicine or podiatric medicine in that state or country, or (iv) to fail to notify the board, in a manner prescribed by the board, of any restrictions placed on his or her medical license, or podiatric medical license, in any state.

(D) A registration issued pursuant to the registration program shall automatically be suspended upon receipt of a copy, from the state that issued the license, of the surrender, revocation, suspension, or other similar type of action taken by another state or country against a medical license, or podiatric medical license, issued to a registrant. The board shall notify the registrant in writing of the suspension and of the registrant's right to a hearing.

(4) Section 2314 shall not apply to the registration program.

(c) This section shall not be construed to authorize the board to implement a registration program for physicians and surgeons or doctors of podiatric medicine located outside this state. This section is intended to authorize the board to develop a proposed registration program to be authorized for implementation by future legislation.

*(Amended by Statutes 1997, Chapter 17.) (SB 947)*

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**2053. Unlawful Practice Without Certificate or Authorization From Certificate Under Other Law; Penalty.** (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

(c) The remedy provided in this section shall not preclude any other remedy provided by law.  
*(Amended by Statutes 1987, Chapter 1336, effective September 29, 1987.)*

**2054. Use of Term or Letters Falsely Indicating Right to Practice; Penalty.** (a) Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

(b) A holder of a valid, unrevoked, and unsuspended certificate to practice podiatric medicine may use the phrases "doctor of podiatric medicine," "doctor of podiatry," and "podiatric doctor," or the initials "D.P.M.," and shall not be in violation of subdivision (a).

*(Added by Statutes 1980, Chapter 1313.)*

**2055. Use of Initials "M.D."** Notwithstanding any other provision of law, a person issued a physician's and surgeon's certificate by the Medical Board of California pursuant to the provisions of this chapter shall be entitled to use of the initials "M.D."

*(Amended by Statutes 1989, Chapter 886.)*

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**2058. Exemptions: Service in Case of Emergency or Domestic Administration of Family Remedies.** (a) Nothing in this chapter prohibits service in the case of emergency, or the domestic administration of family remedies.

(b) Nothing in this chapter shall be construed to prohibit obtaining a blood specimen by skin puncture for the purpose of performing blood glucose testing for the purposes of monitoring a minor child in accordance with paragraph (6) of subdivision (b) of Section 1241.

*(Amended by Statutes 1997, Chapter 550.) (AB 221)*

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**2060. Exemptions; Out of State Practitioners; Consultations; Professional Education.** Nothing in this chapter applies to any practitioner located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed practitioner of this state, or when an invited guest of the California Medical Association or the California Podiatric Medical Association, or one of their component county societies, or of an approved medical or podiatric medical school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or demonstration a licensed physician and surgeon in the state or country in which he or she resides. This practitioner shall not open an office, appoint a place to meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient who is located within this state.  
*(Amended by Statutes 1996, Chapter 864.)*

**2061. Inapplicability of Chapter to Person Licensed Under Other Provision of Law Relating to Healing Arts.** Nothing in this chapter shall be construed as limiting the practice of other persons licensed, certified, or registered under any other provision of law relating to the healing arts when such person is engaged in his or her authorized and licensed practice.  
*(Added by Statutes 1980, Chapter 1313.)*

\* \* \*

**2064. Exemptions; Treatment by Students.** Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, or to students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.  
*(Added by Statutes 1980, Chapter 1313.)*

**2065. Practice of Medicine, Receipt of Compensation or Offer by Postgraduate Trainee, Intern, Resident, Postdoctoral Fellow, or Instructor, Prohibition; Exception.** Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school, who is registered with the Division of Licensing and who is enrolled in a postgraduate training program approved by the division, may engage in the practice of medicine whenever and wherever required as a part of the program under the following conditions:

(a) A graduate enrolled in an approved first-year postgraduate training program may so engage in the practice of medicine for a period not to exceed one year whenever and wherever required as a part of the training program, and may receive compensation for that practice.

(b) A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of that residency or fellowship, and may receive compensation for that practice. The resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure given by the division, or shall qualify for and receive a physician's and surgeon's certificate by one of the other methods specified in this chapter. If the resident or fellow fails to receive a license to practice medicine under this chapter within one year from the

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commencement of the residency or fellowship, or if the division denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

*(Amended by Statutes 2001, Chapter 728.) (SB 742)*

**2066. Practice of Medicine; Foreign Medical Graduates; Failure to Take or Pass Examinations.** (a) Nothing in this chapter shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine whenever and wherever required as a part of a clinical service program under the following conditions:

(1) The clinical service is in a postgraduate training program approved by the Division of Licensing.

(2) The graduate is registered with the division for the clinical service.

(b) A graduate may engage in the practice of medicine under this section until the receipt of his or her physician's and surgeon's certificate. If the graduate fails to pass the examination and receive a certificate by the completion of the graduate's third year of postgraduate training, or if the division denies his or her application for licensure, all privileges and exemptions under this section shall automatically cease.

(c) Nothing in this section shall preclude a foreign medical graduate from engaging in the practice of medicine under any other exemption contained in this chapter.

*(Amended by Statutes 2001, Chapter 728.) (SB 742)*

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**2068. Nutritional Advice: Notice by Person in Commercial Practice; Posting.** This chapter shall not be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. However, this section confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or physical or mental conditions or to state that any product might cure any disease, disorder, or condition in violation of any provision of law.

For purposes of this section the terms "providing nutritional advice or giving advice concerning proper nutrition" means the giving of information as to the use and role of food and food ingredients, including dietary supplements.

Any person in commercial practice providing nutritional advice or giving advice concerning proper nutrition shall post in an easily visible and prominent place the following statement in his or her place of business:

### "NOTICE"

"State law allows any person to provide nutritional advice or give advice concerning proper nutrition--which is the giving of advice as to the role of food and food ingredients, including dietary supplements. This state law does NOT confer authority to practice medicine or to undertake the diagnosis, prevention, treatment, or cure of any disease, pain, deformity, injury, or physical or mental condition and specifically does not authorize any person other than one who is a licensed health practitioner to state that any product might cure any disease, disorder, or condition."

The notice required by this section shall not be smaller than 8 1/2 inches by 11 inches and shall be legibly printed with lettering no smaller than 1/2 inch in length, except the lettering of the word "NOTICE" shall not be smaller than 1 inch in length.

*(Added by Statutes 1980, Chapter 1313.)*

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**2072. Out-of-State Licensee; Medical Staff of State Institution; Temporary Practice of Medicine.** Notwithstanding any other provision of law and subject to the provisions of the State Civil Service Act, any person who is licensed to practice medicine in any other state, who meets the requirements for application set forth in this chapter and who registers with and is approved by the Division of Licensing, may be appointed to the medical staff within a state institution and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons under the jurisdiction of any state institution. Qualified physicians and surgeons licensed in this state shall not be recruited pursuant to this section.

No person appointed pursuant to this section shall be employed in any state institution for a period in excess of two years from the date the person was first employed and the appointment shall not be extended beyond the two-year period. At the end of the two-year period, the physician shall have been issued a physician's and surgeon's certificate by the board in order to continue employment. Until the physician has obtained a physician's and surgeon's certificate from the board, he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

*(Amended by Statutes 2001, Chapter 728.) (SB 742)*

**2073. Out-of-State Licensee; Employment on Resident Medical Staff of County General Hospital.** Notwithstanding any other provision of law, any person who is licensed to practice medicine in any other state who meets the requirements for application set forth in this chapter, and who registers with and is approved by the Division of Licensing, may be employed on the resident medical staff within a county general hospital and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons within the county institution. Employment pursuant to this section is authorized only when an adequate number of qualified resident physicians cannot be recruited from intern staffs in this state.

No person appointed pursuant to this section shall be employed in any county general hospital for a period in excess of two years from the date the person was first employed and the employment shall not be extended beyond the two-year period. At the end of the two-year period, the physician shall have been issued a physician and surgeon's certificate by the board in order to continue as a member of the resident staff. Until the physician has obtained a physician's and surgeon's certificate from the board he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

*(Amended by Statutes 2001, Chapter 728.) (SB 742)*

### Article 5. Foreign Medical Graduates

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**2111. Postgraduate Study.** (a) Physicians who are not citizens but who meet the requirements of subdivision (b), are legally admitted to the United States, and who seek postgraduate study in an approved medical school may, after receipt of an appointment from the dean of the California medical school and application to and approval by the Division of Licensing, be permitted to participate in the professional activities of the department in the medical school to which they are appointed. The physician shall be under the direction of the head of the department to which he or she is appointed, and shall be known for these purposes as a "Section 2111 guest physician."

(b) (1) Application for approval shall be made on a form prescribed by the division. The application shall show that the person does not immediately qualify for a physician and surgeon



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certificate under this chapter and that the person has completed at least three years of postgraduate basic residency requirements.

(2) Approval shall be granted for a maximum of three years and shall be renewed annually. Renewal shall be granted subject to the discretion of the division. Notwithstanding the limitations in this subdivision on the length of the approval, a Section 2111 guest physician may apply for, and the division may in its discretion grant, not more than two extensions of that approval. An extension may be granted only if the dean of the California medical school has provided justification that the extension is necessary and the person holds a certificate issued by the Educational Commission for Foreign Medical Graduates.

(c) Except to the extent authorized by this section, the visiting physician may not engage in the practice of medicine, bill for his or her medical services, or otherwise receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2102.

(d) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

*(Amended by Statutes 1999, Chapter 655.) (SB 1308)*

**2112. Fellowship Program in Specialty or Subspecialty Field.** (a) Physicians who are not citizens but are legally admitted to the United States and who seek postgraduate study, may, after application to and approval by the Division of Licensing, be permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in this state which is approved by the Joint Committee on Accreditation of Hospitals and providing the service is satisfactory to the division. Such physicians shall at all times be under the direction and supervision of a licensed, board-certified physician and surgeon who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the division. The approval may not be renewed more than four times. The division may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2101 or 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

*(Added by Statutes 1980, Chapter 1313.)*

### Article 24. Licensed Midwives

\* \* \*

**2505. Short Title.** This article shall be known and may be cited as the Licensed Midwifery Practice Act of 1993.

*(Added by Statutes 1980, Chapter 1313.)*

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**2506. Definitions.** As used in this article the following definitions shall apply:

- (a) "Board" means the Division of Licensing of the Medical Board of California.
- (b) "Licensed midwife" means an individual to whom a license to practice midwifery has been issued pursuant to this article.
- (c) "Certified nurse-midwife" means a person to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6.
- (d) "Accrediting organization" means an organization approved by the board.

*(Added by Statutes 1980, Chapter 1313.)*

**2507. Midwifery Practice Authorized; Definition; Physician Supervision Ratio.** (a) The license to practice midwifery authorizes the holder, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care of the newborn.

(b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. All complications shall be referred to a physician and surgeon immediately. The practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version.

(c) As used in this article, "supervision" shall not be construed to require the physical presence of the supervising physician and surgeon.

(d) The ratio of licensed midwives to supervising physicians and surgeons shall not be greater than four individual licensed midwives to one individual supervising physician and surgeon.

(e) A midwife is not authorized to practice medicine and surgery by this article.

(f) The board shall, not later than July 1, 2003, adopt in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery.

*(Added by Statutes 1980, Chapter 1313.)*

**2508. Liability Insurance Coverage; Physician Briefing and Availability; Disclosure to Client.** (a) A licensed midwife shall disclose in oral and written form to a prospective client all of the following:

- (1) All of the provisions of Section 2507.
  - (2) If the licensed midwife does not have liability coverage for the practice of midwifery, he or she shall disclose that fact.
  - (3) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary.
  - (4) The procedure for reporting complaints to the Medical Board of California.
- (b) The disclosure shall be signed by both the licensed midwife and the client and a copy of the disclosure shall be placed in the client's medical record.
- (c) The Medical Board of California may prescribe the form for the written disclosure statement required to be used by a licensed midwife under this section.

*(Repealed and Added by Statutes 2000, Chapter 303.) (SB 1479)*

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**2511. Licensed Midwife; Unauthorized Use; Exceptions.** (a) No person, other than one who has been licensed to practice midwifery by the board, shall hold himself or herself out as a licensed midwife, or use any other term indicating or implying that he or she is a licensed midwife.

(b) Nothing in this article shall be construed to limit in any manner the practice of an individual to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6, or to prevent an individual to whom a certificate has been issued pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 from holding himself or herself out as a certified nurse-midwife, nurse midwife, midwife, or from using the initials "CNM."

*(Added by Statutes 1980, Chapter 1313.)*

**2512. License; Fee.** The board shall issue a license to practice midwifery to all applicants who meet the requirements of this article and who pay the fee required by Section 2520.

*(Added by Statutes 1980, Chapter 1313.)*

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### Excerpts from DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY

#### CHAPTER 12. FUNERAL DIRECTORS AND EMBALMERS

##### Article 2. Funeral Directors

\* \* \*

**7615. Funeral Director Defined.** A funeral director is a person engaged in or conducting, or holding himself or herself out as engaged in any of the following:

(a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains.

(b) Maintaining an establishment for the preparation for the transportation or disposition or for the care of human remains.

(c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.

*(Amended by Statutes 1996, Chapter 1151.) (AB 2877)*

**7616. Licensed Funeral Establishment Defined; Operation or Maintenance by Licensed Funeral Director; Ambulance Service.** (a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

(1) A suitable room for the storage of human remains.

(2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.

(b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the

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requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.

(c) Except as provided in Section 7609, and except accredited embalming schools and colleges engaged in teaching students the art of embalming, no person shall operate or maintain or hold himself or herself out as operating or maintaining any of the facilities specified in paragraph (2) of subdivision (a), unless he or she is licensed as a funeral director.

(d) Nothing in this section shall be construed to require a funeral establishment to conduct its business or financial transactions at the same location as its preparation or storage of human remains.

(e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the maintenance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

(f) Every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal of its funeral director's license, be issued a funeral establishment license.

*(Amended by Statutes 1997, Chapter 475.) (AB 1546)*

**7616.2. Licensed Funeral Establishments.** A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the program to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

*(Amended by Statutes 1998, Chapter 970.) (AB 2802)*

\* \* \*

**7619. Funeral Director License; Applicants; Qualifications.** The applicant for a funeral director's license shall be at least 18 years of age, possess an associate of arts or science degree, or the equivalent, or a higher level of education as recognized by the Western Association of Colleges and Universities, or any other nationally recognized accrediting body of colleges and universities, and shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

*(Amended by Statutes 1996, Chapter 1151.) (AB 2877)*

\* \* \*

**7619.3. Prohibited Conduct.** No licensed funeral director shall engage in or conduct, or hold himself or herself out as engaging in or conducting, the activities of a funeral director without being employed by, or without being a sole proprietor of, a licensed funeral establishment.

*(Added by Statutes 1996, Chapter 1151.) (AB 2877)*

**7620. Contents of Application.** The application shall specify the address at which the applicant proposes to engage in or conduct a place of business as a funeral director.

*(Amended by Statutes 1978, Chapter 1161.)*

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**7623. Separate Establishments.** If an applicant for a funeral establishment's license proposes to engage in or conduct more than one funeral establishment, the applicant shall make a separate application and procure a separate license for each separate establishment.

*(Amended by Statutes 2001, Chapter 305) ( AB 408)*

**7624. Several Businesses in One Establishment.** Not more than one person, partnership, association, corporation, or other organization engaged in business as a funeral establishment shall transact business in one specific funeral facility.

*(Amended by Statutes 1996, Chapter 1151.) (AB 2877)*

\* \* \*

**7632. Persons Permitted to Embalm.** Every funeral director shall cause all human remains embalmed in his or her funeral establishment to be embalmed by a regularly licensed embalmer, or by an apprentice embalmer under the supervision of a regularly licensed embalmer.

*(Amended by Statutes 1998, Chapter 970.) (AB 2802)*

**7633. Filing Certificate of Death or Providing Copies; Fees; Limitation.** No funeral director shall charge a fee for filing a certificate of death or for providing copies thereof in excess of fees set by statute for filing and providing certified copies of such certificates.

*(Added by Statutes 1972, Chapter 557, operative April 1, 1973.)*

**7634. Removal of Tissue for Transplant, or Therapeutic or Scientific Purposes Pursuant to Uniform Anatomical Gift Act; Qualifications.** Notwithstanding any other provision of law, a licensed embalmer, at the request of a licensed physician, may remove tissue from human remains for transplant, or therapeutic, or scientific purposes specified in, and pursuant to, the provisions of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code), if such embalmer has completed a course in tissue removal for transplant, or therapeutic, or scientific purposes approved by the Medical Board of California of the State of California.

*(Amended by Statutes 1998, Chapter 970.) (AB 2802)*

\* \* \*

**7640. Embalmer Defined.** An embalmer is one who is duly qualified to disinfect or preserve dead human remains by the injection or external application of antiseptics, disinfectants or preservative fluids; to prepare human bodies for transportation which are dead of contagious or infectious diseases; and to use derma surgery or plastic art for restoring mutilated features; and who is duly licensed as an embalmer under the laws of the State of California.

*(Amended by Statutes 1998, Chapter 970.) (AB 2802)*

**7641. Necessity of License; Exemptions.** It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in embalming colleges approved by the bureau.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

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**7642. Application for License; Fee; Character Affidavits.** An application for an embalmer's license shall be written on a form provided by the bureau, verified by the applicant, and accompanied by the fee fixed by this chapter.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**7643. Qualifications.** In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

(a) Be over 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

(d) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.

(e) Have successfully completed a course of instruction of not less than one academic year in an embalming school approved by the bureau and accredited by the American Board of Funeral Service Education.

*(Amended by Statutes 1998, Chapter 970.) (AB 2802)*

\* \* \*

**7648. Assignment of License.** No embalmer's license is assignable, and only the licensee may engage in the practice of embalming under the license.

*(Added by Statutes 1939, Chapter 39.)*

**7649. Embalmer's Signature to Certificates.** Except as provided in Section 103050 of the Health and Safety Code, whenever the name of any licensed embalmer is subscribed to any certificate, the purport of which is that he or she has performed any act mentioned in the certificate, the licensed embalmer shall actually sign his or her name thereto.

*(Amended by Statutes 1996, Chapter 1151.) (AB 2877)*

**7650. Reciprocity With Other States.** From time to time, the bureau may examine the requirements for the issuance of licenses to embalmers in other States of the United States and cause a record to be kept of those States in which standards are maintained for embalmers, not lower than those provided in this chapter.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

## BUSINESS AND PROFESSIONS CODE

### Article 5.5. Funeral Practices

\* \* \*

**7685. List of Prices; Services; Caskets; Identifying Features of Caskets.** (a) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated.

(b) The list shall also include a statement indicating that the survivor of the deceased who is handling the funeral arrangements, or the responsible party, is entitled to receive, prior to the drafting of any contract, a copy of any pre-need agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.

(c) The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale. The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, shall be provided over the telephone, if requested.

*(Amended by Statutes 2002, Chapter 664.) (AB 3034)*

**7685.1. Display of Casket Prices; Handling Fee Prohibited When Casket is Supplied by Recognizable Party; Additional Fee Prohibited When Death is Due to Contagious or Infectious Diseases.** (a) The funeral director shall in a conspicuous manner place the price on each casket. Individual price tags on caskets shall include the thickness of metal, or type of wood, or other construction, as applicable, in addition to interior and color information. Each casket shall be priced individually, irrespective of the type of service purchased. If a funeral director advertises a funeral service for a stated amount, he or she shall display in a reasonably convenient location in the showroom and have available for sale, any casket which is used for determining that price.

(b) No funeral director shall charge the survivor of the deceased who is handling the funeral or burial arrangements or the responsible party a handling fee for a casket supplied by the survivor or responsible party.

(c) No funeral director or embalmer shall charge any additional fee for handling or embalming a body when death was due to a contagious or infectious disease.

*(Amended by Statutes 1992, Chapter 797.) (AB 3746)*

**7685.2. Written or Printed Memorandum for Furnishing Services or Property.** (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of these services or property a written or printed memorandum containing the

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following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**7685.3. Contracts for Goods and Services; Required Information.** The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:



## BUSINESS AND PROFESSIONS CODE

"FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, CEMETERY AND FUNERAL BUREAU (ADDRESS); (TELEPHONE NUMBER)."

*(Amended by Statutes 2001, Chapter 305.) (AB 408)*

\* \* \*

**7685.5. Funeral and Cemetery Consumer Guide; Display.** (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A funeral establishment shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to the drafting of a contract for funeral services, the funeral establishment shall provide, for retention, the consumer with a copy of the consumer guide for funeral and cemetery purchases described in subdivisions (a) and (b).

*(Amended by Statutes 2001, Chapter 715.) (AB 1277)*

### Excerpts from CHAPTER 19. CEMETERES

#### Article 1. General Provisions

\* \* \*

**9607.6. Cremated Remains Disposer.** A cremated remains disposer is a person who, for his or her own account or for another, disposes of, or offers to dispose of, cremated human remains by scattering over or on land or sea.

*(Added by Statutes 1985, Chapter 391.)*

### Excerpts from

#### Article 6.5 Cremated Remains Disposers

\* \* \*

**9740. Registration; Application of Article.** No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

## BUSINESS AND PROFESSIONS CODE

**9741. Registration Forms; Fees; Display of Current Pilot or Boating License.** (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**9741.1. Information Booklet.** The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**9742. Aircraft, Boats or Vessels Used for Scattering Cremated Human Remains; Certification or Registration.** All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**9743. Written Instructions; Accordance; Disciplinary Action.** A cremated remains disposer who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be subject to disciplinary action.

*(Added by Statutes 1985, Chapter 391.)*

**9744. Permit.** Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering.

*(Amended by Statutes 2000, Chapter 276.) (AB 2279)*

## BUSINESS AND PROFESSIONS CODE

### **9744.5. Cremated Remains Disposer; Disposal of Cremated Remains Within 60 Days of Receipt; Registration of Remains at Storage Facility; Violations as Grounds for Disciplinary Action.**

(a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and phone number of any storage facility being used by the registrant to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

*(Amended by Statutes 2000, Chapter 276.) (AB 2279)*

**9745. Annual Report; Filing.** (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

**9746. Expiration of Registration; Renewal Forms; Fees.** All cremated remains disposer registrations shall expire at 12 midnight on September 30th of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within 5 years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

*(Amended by Statutes 2001, Chapter 306.) (AB 446)*

**9747. Renewal of Registration; Deadline; Fees.** If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30th of the year for which the registration was issued, no renewal shall be issued except upon payment of the delinquent renewal fee required under Section 9750.5.

*(Added by Statutes 1985, Chapter 391.)*

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**9748. Scattering Cremated Human Remains Without Valid Registration.** Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.

*(Added by Statutes 1985, Chapter 391.)*

**9749. Failure to Follow Written Instructions of Person with Right to Dispose of Remains.** Any person who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

*(Added by Statutes 1985, Chapter 391.)*

**9749.3. Cremated Remains Disposer; Storage of Cremated Remains in Reckless Manner; Fine and Imprisonment.** Any cremated remains disposer who stores cremated remains in a reckless manner that results in either of the following is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment:

(a) Loss of all or part of the cremated remains.

(b) Inability to individually identify the cremated remains.

*(Added by Statutes 1998, Chapter 168.) (AB 1314)*

\* \* \*

**9749.5. Disciplinary Board.** A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725). Any violation of this article shall also be grounds for disciplinary action.

*(Amended by Statutes 2000, Chapter 568.) (AB 2888)*

### Article 7. Fees

**9760.5. Cremated Remains Disposer Registration Fee.** The cremated remains disposer registration fee shall be one hundred dollars (\$100).

*(Added by Statutes 1985, Chapter 391.)*

**9760.6. Renewal Fees; Cremated Remains Disposer Registration.** The renewal fee for a cremated remains disposer registration shall be fifty dollars (\$50).

*(Added by Statutes 1985, Chapter 391.)*

**BUSINESS AND PROFESSIONS CODE**  
**DIVISION 8. SPECIAL BUSINESS REGULATIONS**

**CHAPTER 18. IDENTIFICATION CARDS**  
*(Added by Statutes 1979, Chapter 739.)*

\* \* \*

**22430. Deceptive Identification Document; Manufacture or Sale; Violations; Injunctions; Penalty.** (a) No deceptive identification document shall be manufactured, sold, offered for sale, furnished, offered to be furnished, transported, offered to be transported, or imported or offered to be imported into this state unless there is diagonally across the face of the document, in not less than 14-point type and printed conspicuously on the document in permanent ink, the following statement:

**NOT A GOVERNMENT DOCUMENT**

and, also printed conspicuously on the document, the name of the manufacturer.

(b) As used in this section, "deceptive identification document" means any document not issued by a governmental agency of this state, another state, or the federal government, which purports to be, or which might deceive an ordinary reasonable person into believing that it is, a document issued by such an agency, including, but not limited to, a driver's license, identification card, birth certificate, passport, or social security card.

(c) Any person who violates or proposes to violate this section may be enjoined by any court of competent jurisdiction. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any person.

(d) Any person who violates the provisions of subdivision (a) who knows or reasonably should know that the deceptive identification document will be used for fraudulent purposes is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

*(Amended by Statutes 1995, Chapter 133.)*



**CIVIL CODE**

**Excerpts from  
TITLE 1.8. PERSONAL DATA**

**CHAPTER 1. INFORMATION PRACTICES ACT OF 1977**

**Article 5. Agency Requirements**

\* \* \*

**1798.17. Notice; Contents.** Each agency shall provide on or with any form used to collect personal information from individuals the notice specified in this section. When contact with the individual is of a regularly recurring nature, an initial notice followed by a periodic notice of not more than one-year intervals shall satisfy this requirement. This requirement is also satisfied by notification to individuals of the availability of the notice in annual tax-related pamphlets or booklets provided for them. The notice shall include all of the following:

(a) The name of the agency and the division within the agency that is requesting the information.

(b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.

(d) With respect to each item of information, whether submission of such information is mandatory or voluntary.

(e) The consequences, if any, of not providing all or any part of the requested information.

(f) The principal purpose or purposes within the agency for which the information is to be used.

(g) Any known or foreseeable disclosures which may be made of the information pursuant to subdivision (e) or (f) of Section 1798.24.

(h) The individual's right of access to records containing personal information which are maintained by the agency. This section does not apply to any enforcement document issued by an employee of a law enforcement agency in the performance of his or her duties wherein the violator is provided an exact copy of the document, or to accident reports whereby the parties of interest may obtain a copy of the report pursuant to Section 20012 of the Vehicle Code. The notice required by this section does not apply to agency requirements for an individual to provide his or her name, identifying number, photograph, address, or similar identifying information, if this information is used only for the purpose of identification and communication with the individual by the agency, except that requirements for an individual's social security number shall conform with the provisions of the Federal Privacy Act of 1974 (Public Law 93-579).

*(Amended by Statutes 1982, Chapter 604.)*

## CIVIL CODE

### Article 6. Conditions of Disclosure

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**1798.24. Personal Information.** No agency may disclose any personal information in a manner that that would link the information disclosed to the individual to whom it pertains unless the disclosure of the information is:

- (a) To the individual to whom the information pertains.
- (b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.
- (c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.
- (d) To those officers, employees, attorneys, agents, or volunteers of the agency which has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.
- (e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25. With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or regulatory agency, a use is compatible if the use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency.
- (f) To a governmental entity when required by state or federal law.
- (g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.
- (h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.
- (i) Pursuant to a determination by the agency which maintains information that compelling circumstances exist which affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal laws.
- (j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to determine whether the record has further administrative, legal, or fiscal value.
- (k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.
- (l) To any person pursuant to a search warrant.
- (m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.



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(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents.

(r) To a child or a grandchild of an adopted person and disclosure is limited to medically necessary information pertaining to the adopted person's natural parents. However, the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

(s) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where the member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting on behalf of the individual.

(t) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

(u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.

This article shall not be construed to require the disclosure of personal information to the individual to whom the information pertains when that information may otherwise be withheld as set forth in Section 1798.40.

(v) Pursuant to Section 1909, 8009, or 18396 of the Financial Code.  
*(Amended by Statutes 1992, Chapter 21.) (AB 66)*

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**1798.29. Personal Information; Computerized Data; Notification.** a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

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(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (1) Social security number.
- (2) Driver's license number or California Identification Card number.
- (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(f) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(g) For purposes of this section, "notice" may be provided by one of the following methods:

- (1) Written notice.
- (2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.
- (3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (A) E-mail notice when the agency has an e-mail address for the subject persons.
- (B) Conspicuous posting of the notice on the agency's Web site page, if the agency maintains one.
- (C) Notification to major statewide media.

(h) Notwithstanding subdivision (g), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

*(Added by Statutes 2002, Operative July 1, 2003, Chapter 1054.) (AB 700)*

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**1798.82. Personal Information; Breach of Security.** (a) Any person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided

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in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(e) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (1) Social security number.
- (2) Driver's license number or California Identification Card number.
- (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(f) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(g) For purposes of this section, "notice" may be provided by one of the following methods:

- (1) Written notice.
- (2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.
- (3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (A) E-mail notice when the person or business has an e-mail address for the subject persons.
- (B) Conspicuous posting of the notice on the Web site page of the person or business, if the person or business maintains one.
- (C) Notification to major statewide media.

(h) Notwithstanding subdivision (g), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

*(Added by Statutes 2002, operative July 1, 2003, Chapter 1054.) (AB 700)*

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## CIVIL CODE

**1798.84. Personal Information; Violations.** (a) Any customer injured by a violation of this title may institute a civil action to recover damages.

(b) Any business that violates, proposes to violate, or has violated this title may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

*(Amended and renumbered by Statutes 2002, Chapter 1054.) (AB 700)*



**CODE OF CIVIL PROCEDURE**

**Excerpts from  
PART 1. COURTS OF JUSTICE**

**TITLE 1. ORGANIZATION AND JURISDICTION**

**CHAPTER 6. GENERAL PROVISIONS RESPECTING COURTS OF JUSTICE**

**Article 2. Incidental Powers and Duties of Courts**

\* \* \*

**129. Reproduction of Photographs, etc., Taken in Course of Post Mortem Examination or Autopsy.** Notwithstanding any other provision of law, no copy, reproduction, or facsimile of any kind shall be made of any photograph, negative, or print, including instant photographs and video tapes, of the body, or any portion of the body, of a deceased person, taken by or for the coroner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the coroner, except for use in a criminal action or proceeding in this state which relates to the death of that person, or except as a court of this state permits, by order after good cause has been shown and after written notification of the request for the court order has been served, at least five days before the order is made, upon the district attorney of the county in which the post mortem examination or autopsy has been made or caused to be made.

This section shall not apply to the making of such a copy, reproduction, or facsimile for use in the field of forensic pathology, for use in medical, or scientific education or research, or for use by any law enforcement agency in this or any other state or the United States.

This section shall apply to any such copy, reproduction, or facsimile, and to any such photograph, negative, or print, heretofore or hereafter made.

*(Amended by Statutes 1985, Chapter 304.) (AB 543)*

**PART 2. OF CIVIL ACTIONS**

**TITLE 3. OF THE PARTIES TO CIVIL ACTIONS**

**CHAPTER 4. EFFECT OF DEATH**

**Article 6. Wrongful Death**

\* \* \*

**377.60. Persons with Standing.** A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf:

(a) The decedent's surviving spouse, domestic partner, children, and issue of deceased children, or, if there is no surviving issue of the decedent, the persons, including the surviving spouse or domestic partner, who would be entitled to the property of the decedent by intestate succession.

(b) Whether or not qualified under subdivision (a), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, or parents. As used in this subdivision, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

(c) A minor, whether or not qualified under subdivision (a) or (b), if, at the time of the decedent's death, the minor resided for the previous 180 days in the decedent's household and was dependent on the decedent for one-half or more of the minor's support.

## CODE OF CIVIL PROCEDURE

(d) This section applies to any cause of action arising on or after January 1, 1993.

(e) The addition of this section by Chapter 178 of the Statutes of 1992 was not intended to adversely affect the standing of any party having standing under prior law, and the standing of parties governed by that version of this section as added by Chapter 178 of the Statutes of 1992 shall be the same as specified herein as amended by Chapter 563 of the Statutes of 1996.

(f) (1) For the purpose of this section, "domestic partner" means a person who, at the time of the decedent's death, was the domestic partner of the decedent in a registered domestic partnership established in accordance with subdivision (b) of Section 297 of the Family Code.

(2) Notwithstanding paragraph (1), for a death occurring prior to January 1, 2002, a person may maintain a cause of action pursuant to this section as a domestic partner of the decedent by establishing the factors listed in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 297 of the Family Code, as it read pursuant to Section 3 of Chapter 893 of the Statutes of 2001, prior to its becoming inoperative on January 1, 2005.

(3) The amendments made to this subdivision during the 2003-04 Regular Session of the Legislature are not intended to revive any cause of action that has been fully and finally adjudicated by the courts, or that has been settled, or as to which the applicable limitations period has run.

*(Amended by Statutes 2004, Chapter 947, operative January 1, 2006.) (AB 2580)*

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## TITLE 6. OF THE PLEADINGS IN CIVIL ACTIONS

### CHAPTER 2. PLEADING DEMANDING RELIEF

#### Article 5. Contents of Documents in Particular Actions or Proceedings

\* \* \*

**429.30. Contents of Complaint.** (a) As used in this section:

(1) "Complaint" includes a cross-complaint.

(2) "Plaintiff" includes the person filing a cross-complaint.

(b) If the complaint contains a demand for relief on account of the alleged infringement of the plaintiff's rights in and to a literary, artistic, or intellectual production, there shall be attached to the complaint a copy of the production as to which the infringement is claimed and a copy of the alleged infringing production. If, by reason of bulk or the nature of the production, it is not practicable to attach a copy to the complaint, that fact and the reasons why it is impracticable to attach a copy of the production to the complaint shall be alleged; and the court, in connection with any demurrer, motion, or other proceedings in the cause in which a knowledge of the contents of such production may be necessary or desirable, shall make such order for a view of the production not attached as will suit the convenience of the court to the end that the contents of such production may be deemed to be a part of the complaint to the same extent and with the same force as though such production had been capable of being and had been attached to the complaint. The attachment of any such production in accordance with the provisions of this section shall not be deemed a making public of the production within the meaning of Section 983 of the Civil Code.

*(Added by Statutes 1971, Chapter 244, operative July 1, 1972.) (SB 201)*

\* \* \*

## CODE OF CIVIL PROCEDURE

### Excerpts from PART 3. OF SPECIAL PROCEEDINGS OF A CIVIL NATURE

#### TITLE 8. CHANGE OF NAMES

\* \* \*

**1275. Jurisdiction.** Applications for change of names must be determined by the Superior Courts.

*(Amended by Statutes 1983, Chapter 486.)*

**1276. Application or Petition; Venue; Contents.** (a) All applications for change of names shall be made to the superior court of the county where the person whose name is proposed to be changed resides, except as specified in subdivision (c), either (1) by petition signed by the person or, if the person is under 18 years of age, either by one of the person's parents, or by any guardian of the person, or if both parents are dead and there is no guardian of the person, then by some near relative or friend of the person or (2) as provided in Section 7638 of the Family Code.

The petition or pleading shall specify the place of birth and residence of the person, his or her present name, the name proposed, and the reason for the change of name, and shall, if neither parent of the person has signed the petition, name, as far as known to the person proposing the name change, the parents of the person and their place of residence, if living, or if neither parent is living, near relatives of the person, and their place of residence.

(b) In an action for a change of name commenced by the filing of a petition:

(1) If the person whose name is proposed to be changed is under 18 years of age and the petition is signed by only one parent, the petition shall specify the address, if known, of the other parent if living. If the petition is signed by a guardian, the petition shall specify the name and address, if known, of the parent or parents, if living, or the grandparents, if the addresses of both parents are unknown or if both parents are deceased, of the person whose name is proposed to be changed.

(2) If the person whose name is proposed to be changed is 12 years of age or over, has been relinquished to an adoption agency by his or her parent or parents, and has not been legally adopted, the petition shall be signed by the person and the adoption agency to which the person was relinquished. The near relatives of the person and their place of residence shall not be included in the petition unless they are known to the person whose name is proposed to be changed.

(c) All applications for the change of the name of a minor submitted by a guardian appointed by the juvenile court or the probate court shall be made in the appointing court.

(d) If the petition is signed by a guardian, the petition shall specify relevant information regarding the guardianship, the likelihood that the child will remain under the guardian's care until the child reaches the age of majority and information suggesting that the child will not likely be returned to the custody of his or her parents.

*(Amended by Statutes 2000, Chapter 111.) (AB 2155)*



## CODE OF CIVIL PROCEDURE

**1277. Orders to Show Cause; Publication or Posting; Service of Notice on Parents and Other Parties.** (a) Where an action for a change of name is commenced by the filing of a petition, except as provided in subdivision (b) and (c), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed and the name proposed, and directing all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than four or more than eight weeks from the time of making the order, to show cause why the application for change of name should not be granted. A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

Where a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(b) Where the petition for a change of name alleges that the reason for the petition is to avoid domestic violence, as defined in Section 6211 of the Family Code, or stalking, as defined in Section 646.9 of the Penal Code, and the petitioner is a participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, the petition, the order of the court, and the copy published pursuant to subdivision (a) shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and will be on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(c) An action for a change of name for a witness participating in the state Witness Protection Program established by Title 7.5 (commencing with Section 104020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) Where application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as is set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) Where a guardian files a petition to change the name of his or her minor ward pursuant to Section 1276:

- (1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days prior to the hearing.

## CODE OF CIVIL PROCEDURE

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days prior to the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, or 415.40.

*(Amended by Statutes 2000, Chapter 33.) (AB 205)*

**1278. Hearings; Orders Without Hearings.** (a) Except as provided in subdivision (c) and (d), the application shall be heard at the time designated by the court, only if objections are filed by any person who can, in those objections, show to the court good reason against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name, or dismissing the application, as to the court may seem right and proper. If no objection is filed the court may, without hearing, enter the order that the change of name is granted.

(b) Where the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence or stalking in the petition are false.

(c) Where the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) Where the application for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of his or her parents. Upon making such findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

*(Amended by Statutes 2000, Chapter 33.) (AB 205)*

**1278.5. Petitions Relating to Minors; Absence of Consent of Both Parents.** In any proceeding pursuant to this title in which a petition has been filed to change the name of a minor, and both parents, if living, do not join in consenting thereto, the court may deny the petition in whole or in part if it finds that any portion of the proposed name change is not in the best interest of the child.

*(Added by Statutes 1996, Chapter 1061.) (SB 1033.)*

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**1279.5. Name Change; Common Law Right; State Prisoners, Paroles and Probationers; Registered Sex Offenders.** (a) Except as provided in subdivision (b), (c), (d), or (e), nothing in this title shall be construed to abrogate the common law right of any person to change his or her name.

(b) Notwithstanding any other law, no person imprisoned in the state prison and under the jurisdiction of the Director of Corrections shall be allowed to file an application for change of name pursuant to Section 1276, except as permitted at the discretion of the Director of Corrections.

(c) A court shall deny an application for a name change pursuant to Section 1276 made by a person who is under the jurisdiction of the Department of Corrections, unless that person's parole agent or probation officer grants prior written approval. Before granting that approval the parole

## CODE OF CIVIL PROCEDURE

agent or probation officer shall determine that the name change will not pose a security risk to the community.

(d) Notwithstanding any other law, a court shall deny an application for a name change pursuant to Section 1276 made by a person who is required to register as a sex offender under Section 290 of the Penal Code, unless the court determines that it is in the best interest of justice to grant the application and that doing so will not adversely affect the public safety. If an application for a name change is granted for an individual required to register as a sex offender, the individual shall, within five working days, notify the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and additionally, with the chief of police of a campus of a University of California or California State University if he or she is domiciled upon the campus or in any of its facilities.

(e) For the purpose of this section, the court shall use the California Law Enforcement Telecommunications System (CLETS) and Criminal Justice Information System (CJIS) to determine whether or not an applicant for a name change is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. Each person applying for a name change shall declare under penalty of perjury that he or she is not under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code. If a court is not equipped with CLETS or CJIS, the clerk of the court shall contact an appropriate local law enforcement agency which shall determine whether or not the applicant is under the jurisdiction of the Department of Corrections or is required to register as a sex offender pursuant to Section 290 of the Penal Code.

*(Amended by Statutes 1997, Chapter 821, effective October 9, 1997.) (AB 290)*

### **1279.6. Trade or Business; Doing Business or Providing Services to Women; Prohibitions.**

No person engaged in a trade or business of any kind or in the provision of a service of any kind shall do any of the following:

(a) Refuse to do business with a person, or refuse to provide the service to a person, regardless of the person's marital status, because he or she has chosen to use or regularly uses his or her birth name, former name, or name adopted upon solemnization of marriage or registration of domestic partnership.

(b) Impose, as a condition of doing business with a person, or as a condition of providing the service to a person, a requirement that the person, regardless of his or her marital status, use a name other than his or her birth name, former name, or name adopted upon solemnization of marriage or registration of domestic partnership, if the person has chosen to use or regularly uses that name.

*(Amended by Statutes 2007, Chapter 567.) (AB 102)*



# EDUCATION

## Excerpts from TITLE 2. ELEMENTARY AND SECONDARY EDUCATION DIVISION 4. INSTRUCTION AND SERVICES PART 27. PUPILS

### CHAPTER 1. ADMISSION

#### Article 1. Kindergartens

\* \* \*

**48002. Evidence of Minimum Age Required to Enter Kindergarten or First Grade.** The parent or guardian of a child shall, prior to the admission of the child to the kindergarten or first grade of a school district, present proof to the authorities of the district evidencing that the child is of the minimum age fixed by law for admission thereto. The method of proof of age shall be prescribed by the governing board, and the evidence may be in the form of a certified copy of a birth record or a statement by the local registrar or a county recorder certifying the date of birth, or a baptism certificate duly attested, or a passport, or, when none of the foregoing is obtainable, an affidavit of the parent, guardian, or custodian of the minor or any other appropriate means of proving the age of the child as prescribed by the governing board of the school district.  
*(Amended by Statutes of 1990, Chapter 700, effective September 12, 1990.)*

## EDUCATION

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# ELECTIONS CODE

## Excerpts from DIVISION 1. VOTERS

\* \* \*

### CHAPTER 3. CANCELLATION AND VOTER FILE MAINTENANCE

#### ARTICLE 1: GENERAL PROVISIONS

**2205. Notification of Deaths; Cancellation of Affidavit of Registration.** The local registrar of births and deaths shall notify the county elections official not later than the 15<sup>th</sup> day of each month of all deceased persons 18 years of age and over, whose deaths were registered with him or whose deaths he or she was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, sex, age, birthplace, birthdate, place of residence, date and place of death of each decedent.

The county elections official shall cancel the affidavit of registration of each deceased voter.

*(Added by Statutes 1994, Chapter 920.) (SB 1547)*

**2206. Death Statistics Availability.** The Secretary of State shall adopt regulations to facilitate the availability of death statistics from the State Department of Health Services. The data shall be used by county clerks in canceling the affidavit of deceased persons.

*(Added by Statutes 1994, Chapter 920.) (SB 1547)*



## ELECTIONS CODE

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**EVIDENCE CODE**

**Excerpts from  
DIVISION 6. WITNESSES**

**CHAPTER 1. COMPETENCY**

\* \* \*

**700. General Rule as to Competency.** Except as otherwise provided by statute, every person, irrespective of age, is qualified to be a witness and no person is disqualified to testify to any matter.

*(Amended by Statutes 1985, Chapter 884.)*

## EVIDENCE CODE

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**FAMILY CODE**  
**Excerpts from**  
**DIVISION 1. PRELIMINARY PROVISIONS AND DEFINITIONS**  
**PART 1. PRELIMINARY PROVISIONS**

\* \* \*

**1. Title of Code.** This code shall be known as the Family Code.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2. Continuation of Existing Statutes; Construction.** A provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment, and a reference in a statute to the provision of this code shall be deemed to include a reference to the previously existing provision unless a contrary intent appears.  
*(Amended by Statutes 1993, Chapter 163, Chapter 219.) (AB 1500)*

**3. Construction as Provision of Uniform Act.** A provision of this code, insofar as it is the same in substance as a provision of a uniform act, shall be construed to effectuate the general purpose to make uniform the law in those states which enact that provision.  
*(Statutes 1992, Chapter 162.) (AB 2650)*

**4. Change in Code; Operative Date; Application of New Law, Filings; Orders; Liability for Action Taken Before Operative Date.** (a) As used in this section:

(1) "New law" means either of the following, as the case may be:

(A) The act that enacted this code.

(B) The act that makes a change in this code, whether effectuated by amendment, addition, or repeal of a provision of this code.

(2) "Old law" means the applicable law in effect before the effective date of the new law.

(3) "Operative date" means the operative date of the new law.

(b) This section governs the application of the new law except to the extent otherwise expressly provided in the new law.

(c) Subject to the limitations provided in this section, the new law applies on the operative date to all matters governed by the new law, regardless of whether an event occurred or circumstance existed before, on, or after the operative date, including, but not limited to, commencement of a proceeding, making of an order, or taking of an action.

(d) If a document or paper is filed before the operative date, the contents, execution, and notice thereof are governed by the old law and not by the new law; but subsequent proceedings taken after the operative date concerning the document or paper, including an objection or response, a hearing, an order, or other matter relating thereto is governed by the new law and not by the old law.

(e) If an order is made before the operative date, or an action on an order is taken before the operative date, the validity of the order or action is governed by the old law and not by the new law. Nothing in this subdivision precludes proceedings after the operative date to modify an order made, or alter a course of action commenced, before the operative date to the extent proceedings for modification of an order or alteration of a course of action of that type are otherwise provided in the new law.

## FAMILY CODE

(f) No person is liable for an action taken before the operative date that was proper at the time the action was taken, even though the action would be improper if taken on or after the operative date, and the person has no duty, as a result of the enactment of the new law, to take any step to alter the course of action or its consequences.

(g) If the new law does not apply to a matter that occurred before the operative date, the old law continues to govern the matter notwithstanding its repeal or amendment by the new law.

(h) If a party shows, and the court determines, that application of a particular provision of the new law or of the old law in the manner required by this section or by the new law would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons in connection with an event that occurred or circumstance that existed before the operative date, the court may, notwithstanding this section or the new law, apply either the new law or the old law to the extent reasonably necessary to mitigate the substantial interference.

*(Added by Statutes 1994, operative January 1, 1994, Chapter 162.) (AB 2650)*

**5. Construction of Heading.** Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this code.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**6. Construction of Code.** Unless the provision or context otherwise requires, the general provisions and rules of construction in this part govern the construction of this code.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**7. Reference to Statutes; Application.** Whenever a reference is made to a portion of this code or to another law, the reference applies to all amendments and additions regardless of when made.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**8. Definitions.** Unless otherwise expressly stated:

(a) “Division” means a division of this code.

(b) “Part” means a part of the division in which that term occurs.

(c) “Chapter” means a chapter of the division or part, as the case may be, in which that term occurs.

(d) “Article” means an article of the chapter in which that term occurs.

(e) “Section” means a section of this code.

(f) “Subdivision” means a subdivision of the section in which that term occurs.

(g) “Paragraph” means a paragraph of the subdivision in which that term occurs.

(h) “Subparagraph” means a subparagraph of the paragraph in which that term occurs.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**9. Present, Past, and Future Tenses.** The present tense includes the past and future tenses, and the future, the present.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**10. Numbers; Singular and Plural.** The singular number includes the plural, and the plural, the singular.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

## FAMILY CODE

**11. Husband, Wife, Spouses, and Married Persons.** A reference to “husband” and “wife,” “spouses,” or “married persons,” or a comparable term, includes persons who are lawfully married to each other and persons who were previously lawfully married to each other, as is appropriate under the circumstances of the particular case.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**12. Meaning of “Shall” and “May.”** “Shall” is mandatory and “may” is permissive. “Shall not” and “may not” are prohibitory.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**13. Severability.** If a provision or clause of this code or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are severable.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from DIVISION 2: GENERAL PROVISIONS

#### PART 1. JURISDICTION

\* \* \*

**200. Jurisdiction in Superior Court.** The superior court has jurisdiction in proceedings under this code.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

#### PART 4. EX PARTE TEMPORARY RESTRAINING ORDERS

\* \* \*

**242. Orders Granted Without Notice; Returnable on Order to Show Cause.** (a) Except as provided in subdivision (b), if an order described in Section 240 is issued, the matter shall be made returnable on an order requiring cause to be shown why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of the order.

(b) If a hearing is not held within the time provided in subdivision (a), the court may nonetheless hear the matter, but the order is unenforceable unless reissued under Section 245.

*(Added by Statutes 1993, Chapter 219.) (AB 1500)*

### Excerpts from PART 7. TRIBAL MARRIAGES AND DIVORCES

\* \* \*

**295. Validity of Marriages and Divorces.** (a) For the purpose of application of the laws of succession set forth in the Probate Code to a decedent, and for the purpose of determining the validity of a marriage under the laws of this state, an alliance entered into before 1958, which, by custom of the Indian tribe, band, or group of which the parties to the alliance, or either of them,



## FAMILY CODE

are members, is commonly recognized in the tribe, band, or group as marriage, is deemed a valid marriage under the laws of this state.

(b) In the case of these marriages and for the purpose described in subdivision (a), a separation, which, by custom of the Indian tribe, band, or group of which the separating parties, or either of them, are members, is commonly recognized in the tribe, band, or group as a dissolution of marriage, is deemed a valid divorce under the laws of this state.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from DIVISION 2.5. DOMESTIC PARTNER REGISTRATION

#### PART 1. DEFINITIONS

\* \* \*

**297. Domestic Partners and Partnership; Establishment.** (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:

(1) Both persons have a common residence.

(2) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

(3) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(4) Both persons are at least 18 years of age.

(5) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62.

(6) Both persons are capable of consenting to the domestic partnership.

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

*(Amended by Statutes 2003, Chapter 421, operative January 1, 2005.) (AB 205)*

**297.5. Rights, Protections and Benefits; Responsibilities; Obligations and Duties Under Law; Date of Registration as Equivalent of Date of Marriage.** (a) Registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.

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(b) Former registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon former spouses.

(c) A surviving registered domestic partner, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.

(e) To the extent that provisions of California law adopt, refer to, or rely upon, provisions of federal law in a way that otherwise would cause registered domestic partners to be treated differently than spouses, registered domestic partners shall be treated by California law as if federal law recognized a domestic partnership in the same manner as California law.

(f) Registered domestic partners shall have the same rights regarding nondiscrimination as those provided to spouses.

(g) No public agency in this state may discriminate against any person or couple on the ground that the person is a registered domestic partner rather than a spouse or that the couple are registered domestic partners rather than spouses, except that nothing in this section applies to modify eligibility for long-term care plans pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

(h) This act does not preclude any state or local agency from exercising its regulatory authority to implement statutes providing rights to, or imposing responsibilities upon, domestic partners.

(i) This section does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.

(j) Where necessary to implement the rights of registered domestic partners under this act, gender-specific terms referring to spouses shall be construed to include domestic partners.

(k) (1) For purposes of the statutes, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, and benefits, and the responsibilities, obligations, and duties of registered domestic partners in this state, as effectuated by this section, with respect to community property, mutual responsibility for debts to third parties, the right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership, and other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the state.

(2) Notwithstanding paragraph (1), for domestic partnerships registered with the state before January 1, 2005, an agreement between the domestic partners that the partners intend to be governed by the requirements set forth in Sections 1600 to 1620, inclusive and which complies with those sections, except for the agreement's effective date, shall be enforceable as provided by Sections 1600 to 1620, inclusive, if that agreement was fully executed and in force as of June 30, 2005.

*(Amended by Statutes 2006, Chapter 802.) (SB 1827)*

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### Excerpts from

#### PART 2. REGISTRATION

\* \* \*

**298. Declaration of Domestic Partnership and Notice of Termination of Domestic Partnership Forms.** (a) (1) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(2) When funding allows, the Secretary of State shall include on the form notice that a lesbian, gay, bisexual, and transgender specific domestic abuse brochure is available upon request.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(3) There is hereby established a fee of twenty-three dollars (\$23) to be charged in addition to the existing fees established by regulation to persons filing domestic partner registrations pursuant to Section 297 for development and support of a lesbian, gay, bisexual, and transgender curriculum for training workshops on domestic violence, conducted pursuant to Section 13823.15 of the Penal Code, and for the support of a grant program to promote healthy nonviolent relationships in the lesbian, gay, bisexual, and transgender community. This paragraph shall not apply to persons of opposite sexes filing a domestic partnership registration and who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297.

(4) The fee established by paragraph (3) shall be deposited in the Equality in Prevention and Services for Domestic Abuse Fund, which is hereby established. The fund shall be administered by the Office of Emergency Services, and expenditures from the fund shall be used to support the purposes of paragraph (3).

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that he or she consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

(d) The Declaration of Domestic Partnership form shall contain an optional section for either party or both parties to indicate a change in name pursuant to Section 298.6. The optional section shall require a party indicating a change in name to provide his or her date of birth.

*(Amended by Statutes 2007, Chapter 567.) (AB 102)*

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**298.5. Filing of Declaration of Domestic Partnership Forms; Registration.** (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership and, except for those opposite sex domestic partners who meet the qualifications described in subparagraph (B) of paragraph (5) of subdivision (b) of Section 297, a copy of the brochure that is made available to county clerks and the Secretary of State by the State Department of Public Health pursuant to Section 358 and distributed to individuals receiving a confidential marriage license pursuant to Section 503, to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(d) When funding allows, the Secretary of State shall print and make available upon request, pursuant to Section 358, a lesbian, gay, bisexual, and transgender specific domestic abuse brochure developed by the State Department of Public Health and made available to the Secretary of State to domestic partners who qualify pursuant to Section 297.

(e) The Certificate of Registered Domestic Partnership shall include the name used by each party before registration of the domestic partnership and the new name, if any, selected by each party upon registration of the domestic partnership.

*(Amended by Statutes 2007, Chapter 567.) (AB 102)*

## **298.6 Parties to Registered Domestic Partnership; Names; Procedure for Change of Name.**

(a) Parties to a registered domestic partnership shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon registration as a domestic partner unless that person elects to change his or her name pursuant to subdivision (b).

(b) (1) One party or both parties to a registered domestic partnership may elect to change the middle or last names by which that party wishes to be known after registration of the domestic partnership by entering the new name in the space provided on the Declaration of Domestic Partnership form without intent to defraud.

(2) A person may adopt any of the following middle or last names pursuant to paragraph (1):

(A) The current last name of the other domestic partner.

(B) The last name of either domestic partner given at birth.

(C) A name combining into a single last name all or a segment of the current last name or the last name of either domestic partner given at birth.

(D) A hyphenated combination of last names.

(3) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of the Certificate of Registered Domestic Partnership containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful.

(B) A certified copy of a Certificate of Registered Domestic Partnership shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code.

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(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a document that is substantially equivalent to a Certificate of Registered Domestic Partnership that records either of the following:

(i) A legal union of two persons that was validly formed in another jurisdiction and is recognized as a valid domestic partnership in this state pursuant to Section 299.2.

(ii) A legal union of domestic partners as defined by a local jurisdiction pursuant to Section 299.6.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(4) The adoption of a new name, or the choice not to adopt a new name, by means of a Declaration of Domestic Partnership pursuant to paragraph (1) shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

*(Added by Statutes 2007, Chapter 567.) (AB 102)*

### Excerpts from

### PART 3. TERMINATION

\* \* \*

**299. Termination of Domestic Partnerships; Filing of Notice of Termination of Domestic Partnership; Conditions, Effective Date; Setting Aside Termination; Jurisdiction.** (a) A registered domestic partnership may be terminated without filing a proceeding for dissolution of domestic partnership by the filing of a Notice of Termination of Domestic Partnership with the Secretary of State pursuant to this section, provided that all of the following conditions exist at the time of the filing:

(1) The Notice of Termination of Domestic Partnership is signed by both registered domestic partners.

(2) There are no children of the relationship of the parties born before or after registration of the domestic partnership or adopted by the parties after registration of the domestic partnership, and neither of the registered domestic partners, to their knowledge, is pregnant.

(3) The registered domestic partnership is not more than five years in duration.

(4) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of filing of the Notice of Termination of Domestic Partnership.

(5) There are no unpaid obligations in excess of the amount described in paragraph (6) of subdivision (a) of Section 2400, as adjusted by subdivision (b) of Section 2400, incurred by either or both of the parties after registration of the domestic partnership, excluding the amount of any unpaid obligation with respect to an automobile.

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(6) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than the amount described in paragraph (7) of subdivision (a) of Section 2400, as adjusted by subdivision (b) of Section 2400, and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of that amount.

(7) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community property, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(8) The parties waive any rights to support by the other domestic partner.

(9) The parties have read and understand a brochure prepared by the Secretary of State describing the requirements, nature, and effect of terminating a domestic partnership.

(10) Both parties desire that the domestic partnership be terminated.

(b) The registered domestic partnership shall be terminated effective six months after the date of filing of the Notice of Termination of Domestic Partnership with the Secretary of State pursuant to this section, provided that neither party has, before that date, filed with the Secretary of State a notice of revocation of the termination of domestic partnership, in the form and content as shall be prescribed by the Secretary of State, and sent to the other party a copy of the notice of revocation by first-class mail, postage prepaid, at the other party's last known address. The effect of termination of a domestic partnership pursuant to this section shall be the same as, and shall be treated for all purposes as, the entry of a judgment of dissolution of a domestic partnership.

(c) The termination of a domestic partnership pursuant to subdivision (b) does not prejudice nor bar the rights of either of the parties to institute an action in the superior court to set aside the termination for fraud, duress, mistake, or any other ground recognized at law or in equity. A court may set aside the termination of domestic partnership and declare the termination of the domestic partnership null and void upon proof that the parties did not meet the requirements of subdivision (a) at the time of the filing of the Notice of Termination of Domestic Partnership with the Secretary of State.

(d) The superior courts shall have jurisdiction over all proceedings relating to the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in a domestic partnership. The dissolution of a domestic partnership, nullity of a domestic partnership, and legal separation of partners in a domestic partnership shall follow the same procedures, and the partners shall possess the same rights, protections, and benefits, and be subject to the same responsibilities, obligations, and duties, as apply to the dissolution of marriage, nullity of marriage, and legal separation of spouses in a marriage, respectively, except as provided in subdivision (a), and except that, in accordance with the consent acknowledged by domestic partners in the Declaration of Domestic Partnership form, proceedings for dissolution, nullity, or legal separation of a domestic partnership registered in this state may be filed in the superior courts of this state even if neither domestic partner is a resident of, or maintains a domicile in, the state at the time the proceedings are filed.

*(Amended by Statutes 2004, Chapter 947, operative January 1, 2006.) (AB 2580)*

**299.2 Recognizing Same Sex Unions from Another Jurisdiction as a Valid Domestic Partnership.** A legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this part, shall be recognized as a valid domestic partnership in this state regardless of whether it bears the name domestic partnership.

*(Amended by Statutes 2004, Chapter 947, operative January 1, 2006.) (AB 2580)*

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**299.3. Letter to be Sent to Each Registered Domestic Partner from Secretary of State; Notice to Potential Domestic Partner Registrants.** (a) On or before June 30, 2004, and again on or before December 1, 2004, and again on or before January 31, 2005, the Secretary of State shall send the following letter to the mailing address on file of each registered domestic partner who registered more than one month prior to each of those dates:

"Dear Registered Domestic Partner:

This letter is being sent to all persons who have registered with the Secretary of State as a domestic partner.

Effective January 1, 2005, California's law related to the rights and responsibilities of registered domestic partners will change (or, if you are receiving this letter after that date, the law has changed, as of January 1, 2005). With this new legislation, for purposes of California law, domestic partners will have a great many new rights and responsibilities, including laws governing community property, those governing property transfer, those regarding duties of mutual financial support and mutual responsibilities for certain debts to third parties, and many others. The way domestic partnerships are terminated is also changing. After January 1, 2005, under certain circumstances, it will be necessary to participate in a dissolution proceeding in court to end a domestic partnership.

Domestic partners who do not wish to be subject to these new rights and responsibilities MUST terminate their domestic partnership before January 1, 2005. Under the law in effect until January 1, 2005, your domestic partnership is automatically terminated if you or your partner marry or die while you are registered as domestic partners. It is also terminated if you send to your partner or your partner sends to you, by certified mail, a notice terminating the domestic partnership, or if you and your partner no longer share a common residence. In all cases, you are required to file a Notice of Termination of Domestic Partnership.

If you do not terminate your domestic partnership before January 1, 2005, as provided above, you will be subject to these new rights and responsibilities and, under certain circumstances, you will only be able to terminate your domestic partnership, other than as a result of domestic partner's death, by the filing of a court action.

Further, if you registered your domestic partnership with the state prior to January 1, 2005, you have until June 30, 2005, to enter into a written agreement with your domestic partner that will be enforceable in the same manner as a premarital agreement under California law, if you intend to be so governed.

If you have any questions about any of these changes, please consult an attorney. If you cannot find an attorney in your locale, please contact your county bar association for a referral.

Sincerely,

The Secretary of State"

(b) From January 1, 2004, to December 31, 2004, inclusive, the Secretary of State shall provide the following notice with all requests for the Declaration of Domestic Partnership form. The Secretary of State also shall attach the Notice to the Declaration of Domestic Partnership form that is provided to the general public on the Secretary of State's Web site:

### "NOTICE TO POTENTIAL DOMESTIC PARTNER REGISTRANTS

As of January 1, 2005, California's law of domestic partnership will change.

Beginning at that time, for purposes of California law, domestic partners will have a great many new rights and responsibilities, including laws governing community property, those governing property transfer, those regarding duties of mutual financial support and mutual responsibilities for certain debts to third parties, and many others. The way domestic partnerships are terminated will also change. Unlike current law, which allows partners to end

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their partnership simply by filing a "Termination of Domestic Partnership" form with the Secretary of State, after January 1, 2005, it will be necessary under certain circumstances to participate in a dissolution proceeding in court to end a domestic partnership.

If you have questions about these changes, please consult an attorney. If you cannot find an attorney in your area, please contact your county bar association for a referral."

*(Amended by Statutes 2004, Chapter 947, operative January 1, 2006.) (AB 2580)*

### Excerpts from DIVISION 3. MARRIAGE

#### PART 1. VALIDITY OF MARRIAGE

\* \* \*

**300. Consent; Issuance of License and Solemnization.** (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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**301. Adults; Capability to Consent to and Consummate Marriage.** An unmarried male of the age of 18 years or older, and an unmarried female of the age of 18 years or older, and not otherwise disqualified, are capable of consenting to and consummating marriage.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**302. Minors; Capability to Consent to and Consummate Marriage.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**303. Consent of Court to Marriage of Minor.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**304. Premarital Counseling; Fees.** As part of the court order granting permission to marry under Section 302 or 303, the court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary. The



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parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**305. Proof of Consent and Solemnization.** Consent to and solemnization of marriage may be proved under the same general rules of evidence as facts are proved in other cases.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**306. Procedural Requirements; Effect of Noncompliance.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**307. Marriage of Members of Religious Society or Denomination; Requirements.** 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 Public Health, 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**308. Foreign Marriages; Validity.** A marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**308.5. Between Man and Woman Only.** Only marriage between a man and a woman is valid or recognized in California.

*(Added by Section 2, Proposition 22 of 2000.)*

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**309. Action to Test Validity of Marriage.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**310. Methods of Dissolution.** Marriage is dissolved only by one of the following: (a) The death of one of the parties.

(b) A judgment of dissolution of marriage.

(c) A judgment of nullity of marriage.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from PART 2. MARRIAGE LICENSE AND CERTIFICATE OF REGISTRY

\* \* \*

**350. Necessity of License; Armed Forces Members Serving Overseas in Conflict or War; Appearance of Attorney-In-Fact.** (a) Before entering a marriage, or declaring a marriage pursuant to Section 425, the parties shall first obtain a marriage license from a county clerk.

(b) If a marriage is to be entered into pursuant to subdivision (b) of Section 420, the attorney-in-fact shall appear before the county clerk on behalf of the party who is overseas, as prescribed in subdivision (a).

*(Amended by Statutes of 2004, operative immediately, Chapter 476.) (SB 7)*

**351. Contents of License.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**351.5. Certificate of Registry and Marriage License; Address Information.**

Notwithstanding subdivision (b) of Section 351 or 359 of this code, or Section 103175 of the Health and Safety Code, if either of the applicants for, or any witness to, a certificate of registry of marriage and a marriage license requests, the certificate of registry and the marriage license shall show the business address or United States Postal Service post office box for that applicant or witness instead of the residential address of that person.

*(Added by Statutes 2006, Chapter 60.) (SB 1364)*

**351.6. Mailing Address.** 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.

*(Added by Statutes 2006, operative January 1, 2007, Chapter 816.) (AB 1102)*

**352. Grounds for Denial of License.** No marriage license shall be granted if either of the applicants lacks the capacity to enter into a valid marriage or is, at the time of making the application for the license, under the influence of an intoxicating liquor or narcotic drug.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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### **354. Identification; Examination of Applicants; Additional Documentary Proof; Armed Forces Members Serving Overseas in War or Conflict; Compliance by Attorney-In-Fact.**

(a) Each applicant for a marriage license may 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**355. Forms.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**356. Expiration of License.** A marriage license issued pursuant to this part expires 90 days after its issuance. The calendar date of expiration shall be clearly noted on the face of the license.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**357. Numbering of Licenses; Transmittal of List of Issued License; Notice of Expiration of License.** (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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**358. Informational Brochure; Preparation and Publication; Contents.** (a) The State Department of Public Health 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.

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(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.

(4) Information concerning options for changing a name upon solemnization of marriage pursuant to Section 306.5, or upon registration of a domestic partnership pursuant to Section 298.6. That information shall include a notice that the recording of a change in name or the absence of a change in name on a marriage license application and certificate pursuant to Section 306.5 may not be amended once the marriage license is issued, but that options to adopt a change in name in the future through usage, common law, or petitioning the superior court are preserved, as set forth in Section 306.5.

(b) The State Department of Public Health 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 and shall make the brochure available electronically on the Internet Web site of the Secretary of State.

(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 Public Health shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

*(Amended by Statutes 2007, Chapter 567.) (AB 102)*

**359. Certificate of Registry; Preparation and Filing.** (a) Except as provided in Section 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 as 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 not 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**360. Duplicate Certificate; Affidavit; Fee.** (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.

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(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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

### Excerpts from PART 3. SOLEMNIZATION OF MARRIAGE

#### CHAPTER 1. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

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**400. Authorized Persons.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**401. Commissioner of Civil Marriages; Designation of County Clerk; Deputies.** (a) For each county, the county clerk is designated as a commissioner of civil marriages.

(b) The commissioner of civil marriages may appoint deputy commissioners of civil marriages who may solemnize marriages under the direction of the commissioner of civil marriages and shall perform other duties directed by the commissioner.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**402. Officials of Nonprofit Religious Institutions.** In addition to the persons permitted to solemnize marriages under Section 400, a county may license officials of a nonprofit religious institution, whose articles of incorporation are registered with the Secretary of State, to solemnize the marriages of persons who are affiliated with or are members of the religious institution. The licensee shall possess the degree of doctor of philosophy and must perform religious services or rites for the institution on a regular basis. The marriages shall be performed without fee to the parties.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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### Excerpts from CHAPTER 2. SOLEMNIZATION OF MARRIAGE

\* \* \*

**420. Requirements for Solemnization; Appearance by Attorney-In-Fact on Behalf of Armed Forces Members Serving Overseas in Conflict or War.** (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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**421. Duties of Person Solemnizing Marriage.** Before solemnizing a marriage, the person solemnizing the marriage shall require the presentation of the marriage license. If the person solemnizing the marriage has reason to doubt the correctness of the statement of facts in the marriage license, the person must be satisfied as to the correctness of the statement of facts before solemnizing the marriage. For this purpose, the person may administer oaths and examine the parties and witnesses in the same manner as the county clerk does before issuing the license.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**422. License; Statement of Person Solemnizing Marriage.** 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 Public Health, 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

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**423. Return of License.** The person solemnizing the marriage shall return the marriage license, endorsed as required in Section 422, to the county recorder of the county in which the license was issued within 10 days after the ceremony.

*(Amended by Statutes 2001, Chapter 39.) (AB 1323)*

**425. Unrecorded Marriage; License and Certificate of Declaration of Marriage; Filing.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**426. Physical Inability of Party to Appear Before Clerk; Issuance of License; Requirements.** 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.

*(Added by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

### Excerpts from PART 4. CONFIDENTIAL MARRIAGE

#### CHAPTER 1. GENERAL PROVISIONS

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**500. Requirements for Confidential Marriages.** When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife, they may be married pursuant to this chapter by a person authorized to solemnize a marriage under Chapter 1 (commencing with Section 400) of Part 3, without the necessity of first obtaining health certificates.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**500.5 Marriage License and Marriage Certificate.** 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.

*(Added by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

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**501. Issuance of License.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**502. Inability to Personally Appear; Issuance of License.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**503. Issuance of License Upon Request of Notary Public; Fees.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**504. Duration of License; Restrictions on Use.** A confidential marriage license is valid only for a period of 90 days after its issuance by the county clerk and may only be used in the county in which it was issued.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**505. Form of License; Contents.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*



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**506. Authentication of License; Filing.** (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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**508. Application for Certified Copy of Marriage Certificate.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**509. Methods to Obtain Certified Copy of Certificate; Fees.** (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 a fee equivalent to that charged for copies of a marriage certificate.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**510. Replacement of Marriage Certificate.** (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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

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**511. Maintenance of Marriage Certificates; Inspections; Preservation of Record; Reproductions; Disclosure of Information.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

### Excerpts from CHAPTER 2. APPROVAL OF NOTARIES TO AUTHORIZE CONFIDENTIAL MARRIAGES

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**530. Compliance with Chapter; Violation; Penalty.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**531. Application by Notary for Approval to Authorize Marriage; Contents; Fees.** (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.

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(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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**532. Proof of Completion of Course of Instruction.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**533. Validity of Approval; Renewal of Approval.** 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**534. List of Notaries Public Approved to Authorize Confidential Marriages; Public Inspection.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**535. Suspension or Revocation of Approval; Hearing.** (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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

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**536. Application Fees; Renewal Fees; Deposit of Fees.** (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 a 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.

*(Amended by Statutes of 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

### Excerpts from DIVISION 5. CONCILIATION PROCEEDINGS

#### PART 2. STATEWIDE COORDINATION OF FAMILY MEDIATION AND CONCILIATION SERVICES

\* \* \*

**1850. Duties of Judicial Council.** The Judicial Council shall do all of the following:

(a) Assist counties in implementing mediation and conciliation proceedings under this code.

(b) Establish and implement a uniform statistical reporting system relating to proceedings brought for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, including, but not limited to, a custody disposition survey.

(c) Administer a program of grants to public and private agencies submitting proposals for research, study, and demonstration projects in the area of family law, including, but not limited to, all of the following:

(1) The development of conciliation and mediation and other newer dispute resolution techniques, particularly as they relate to child custody and to avoidance of litigation.

(2) The establishment of criteria to ensure that a child support order is adequate.

(3) The development of methods to ensure that a child support order is paid.

(4) The study of the feasibility and desirability of guidelines to assist judges in making custody decisions.

(d) Administer a program for the training of court personnel involved in family law proceedings, which shall be available to the court personnel and which shall be totally funded from funds specified in Section 1852. The training shall include, but not be limited to, the order of preference for custody of minor children and the meaning of the custody arrangements under Part 2 (commencing with Section 3020) of Division 8.

(e) Conduct research on the effectiveness of current family law for the purpose of shaping future public policy.

*(Amended by Statutes 1993, Chapter 219.) (AB 1500)*

**1851. Advisory Committee.** The Judicial Council shall establish an advisory committee of persons representing a broad spectrum of interest in and knowledge about family law. The committee shall recommend criteria for determining grant recipients pursuant to subdivision (c) of Section 1850, which shall include proposal evaluation guidelines and procedures for submission of the results to the Legislature, the Governor, and family law courts. In accordance with established criteria, the committee shall receive grant proposals and shall recommend the priority of submitted proposals.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**1852. Funds; Deposits; Use.** (a) There is in the State Treasury the Family Law Trust Fund.

(b) Moneys collected by the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code, subdivision (a) of Section 26832 of the Government Code, and grants, gifts, or devises made to the state from private sources to be used for the purposes of this part shall be deposited into the Family Law Trust Fund.

(c) Moneys deposited in the Family Law Trust Fund shall be placed in an interest bearing account. Any interest earned shall accrue to the fund and shall be disbursed pursuant to subdivision (d).

(d) Money deposited in the Family Law Trust Fund shall be disbursed for purposes specified in this part and for other family law related activities.

(e) Moneys deposited in the Family Law Trust Fund shall be administered by the Judicial Council. The Judicial Council may, with appropriate guidelines, delegate the administration of the fund to the Administrative Office of the Courts.

(f) Any moneys in the Family Law Trust Fund that are unencumbered at the end of the fiscal year are automatically appropriated to the Family Law Trust Fund of the following year.

(g) In order to defray the costs of collection of these funds, pursuant to this section, the local registrar, county clerk, or county recorder may retain a percentage of the funds collected, not to exceed 10 percent of the fee payable to the state pursuant to subdivision (c) of Section 10605 of the Health and Safety Code.

*(Amended by Statutes 1997, Chapter 850.) (AB 233)*

### Excerpts from DIVISION 6. NULLITY, DISSOLUTION, AND LEGAL SEPARATION

#### PART 1. GENERAL PROVISIONS CHAPTER 1. APPLICATION OF PART

**2000. Application of Part.** This part applies to a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

#### Excerpts from CHAPTER 2. JURISDICTION

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**2010. Scope of Jurisdiction.** In a proceeding for dissolution of marriage, for nullity of marriage, or for legal separation of the parties, the court has jurisdiction to inquire into and render any judgment and make orders that are appropriate concerning the following:

- (a) The status of the marriage.
- (b) The custody of minor children of the marriage.
- (c) The support of children for whom support may be ordered, including children born after the filing of the initial petition or the final decree of dissolution.
- (d) The support of either party.
- (e) The settlement of the property rights of the parties.
- (f) The award of attorney's fees and costs.

*(Amended by Statutes 1994, Chapter 1269.) (AB 2208)*

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**2011. Service by Publication; Scope of Jurisdiction.** When service of summons on a spouse is made pursuant to Section 415.50 of the Code of Civil Procedure, the court, without the aid of attachment or the appointment of a receiver, shall have and may exercise the same jurisdiction over:

(a) The community real property of the spouse so served situated in this state as it has or may exercise over the community real property of a spouse who is personally served with process within this state.

(b) The quasi-community real property of the spouse so served situated in this state as it has or may exercise over the quasi-community real property of a spouse who is personally served with process within this state.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 3. PROCEDURAL PROVISIONS

\* \* \*

**2024. Petition or Judgments for Dissolution of Marriage, Nullity or Marriage, or for Legal Separation of the Parties; Notices.** (a) A petition for dissolution of marriage, nullity of marriage, or legal separation of the parties, or a joint petition for summary dissolution of marriage, shall contain the following notice:

"Dissolution or annulment of your marriage may automatically cancel your spouse's rights under your will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your spouse's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes.

Dissolution or annulment of your marriage may also automatically cancel your rights under your spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, and survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy.

You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution or annulment of your marriage, or your legal separation. However, some changes may require the agreement of your spouse or a court order (see Part 3 (commencing with Section 231) of Division 2 of the Family Code)."

(b) A judgment for dissolution of marriage, for nullity of marriage, or for legal separation of the parties shall contain the following notice:

"Dissolution or annulment of your marriage may automatically cancel your spouse's rights under your will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel your spouse's rights as beneficiary of your life insurance policy. If these are not the results that you want, you must change your will, trust, account agreement, or other similar document to reflect your actual wishes.

Dissolution or annulment of your marriage may also automatically cancel your rights under your spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy,

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and any other similar thing. It does not automatically cancel your rights as beneficiary of your spouse's life insurance policy.

You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement benefit plans, and credit reports to determine whether they should be changed or whether you should take any other actions in view of the dissolution or annulment of your marriage, or your legal separation."

*(Amended by Statutes 2001, Chapter 417.) (AB 873)*

### Excerpts from CHAPTER 6. EMPLOYEE PENSION BENEFIT PLAN AS PARTY

#### Article 1. Joinder of Plan

**2060. Application and Order for Joinder.** (a) Upon written application by a party, the clerk shall enter an order joining as a party to the proceeding any employee benefit plan in which either party to the proceeding claims an interest that is or may be subject to disposition by the court.

(b) An order or judgment in the proceeding is not enforceable against an employee benefit plan unless the plan has been joined as a party to the proceeding.

*(Amended by Statutes 1996, Chapter 1061.) (SB 1033)*

### Excerpts from CHAPTER 7. RESTORATION OF WIFE'S FORMER NAME

\* \* \*

**2080. Request for Recordation.** In a proceeding for dissolution of marriage or for nullity of marriage, but not in a proceeding for legal separation of the parties, the court, upon the request of a party, shall restore the birth name or former name of that party, regardless of whether or not a request for restoration of the name was included in the petition.

*(Amended by Statutes 1996, Chapter 1061.) (SB 1033)*

**2081. Grounds for Denial.** The restoration of a former name or birth name requested under Section 2080 shall not be denied (a) on the basis that the party has custody of a minor child who bears a different name or (b) for any other reason other than fraud.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2082. Common Law Rights.** Nothing in this code shall be construed to abrogate the common law right of any person to change one's name.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 8. UNIFORM DIVORCE RECOGNITION ACT

\* \* \*

**2090. Short Title.** This chapter may be cited as the Uniform Divorce Recognition Act.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

## FAMILY CODE

**2091. Foreign Divorce of Parties Domiciled in State; Effect.** A divorce obtained in another jurisdiction shall be of no force or effect in this state if both parties to the marriage were domiciled in this state at the time the proceeding for the divorce was commenced.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2092. Domicile; Prima Facie Evidence.** Proof that a person hereafter obtaining a divorce from the bonds of matrimony in another jurisdiction was (a) domiciled in this state within 12 months before the commencement of the proceeding therefor, and resumed residence in this state within 18 months thereafter the date of the person's departure therefrom, or (b) at all times after the person's departure from this state and until the person's return maintained a place of residence within this state, shall be prima facie evidence that the person was domiciled in this state when the divorce proceeding was commenced.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2093. Application of Title; Full Faith and Credit.** The application of this chapter is limited by the requirement of the Constitution of the United States that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from

## PART 2. JUDICIAL DETERMINATION OF VOID OR VOIDABLE MARRIAGE

### CHAPTER 1. VOID MARRIAGE

\* \* \*

**2200. Incestuous Marriages.** Marriages between parents and children, ancestors and descendants of every degree, and between brothers and sisters of the half as well as the whole blood, and between uncles and nieces or aunts and nephews, are incestuous, and void from the beginning, whether the relationship is legitimate or illegitimate.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2201. Bigamous and Polygamous Marriages; Exceptions; Absentees.** (a) A subsequent marriage contracted by a person during the life of a former husband or wife of the person, with a person other than the former husband or wife, is illegal and void from the beginning, unless:

(1) The former marriage has been dissolved or adjudged a nullity before the date of the subsequent marriage.

(2) The former husband or wife (i) is absent, and not known to the person to be living for the period of five successive years immediately preceding the subsequent marriage, or (ii) is generally reputed or believed by the person to be dead at the time the subsequent marriage was contracted.

(b) In either of the cases described in paragraph (2) of subdivision (a), the subsequent marriage is valid until its nullity is adjudged pursuant to subdivision (b) of Section 2210.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**2210. Annulment, Causes for.** A marriage is voidable and may be adjudged a nullity if any of the following conditions existed at the time of the marriage:

(a) The party who commences the proceeding or on whose behalf the proceeding is commenced was without the capability of consenting to the marriage as provided in Section 301 or 302, unless, after attaining the age of consent, the party for any time freely cohabited with the other as husband and wife.

(b) The husband or wife of either party was living and the marriage with that husband or wife was then in force and that husband or wife (1) was absent and not known to the party commencing the proceeding to be living for a period of five successive years immediately preceding the subsequent marriage for which the judgment of nullity is sought or (2) was generally reputed or believed by the party commencing the proceeding to be dead at the time the subsequent marriage was contracted.

(c) Either party was of unsound mind, unless the party of unsound mind, after coming to reason, freely cohabited with the other as husband and wife.

(d) The consent of either party was obtained by fraud, unless the party whose consent was obtained by fraud afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.

(e) The consent of either party was obtained by force, unless the party whose consent was obtained by force afterwards freely cohabited with the other as husband or wife.

(f) Either party was, at the time of marriage, physically incapable of entering into the marriage state, and that incapacity continues, and appears to be incurable.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2211. Limitation of Action.** A proceeding to obtain a judgment of nullity of marriage, for causes set forth in Section 2210, must be commenced within the periods and by the parties, as follows:

(a) For causes mentioned in subdivision (a) of Section 2210, by any of the following:

(1) The party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent.

(2) A parent, guardian, conservator, or other person having charge of the underage male or female, at any time before the married minor has arrived at the age of legal consent.

(b) For causes mentioned in subdivision (b) of Section 2210, by either of the following:

(1) Either party during the life of the other.

(2) The former husband or wife.

(c) For causes mentioned in subdivision (c) of Section 2210, by the party injured, or by a relative or conservator of the party of unsound mind, at any time before the death of either party.

(d) For causes mentioned in subdivision (d) of Section 2210, by the party whose consent was obtained by fraud, within four years after the discovery of the facts constituting the fraud.

(e) For causes mentioned in subdivision (e) of Section 2210, by the party whose consent was obtained by force, within four years after the marriage.

(f) For causes mentioned in subdivision (f) of Section 2210, by the injured party, within four years after the marriage.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2212. Effect of Judgment of Nullity; Conclusiveness.** (a) The effect of a judgment of nullity of marriage is to restore the parties to the status of unmarried persons.

(b) A judgment of nullity of marriage is conclusive only as to the parties to the proceeding and those claiming under them.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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### Excerpts from CHAPTER 3. PROCEDURAL PROVISIONS

\* \* \*

**2250. Petition for Judgment of Nullity; Filing; Service.** (a) A proceeding based on void or voidable marriage is commenced by filing a petition entitled “In re the marriage of \_\_\_\_\_ and \_\_\_\_\_” which shall state that it is a petition for a judgment of nullity of the marriage.

(b) A copy of the petition together with a copy of a summons in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2251. Status of Putative Spouse; Division of Community or Quasi-Community Property.**

(a) If a determination is made that a marriage is void or voidable and the court finds that either party or both parties believed in good faith that the marriage was valid, the court shall:

(1) Declare the party or parties to have the status of a putative spouse.

(2) If the division of property is in issue, divide, in accordance with Division 7 (commencing with Section 2500), that property acquired during the union which would have been community property or quasi-community property if the union had not been void or voidable. This property is known as “quasi-marital property.”

(b) If the court expressly reserves jurisdiction, it may make the property division at a time after the judgment.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2252. Liability of Quasi-Marital Property for Debts of Parties.** The property divided pursuant to Section 2251 is liable for debts of the parties to the same extent as if the property had been community property or quasi-community property.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2253. Children of Annulled Marriage; Determination of Custody.** In a proceeding under this part, custody of the children shall be determined according to Division 8 (commencing with Section 3000).

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2254. Order for Support; Putative Spouse.** The court may, during the pendency of a proceeding for nullity of marriage or upon judgment of nullity of marriage, order a party to pay for the support of the other party in the same manner as if the marriage had not been void or voidable if the party from whose benefits the order is made is found to be a putative spouse.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2255. Grant of Attorney’s Fees and Costs.** The court may grant attorney’s fees and costs in accordance with Chapter 3.5 (commencing with Section 2030) of Part 1 in proceedings to have the marriage adjudged void and in those proceedings based upon voidable marriage in which the party applying for attorney’s fees and costs is found to be innocent of fraud or wrongdoing in inducing or entering into the marriage, and free from knowledge of the then existence of any prior marriage or other impediment to the contracting of the marriage for which a judgment of nullity is sought.

*(Statutes of 1993, Chapter 219.) (AB 1500)*

## FAMILY CODE

### Excerpts from PART 3. DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION

#### CHAPTER 1. EFFECT OF DISSOLUTION

\* \* \*

**2300. Effect of Dissolution.** The effect of a judgment of dissolution of marriage when it becomes final is to restore the parties to the state of unmarried persons.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 2. GROUNDS FOR DISSOLUTION OR LEGAL SEPARATION

\* \* \*

**2310. Grounds for Dissolution or Legal Separation.** Dissolution of the marriage or legal separation of the parties may be based on either of the following ground, which shall be pleaded generally:

- (a) Irreconcilable differences, which have caused the irremediable breakdown of the marriage.
- (b) Incurable insanity.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2311. Irreconcilable Differences Defined.** Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2312. Incurable Insanity.** A marriage may be dissolved on the grounds of incurable insanity only upon proof, including competent medical or psychiatric testimony, that the insane spouse was at the time the petition was filed, and remains, incurably insane.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2313. Support of Incurably Insane Spouse.** No dissolution of marriage granted on the ground of incurable insanity relieves a spouse from any obligation imposed by law as a result of the marriage for the support of the spouse who is incurably insane, and the court may make such order for support, or require a bond therefor, as the circumstances require.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 3. RESIDENCE REQUIREMENTS

\* \* \*

**2320. Entry of Judgment of Dissolution.** A judgment of dissolution of marriage may not be entered unless one of the parties to the marriage has been a resident of this state for six months and of the county in which the proceeding is filed for three months next preceding the filing of the petition.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

## FAMILY CODE

**2321. Conversion of Separation Proceeding to Dissolution Proceeding; Notice.** (a) In a proceeding for legal separation of the parties in which neither party, at the time the proceeding was commenced, has complied with the residence requirements of Section 2320, either party may, upon complying with the residence requirements, amend the party's petition or responsive pleading in the proceeding to request that a judgment of dissolution of marriage be entered. The date of the filing of the amended petition or pleading shall be deemed to be the date of commencement of the proceeding for the dissolution of the marriage for the purposes only of the residence requirements of Section 2320.

(b) If the other party has appeared in the proceeding, notice of the amendment shall be given to the other party in the manner provided by rules adopted by the Judicial Council. If no appearance has been made by the other party in the proceeding, notice of the amendment may be given to the other party by mail to the last known address of the other party, or by personal service, if the intent of the party to so amend upon satisfaction of the residence requirements of Section 2320 is set forth in the initial petition or pleading in the manner provided by rules adopted by the Judicial Council.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2322. Separate Domicile or Residence.** For the purpose of a proceeding for dissolution of marriage, the husband and wife each may have a separate domicile or residence depending upon proof of the fact and not upon legal presumptions.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 4. GENERAL PROCEDURAL PROVISIONS

\* \* \*

**2330. Petition.** (a) A proceeding for dissolution of marriage or for legal separation of the parties is commenced by filing a petition entitled "In re the marriage of \_\_\_\_\_ and \_\_\_\_\_" which shall state whether it is a petition for dissolution of the marriage or for legal separation of the parties.

(b) In a proceeding for dissolution of marriage or for legal separation of the parties, the petition shall set forth among other matters, as nearly as can be ascertained, the following facts:

- (1) The date of marriage.
- (2) The date of separation.
- (3) The number of years from marriage to separation.
- (4) The number of children of the marriage, if any, and if none a statement of that fact.
- (5) The age and birth date of each minor child of the marriage.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**2330.5. Financial Declarations; Filing; Exception.** Notwithstanding any other provision of law, if no demand for money, property, costs, or attorney's fees is contained in the petition and the judgment of dissolution of marriage is entered by default, the filing of income and expense declarations and property declarations in connection therewith shall not be required.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

## FAMILY CODE

**2331. Service of Petition and Summons.** A copy of the petition, together with a copy of a summons, in form and content approved by the Judicial Council shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2332. Service of Petitions for Dissolution on Grounds of Incurable Insanity; Representation by Guardian, Conservator, or Guardian Ad Litem.** (a) If the petition for dissolution of the marriage is based on the ground of incurable insanity and the insane spouse has a guardian or conservator, other than the spouse filing the petition, the petition and summons shall be served upon the insane spouse and the guardian or conservator. The guardian or conservator shall defend and protect the interests of the insane spouse.

(b) If the insane spouse has no guardian or conservator, or if the spouse filing the petition is the guardian or conservator of the insane spouse, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the insane spouse. If a district attorney or county counsel is appointed guardian ad litem pursuant to this subdivision, the successor in the office of district attorney or county counsel, as the case may be, succeeds as guardian ad litem, without further action by the court or parties.

(c) "Guardian or conservator" as used in this section means:

(1) With respect to the issue of the dissolution of the marriage relationship, the guardian or conservator of the person.

(2) With respect to support and property division issues, the guardian or conservator of the estate.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2333. Irreconcilable Differences; Order for Dissolution.** Subject to Section 2334, if from the evidence at the hearing the court finds that there are irreconcilable differences which have caused the irremediable breakdown of the marriage, the court shall order the dissolution of the marriage or a legal separation of the parties.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2334. Grounds for Continuance; Authority of Court.** (a) If it appears that there is a reasonable possibility of reconciliation, the court shall continue the proceeding for the dissolution of the marriage or for a legal separation of the parties for a period not to exceed 30 days.

(b) During the period of the continuance, the court may make orders for the support and maintenance of the parties, the custody of the minor children of the marriage, the support of children for whom support may be ordered, attorney's fees, and the preservation of the property of the parties.

(c) At any time after the termination of the period of the continuance, either party may move for the dissolution of the marriage or a legal separation of the parties, and the court may enter a judgment of dissolution of the marriage or legal separation of the parties.

*(Statutes of 1993, operative January 1, 1994, Chapter 219.) (AB 1500)*

**2335. Misconduct; Admissibility of Specific Acts of Misconduct.** Except as otherwise provided by statute, in a pleading or proceeding for dissolution of marriage or legal separation of the parties, including depositions and discovery proceedings, evidence of specific acts of misconduct is improper and inadmissible.

*(Statutes of 1993, Chapter 219.) (AB 1500)*

## FAMILY CODE

**2336. Default; Proof Required.** (a) No judgment of dissolution or of legal separation of the parties may be granted upon the default of one of the parties or upon a statement or finding of fact made by a referee; but the court shall, in addition to the statement or finding of the referee, require proof of the grounds alleged, and the proof, if not taken before the court, shall be by affidavit. In all cases where there are minor children of the parties, each affidavit or offer of proof shall include an estimate by the declarant or affiant of the monthly gross income of each party. If the declarant or affiant has no knowledge of the estimated monthly income of a party, the declarant or affiant shall state why he or she has no knowledge. In all cases where there is a community estate, each affidavit or offer of proof shall include an estimate of the value of the assets and the debts the declarant or affiant proposes to be distributed to each party, unless the declarant or affiant proposes to be distributed to each party, unless the declarant or affiant has filed, or concurrently files, a complete and accurate property declaration with the court.

(b) If the proof is by affidavit, the personal appearance of the affiant is required only when it appears to the court that any of the following circumstances exist:

- (1) Reconciliation of the parties is reasonably possible.
- (2) A proposed child custody order is not in the best interest of the child.
- (3) A proposed child support order is less than a noncustodial parent is capable of paying.
- (4) A personal appearance of a party or interested person would be in the best interests of justice.

(c) An affidavit submitted pursuant to this section shall contain a stipulation by the affiant that the affiant understands that proof will be by affidavit and that the affiant will not appear before the court unless so ordered by the court.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2337. Severance and Grant of Early and Separate Trial on Issue of Dissolution Status; Conditions Imposed; Jurisdiction Reserved.** (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer service of the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party if the dissolution of the marriage before the division of the parties' community estate results in a taxable event to either of the parties by reason of the ultimate division of their community estate, which taxes would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and the minor children as named dependents, so long as the party is legally able to do so. At the time the party is no longer legally eligible to maintain the other party as a named dependent under the existing health and medical policies, the party or the party's estate shall, at the party's sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance coverage is not obtained, the party or the party's estate is responsible for the health and medical expenses incurred by the other party that would have been covered by the insurance coverage, and shall

## FAMILY CODE

indemnify and hold the other party harmless from any adverse consequences resulting from the lack of insurance.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the other party's rights to pension benefits, elections, or survivors' benefits under the party's pension or retirement plan to the extent that the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(6) Prior to entry of judgment terminating status, both of the following shall occur:

(A) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution.

(B) If applicable, an order pursuant to Section 2610 shall be entered with reference to the defined benefit or similar plan pending the ultimate resolution of the distribution of benefits under the employee benefit plan.

(7) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(8) Any other condition the court determines is just and equitable.

(d) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(e) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

*(Amended by Statutes 1994, Chapter 1269.) (AB 2208)*

**2338. Decisions; Judgments.** (a) In a proceeding for dissolution of the marriage or legal separation of the parties, the court shall file its decision and any statement of decision as in other cases.

(b) If the court determines that no dissolution should be granted, a judgment to that effect only shall be entered.

(c) If the court determines that a dissolution should be granted, a judgment of dissolution of marriage shall be entered. After the entry of the judgment and before it becomes final, neither party has the right to dismiss the proceeding without the consent of the other.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### **2338.5. Default Judgments; Dissolution or Nullity of Marriage, or Legal Separation.**

Where a judgment of dissolution or nullity of marriage or legal separation of the parties is to be granted upon the default of one of the parties:

(a) The signature of the spouse who has defaulted on any marital settlement agreement or on any stipulated judgment shall be notarized.

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(b) The court clerk shall give notice of entry of judgment of dissolution of marriage, nullity of marriage, or legal separation to the attorney for each party or to the party, if unrepresented.

(c) For the purpose of mailing the notice of entry of judgment, the party submitting the judgment shall provide the court clerk with a stamped envelope bearing sufficient postage addressed to the attorney for the other party or to the party, if unrepresented, with the address of the court clerk as the return address. The court clerk shall maintain any such document returned by the post office as part of the court file in the case.

*(Added by Statutes 1996, Chapter 810.) (AB 2149)*

**2339. Finality of Judgment; Waiting Period.** (a) Subject to subdivision (b) and to Sections 2340 to 2344, inclusive, no judgment of dissolution is final for the purpose of terminating the marriage relationship of the parties until six months have expired from the date of service of a copy of summons and petition or the date of appearance of the respondent, whichever occurs first.

(b) The court may extend the six-month period described in subdivision (a) for good cause shown.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2340. Statement of Effective Date of Judgment.** A judgment of dissolution of marriage shall specify the date on which the judgment becomes finally effective for the purpose of terminating the marriage relationship of the parties.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2341. Appeal or Motion for New Trial; Finality of Judgment.** (a) Notwithstanding Section 2340, if an appeal is taken from the judgment or a motion for a new trial is made, the dissolution of marriage does not become final until the motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed.

(b) Notwithstanding any other provision of law, the filing of an appeal or of a motion for a new trial does not stay the effect of a judgment insofar as it relates to the dissolution of the marriage status and restoring the parties to the status of unmarried persons, unless the appealing or moving party specifies in the notice of appeal or motion for new trial an objection to the termination of the marriage status. No party may make such an objection to the termination of the marriage status unless such an objection was also made at the time of trial.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2342. Joint Petitions for Summary Dissolutions; Revocation; Final Judgment.** Where a joint petition under Chapter 5 (commencing with Section 2400) is thereafter revoked and either party commences a proceeding pursuant to Section 2330 within 90 days from the date of the filing of the revocation, the date the judgment becomes a final judgment under Section 2339 shall be calculated by deducting the period of time which has elapsed from the date of filing the joint petition to the date of filing the revocation.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2343. Retention of Jurisdiction; Purposes; Effect of Date of Termination of Marital Status.** The court may, upon notice and for good cause shown, or on stipulation of the parties, retain jurisdiction over the date of termination of the marital status, or may order that the marital status be terminated at a future specified date. On the date of termination of the marital status, the parties are restored to the status of unmarried persons.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*



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**2344. Death of Party After Entry of Judgment.** (a) The death of either party after entry of the judgment does not prevent the judgment from becoming a final judgment under Sections 2339 to 2343, inclusive.

(b) Subdivision (a) does not validate a marriage by either party before the judgment becomes final, nor does it constitute a defense in a criminal prosecution against either party.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2345. Consent to Legal Separation.** The court may not render a judgment of the legal separation of the parties without the consent of both parties unless one party has not made a general appearance and the petition is one for legal separation.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2346. Judgments; Nunc Pro Tunc Entry; Rights to Judgment.** (a) If the court determines that a judgment of dissolution of the marriage should be granted, but by mistake, negligence, or inadvertence, the judgment has not been signed, filed, and entered, the court may cause the judgment to be signed, dated, filed, and entered in the proceeding as of the date when the judgment could have been signed, dated, filed, and entered originally, if it appears to the satisfaction of the court that no appeal is to be taken in the proceeding or motion made for a new trial, to annul or set aside the judgment, or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure.

(b) The court may act under subdivision (a) on its own motion or upon the motion of either party to the proceeding. In contested cases, the motion of a party shall be with notice to the other party.

(c) The court may cause the judgment to be entered nunc pro tunc as provided in this section, even though the judgment may have been previously entered, where through mistake, negligence, or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for.

(d) The court shall not cause a judgment to be entered nunc pro tunc as provided in this section as of a date before trial in the matter, before the date of an uncontested judgment hearing in the matter, or before the date of submission to the court of an application for judgment on affidavit pursuant to Section 2336. Upon the entry of the judgment, the parties have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final had the judgment been entered upon the date when it could have been originally entered.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2347. Judgment of Legal Separation; Effect on Subsequent Judgment of Dissolution.** A judgment of legal separation of the parties does not bar a subsequent judgment of dissolution of the marriage granted pursuant to a petition for dissolution filed by either party.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from CHAPTER 5. SUMMARY DISSOLUTION

\* \* \*

**2400. Conditions Necessary at Commencement of Proceedings.** (a) A marriage may be dissolved by the summary dissolution procedure provided in this chapter if all of the following conditions exist at the time the proceeding is commenced:

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(1) Either party has met the jurisdictional requirements of Chapter 3 (commencing with Section 2320) with regard to dissolution of marriage.

(2) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(3) There are no children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, and the wife, to her knowledge, is not pregnant.

(4) The marriage is not more than five years in duration at the time the petition is filed.

(5) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of the filing of the petition.

(6) There are no unpaid obligations in excess of four thousand dollars (\$4,000) incurred by either or both of the parties after the date of their marriage, excluding the amount of any unpaid obligation with respect to an automobile.

(7) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than twenty-five thousand dollars (\$25,000), and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of twenty-five thousand dollars (\$25,000).

(8) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(9) The parties waive any rights to spousal support.

(10) The parties, upon entry of the judgment of dissolution of marriage pursuant to Section 2403, irrevocably waive the respective rights to appeal and their rights to move for a new trial.

(11) The parties have read and understand the summary dissolution brochure provided for in Section 2406.

(12) The parties desire that the court dissolve the marriage.

(b) On January 1, 1985, and on January 1 of each odd-numbered year, thereafter the amounts in paragraph (6) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. On January 1, 1993, and on January 1 of each odd-numbered year thereafter, the amounts in paragraph (7) of subdivision (a) shall be adjusted to reflect any change in the value of the dollar. The adjustments shall be made by multiplying the base amounts by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars. The Judicial Council shall compute and publish the amounts.

*(Statutes of 1993, Chapter 219.) (AB 1500)*

**2401. Joint Petition; Filing; Form; Contents.** (a) A proceeding for summary dissolution of the marriage shall be commenced by filing a joint petition in the form prescribed by the Judicial Council.

(b) The petition shall be signed under oath by both the husband and the wife, and shall include all of the following:

(1) A statement that as of the date of the filing of the joint petition all of the conditions set forth in Section 2400 have been met.

(2) The mailing address of both the husband and the wife.

(3) A statement whether or not the wife elects to have her maiden or former name restored, and, if so, the name to be restored.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**2402. Revocation of Joint Petition; Termination of Proceedings; Notice; Filing; Copy to Other Party.** (a) At any time before the filing of application for judgment pursuant to Section 2403, either party to the marriage may revoke the joint petition and thereby terminate the summary dissolution proceeding filed pursuant to this chapter.

(b) The revocation shall be effected by filing with the clerk of the court where the proceeding was commenced a notice of revocation in such form and content as shall be prescribed by the Judicial Council.

(c) The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at the other party's last known address.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2403. Entry of Judgment of Dissolution; Notice.** When six months have expired from the date of the filing of the joint petition for summary dissolution, the court may, upon application of either party, enter the judgment dissolving the marriage. The judgment restores to the parties the status of single persons, and either party may marry after the entry of the judgment. The clerk shall send a notice of entry of judgment to each of the parties at the party's last known address.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2404. Final Judgment as Final Adjudication of Rights and Obligations.** Entry of the judgment pursuant to Section 2403 constitutes: (a) A final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights.

(b) A waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2405. Actions to Set Aside Final Judgment.** (a) Entry of the judgment pursuant to Section 2403 does not prejudice nor bar the rights of either of the parties to institute an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(b) The court shall set aside a judgment entered pursuant to Section 2403 regarding all matters except the status of the marriage, upon proof that the parties did not meet the requirements of Section 2400 at the time the petition was filed.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**2406. Brochure to Describe Proceedings; Availability; Distribution; Contents and Forms.**

(a) Each superior court shall make available a brochure, the contents and form of which shall be prescribed by the Judicial Council, describing the requirements, nature, and effect of proceedings under this chapter. The brochure shall be printed and distributed by the Judicial Council in both English and Spanish.

(b) The brochure shall state, in non-technical language, all the following:

(1) It is in the best interests of the parties to consult an attorney regarding the dissolution of their marriage. The services of an attorney may be obtained through lawyer referral services, group or prepaid legal services, or legal aid organizations.

(2) The parties should not rely exclusively on this brochure which is not intended as a guide for self-representation in proceedings under this chapter.

(3) A concise summary of the provisions and procedures of this chapter and Sections 2320 and 2322 and Sections 2339 to 2344, inclusive.

(4) The nature of services of the conciliation court, where available.

(5) Neither party to the marriage can in the future obtain spousal support from the other.

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(6) A statement in boldface type to the effect that upon entry of the judgment, the rights and obligations of the parties to the marriage with respect to the marriage, including property and spousal support rights, will be permanently adjudicated without right of appeal, except that neither party will be barred from instituting an action to set aside the judgment for fraud, duress, accident, mistake, or other grounds at law or in equity, or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(7) The parties to the marriage retain the status of married persons and cannot remarry until the judgment dissolving the marriage is entered.

(8) Other matters as the Judicial Council considers appropriate.  
*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### Excerpts from DIVISION 11. MINORS

#### PART 1. AGE OF MAJORITY

\* \* \*

**6500. Minors.** A minor is an individual who is under 18 years of age. The period of minority is calculated from the first minute of the day on which the individual is born to the same minute of the corresponding day completing the period of minority.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**6501. Adult.** An adult is an individual who is 18 years of age or older.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**6502. Transitional Provisions.** (a) The use of or reference to the words "age of majority," "age of minority," "adult," "minor," or words of similar intent in any instrument, order, transfer, or governmental communication made in this state:

(1) Before March 4, 1972, makes reference to individuals 21 years of age and older, or younger than 21 years of age.

(2) On or after March 4, 1972, makes reference to individuals 18 years of age and older, or younger than 18 years of age.

(b) Nothing in subdivision (a) or in Chapter 1748 of the Statutes of 1971 prevents amendment of any court order, will, trust, contract, transfer, or instrument to refer to the 18-year-old age of majority if the court order, will, trust, contract, transfer, or instrument satisfies all of the following conditions:

(1) It was in existence on March 4, 1972.

(2) It is subject to amendment by law, and amendment is allowable or not prohibited by its terms.

(3) It is otherwise subject to the laws of this state.

*(Added by Statutes of 1992, Chapter 162.) (AB 2650)*

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### Excerpts from PART 6. EMANCIPATION OF MINORS LAW

#### CHAPTER 1. GENERAL PROVISIONS

\* \* \*

**7000. Short Title.** This part may be cited as the Emancipation of Minors Law.  
(*Statutes of 1992, operative January 1, 1994, Chapter 162.*) (AB 2650)

**7001. Purpose of Part.** It is the purpose of this part to provide a clear statement defining emancipation and its consequences and to permit an emancipated minor to obtain a court declaration of the minor's status. This part is not intended to affect the status of minors who may become emancipated under the decisional case law that was in effect before the enactment of Chapter 1059 of the Statutes of 1978.  
(*Statutes of 1992, operative January 1, 1994, Chapter 162.*) (AB 2650)

**7002. Emancipated Minor; Description.** A person under the age of 18 years is an emancipated minor if any of the following conditions is satisfied:

(a) The person has entered into a valid marriage, whether or not the marriage has been dissolved.

(b) The person is on active duty with the armed forces of the United States.

(c) The person has received a declaration of emancipation pursuant to Section 7122.

(*Statutes of 1992, operative January 1, 1994, Chapter 162.*) (AB 2650)

#### CHAPTER 2. EFFECT OF EMANCIPATION

\* \* \*

**7050. Purposes for Which Emancipated Minors are Considered an Adult.** An emancipated minor shall be considered as being an adult for the following purposes:

(a) The minor's right to support by the minor's parents.

(b) The right of the minor's parents to the minor's earnings and to control the minor.

(c) The application of Sections 300 and 601 of the Welfare and Institutions Code.

(d) Ending all vicarious or imputed liability of the minor's parents or guardian for the minor's torts. Nothing in this section affects any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability that arises from an agency relationship.

(e) The minor's capacity to do any of the following:

(1) Consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

(2) Enter into a binding contract or give a delegation of power.

(3) Buy, sell, lease, encumber, exchange, or transfer an interest in real or personal property, including, but not limited to, shares of stock in a domestic or foreign corporation or a membership in a nonprofit corporation.

(4) Sue or be sued in the minor's own name.

(5) Compromise, settle, arbitrate, or otherwise adjust a claim, action, or proceeding by or against the minor.

(6) Make or revoke a will.

(7) Make a gift, outright or in trust.

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(8) Convey or release contingent or expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy, and consent to a transfer, encumbrance, or gift of marital property.

(9) Exercise or release the minor's powers as donee of a power of appointment unless the creating instrument otherwise provides.

(10) Create for the minor's own benefit or for the benefit of others a revocable or irrevocable trust.

(11) Revoke a revocable trust.

(12) Elect to take under or against a will.

(13) Renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercise of the right to surrender the right to revoke a revocable trust.

(14) Make an election referred to in Section 13502 of, or an election and agreement referred to in Section 13503 of, the Probate Code.

(15) Establish the minor's own residence.

(16) Apply for a work permit pursuant to Section 49110 of the Education Code without the request of the minor's parents.

(17) Enroll in a school or college.

*(Statutes of 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

### **Excerpts from DIVISION 12. PARENT AND CHILD RELATIONSHIP**

#### **PART 2. PRESUMPTION CONCERNING CHILD OF MARRIAGE AND BLOOD TESTS TO DETERMINE PATERNITY**

#### **CHAPTER 3. ESTABLISHMENT OF PATERNITY BY VOLUNTARY DECLARATION**

\* \* \*

**7570. Legislative Findings and Declarations.** The Legislature hereby finds and declares as follows:

(a) There is compelling state interest in establishing paternity for all children. Establishing paternity is the first step toward a child support award, which, in turn, provides children with equal rights and access to benefits, including, but not limited to, social security, health insurance, survivor's benefits, military benefits, and inheritance rights. Knowledge of family medical history is often necessary for correct medical diagnosis and treatment. Additionally, knowing one's father is important to a child's development.

(b) A simple system allowing for establishment of voluntary paternity will result in a significant increase in the ease of establishing paternity, a significant increase in paternity establishment, an increase in the number of children who have greater access to child support and other benefits, and a significant decrease in the time and money required to establish paternity due to the removal of the need for a lengthy and expensive court process to determine and establish paternity and is in the public interest.

*(Added by Statutes 1993, Chapter 1240.) (AB 1277)*

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### **7571. Voluntary Declaration of Paternity; Liability of Health Care Provider; Payment.**

(a) On and after January 1, 1995, upon the event of a live birth, prior to an unmarried mother leaving any hospital, the person responsible for registering live births under Section 102405 of the Health and Safety Code shall provide to the natural mother and shall attempt to provide, at the place of birth, to the man identified by the natural mother as the natural father, a voluntary declaration of paternity together with the written materials described in Section 7572. Staff in the hospital shall witness the signatures of parents signing a voluntary declaration of paternity and shall forward the signed declaration to the Department of Child Support Services within 20 days of the date the declaration was signed. A copy of the declaration shall be made available to each of the attesting parents.

(b) No health care provider shall be subject to any civil, criminal, or administrative liability for any negligent act or omission relative to the accuracy of the information provided, or for filing the declaration with the appropriate state or local agencies.

(c) The local child support agency shall pay the sum of ten dollars (\$10) to birthing hospitals and other entities that provide prenatal services for each completed declaration of paternity that is filed with the Department of Child Support Services, provided that the local child support agency and the hospital or other entity providing prenatal services has entered into a written agreement that specifies the terms and conditions for the payment as required by federal law.

(d) If the declaration is not registered by the person responsible for registering live births at the hospital, it may be completed by the attesting parents, notarized, and mailed to the Department of Child Support Services at any time after the child's birth.

(e) Prenatal clinics shall offer prospective parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), prenatal clinics must ensure that the form is witnessed and forwarded to the Department of Child Support Services within 20 days of the date the declaration was signed.

(f) Declarations shall be made available without charge at all local child support agency offices, offices of local registrars of births and deaths, courts, and county welfare departments within this state. Staff in these offices shall witness the signatures of parents wishing to sign a voluntary declaration of paternity and shall be responsible for forwarding the signed declaration to the Department of Child Support Services within 20 days of the date the declaration was signed.

(g) The Department of Child Support Services, at its option, may pay the sum of ten dollars (\$10) to local registrars of births and deaths, county welfare departments, or courts for each completed declaration of paternity that is witnessed by staff in these offices and filed with the Department of Child Support Services. In order to receive payment, the Department of Child Support Services and the entity shall enter into a written agreement that specifies the terms and conditions for payment as required by federal law. The Department of Child Support Services shall study the effect of the ten dollar (\$10) payment on obtaining completed voluntary declaration of paternity forms and shall report to the Legislature on any recommendations to change the ten dollar (\$10) optional payment, if appropriate, by January 1, 2000.

(h) The Department of Child Support Services and local child support agencies shall publicize the availability of the declarations. The local child support agency shall make the declaration, together with the written materials described in subdivision (a) of Section 7572, available upon request to any parent and any agency or organization that is required to offer parents the opportunity to sign a voluntary declaration of paternity. The local child support agency shall also provide qualified staff to answer parents' questions regarding the declaration and the process of establishing paternity.

(i) Copies of the declaration and recissions filed with the Department of Child Support Services shall be made available only to the parents, the child, the local child support agency, the

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county welfare department, the county counsel, the State Department of Health Services, and the courts.

(j) Publicly funded or licensed health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools may offer parents the opportunity to sign a voluntary declaration of paternity. In order to be paid for their services as provided in subdivision (c), publicly funded or licensed health clinics, pediatric offices, Head Start programs, child care centers, social services providers, prisons, and schools shall ensure that the form is witnessed and forwarded to the Department of Child Support Services.

(k) Any agency or organization required to offer parents the opportunity to sign a voluntary declaration of paternity shall also identify parents who are willing to sign, but were unavailable when the child was born. The organization shall then contact these parents within 10 days and again offer the parent the opportunity to sign a voluntary declaration of paternity.

*(Amended by Statutes 2001, Chapter 755.) (SB 943)*

**7572. Written Information Materials; Contents; Regulations.** (a) The Department of Child Support Services, in consultation with the State Department of Health Services, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop written materials to assist providers and parents in complying with this chapter. This written material shall be updated periodically by the Department of Child Support Services to reflect change in law, procedure or public need.

(b) The written materials for parents which shall be attached to the form specified in Section 7574 and provided to unmarried parents shall contain the following information:

(1) A signed voluntary declaration of paternity that is filed with the Department of Child Support Services legally establishes paternity.

(2) The legal rights and obligations of both parents and the child that result from the establishment of paternity.

(3) An alleged father's constitutional rights to have the issue of paternity decided by a court; to notice of any hearing on the issue of paternity; to have an opportunity to present his case to the court, including his right to present and cross-examine witnesses; to have an attorney represent him; and to have an attorney appointed to represent him if he cannot afford one in a paternity action filed by the local child support agency.

(4) That by signing the voluntary declaration of paternity, the father is voluntarily waiving his constitutional rights.

(c) Parents shall also be given oral notice of the rights and responsibilities specified in subdivision (b). Oral notice may be accomplished through the use of audio or videotape programs developed by the Department of Child Support Services to the extent permitted by federal law.

(d) The Department of Child Support Services shall, free of charge, make available to hospitals, clinics, and other places of birth any and all informational and training materials for the program under this chapter, as well as the paternity declaration form. The Department of Child Support Services shall make training available to every participating hospital, clinic, local registrar of births and deaths, and other place of birth no later than June 30, 1999.

(e) The Department of Child Support Services may adopt regulations, including emergency regulations, necessary to implement this chapter.

*(Amended by Statutes 1997, Chapter 599.) (AB 573)*



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**7573. Voluntary Declaration of Paternity; Establishment of Paternity; Force and Effect.** Except as provided in Sections 7575, 7576, and 7577, a completed voluntary declaration of paternity, as described in Section 7574, that has been filed with the State Department of Child Support Services shall establish the paternity of a child and shall have the same force and effect as a judgment for paternity issued by a court of competent jurisdiction. The voluntary declaration of paternity shall be recognized as a basis for the establishment of an order for child custody, visitation, or child support.  
*(Amended by Statutes 1998, Chapter 858.) (SB 2169)*

**7574. Paternity Form; Requirements.** (a) The voluntary declaration of paternity shall be executed on a form developed by the Department of Child Support Services in consultation with the State Department of Health Services, the California Family Support Council, and child support advocacy groups.

(b) The form described in subdivision (a) shall contain, at a minimum, the following:

(1) The name and the signature of the mother.

(2) The name and the signature of the father.

(3) The name of the child.

(4) The date of birth of the child.

(5) A statement by the mother that she has read and understands the written materials described in Section 7572, that the man who has signed the voluntary declaration of paternity is the only possible father, and that she consents to the establishment of paternity by signing the voluntary declaration of paternity.

(6) A statement by the father that he has read and understands the written materials described in Section 7572, that he understands that by signing the voluntary declaration of paternity he is waiving his rights as described in the written materials, that he is the biological father of the child, and that he consents to the establishment of paternity by signing the voluntary declaration of paternity.

(7) The name and the signature of the person who witnesses the signing of the declaration by the mother and the father.

*(Former Section 7574 repealed; new Section 7574 added; Statutes 1996, Chapter 1062.) (AB 1832)*

**7575. Rescission of Voluntary Declaration of Paternity; Action to Set Aside.** (a) Either parent may rescind the voluntary declaration of paternity by filing a rescission form with the Department of Child Support Services within 60 days of the date of execution of the declaration by the attesting father or attesting mother, whichever signature is later, unless a court order for custody, visitation, or child support has been entered in an action in which the signatory seeking to rescind was a party. The Department of Child Support Services shall develop a form to be used by parents to rescind the declaration of paternity and instruction on how to complete and file the rescission with the Department of Child Support Services. The form shall include a declaration under penalty of perjury completed by the person filing the rescission form that certifies that a copy of the rescission form was sent by any form of mail requiring a return receipt to the other person who signed the voluntary declaration of paternity. A copy of the return receipt shall be attached to the rescission form when filed with the Department of Child Support Services. The form and instructions shall be written in simple, easy to understand language and shall be made available at the local family support office and the office of local registrar of births and deaths. The department shall, upon written request, provide to a court or commissioner a copy of any rescission form filed with the department that is relevant to proceedings before the court or commissioner.

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(b) (1) Notwithstanding Section 7573, if the court finds that the conclusions of all of the experts based upon the results of the genetic tests performed pursuant to Chapter 2 (commencing with Section 7550) are that the man who signed the voluntary declaration is not the father of the child, the court may set aside the voluntary declaration of paternity.

(2) (A) The notice of motion for genetic tests under this section may be filed not later than two years from the date of the child's birth by a local child support agency, the mother, the man who signed the voluntary declaration as the child's father or in an action to determine the existence or nonexistence of the father and child relationship pursuant to Section 7630 or in any action to establish an order for child custody, visitation, or child support based upon the voluntary declaration of paternity.

(B) The local child support agency's authority under this subdivision is limited to those circumstances where there is a conflict between a voluntary acknowledgment of paternity and a judgment of paternity or a conflict between two or more voluntary acknowledgments of paternity.

(3) The notice of motion for genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for putting the issue of paternity before the court.

(c) (1) Nothing in this chapter shall be construed to prejudice or bar the rights of either parent to file an action or motion to set aside the voluntary declaration of paternity on any of the grounds described in, and within the time limits specified in, Section 473 of the Code of Civil Procedure. If the action or motion to set aside a judgment is required to be filed within a specified time period under Section 473 of the Code of Civil Procedure, the period within which the action or motion to set aside the voluntary declaration of paternity must be filed shall commence on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support.

(2) The parent or local child support agency seeking to set aside the voluntary declaration of paternity shall have the burden of proof.

(3) Any order for custody, visitation, or child support shall remain in effect until the court determines that the voluntary declaration of paternity should be set aside, subject to the court's power to modify the orders as otherwise provided by law.

(4) Nothing in this section is intended to restrict a court from acting as a court of equity.

(5) If the voluntary declaration of paternity is set aside pursuant to paragraph (1), the court shall order that the mother, child, and alleged father submit to genetic tests pursuant to Chapter 2 (commencing with Section 7550). If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the genetic tests, are that the person who executed the voluntary declaration of paternity is not the father of the child, the question of paternity shall be resolved accordingly. If the person who executed the declaration as the father of the child is not excluded as a possible father, the question of paternity shall be resolved as otherwise provided by law. If the person who executed the declaration of paternity is ultimately determined to be the father of the child, any child support that accrued under an order based upon the voluntary declaration of paternity shall remain due and owing.

(6) The Judicial Council shall develop the forms and procedures necessary to effectuate this subdivision.

*(Amended by Statutes 1999, Chapter 653.) (AB 380)*

**7576. Presumption.** The following provisions shall apply for voluntary declarations signed on or before December 31, 1996.

(a) Except as provided in subdivision (d), the child of a woman and a man executing a declaration of paternity under this chapter is conclusively presumed to be the man's child. The

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presumption under this section has the same force and effect as the presumption under Section 7540.

(b) A voluntary declaration of paternity shall be recognized as the basis for the establishment of an order for child custody or support.

(c) In any action to rebut the presumption created by this section, a voluntary declaration of paternity shall be admissible as evidence to determine paternity of the child named in the voluntary declaration of paternity.

(d) The presumption established by this chapter may be rebutted by any person by requesting blood or genetic tests pursuant to Chapter 2 (commencing with Section 7550). The notice of motion for blood or genetic tests pursuant to this section shall be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court. The notice of motion for blood tests shall be made within three years from the date of execution of the declaration by the attesting father, or by the attesting mother, whichever signature is later. The two-year statute of limitations specified in subdivision (b) of Section 7541 is inapplicable for purposes of this section.

(e) A presumption under this chapter shall override all statutory presumptions of paternity except a presumption arising under Section 7540 or 7555.

*(Former Section 7576 repealed; new Section 7576 added; Statutes 1996, Chapter 1062.) (AB 1832)*

**7577. Voluntary Declaration of Paternity; Minor Parents; Validity; Rescission; Presumption; Admissibility.** (a) Notwithstanding Section 7573, a voluntary declaration of paternity that is signed by a minor parent or minor parents shall not establish paternity until 60 days after both parents have reached the age of 18 years or are emancipated, whichever first occurs.

(b) A parent who signs a voluntary declaration of paternity when he or she is a minor may rescind the voluntary declaration of paternity at any time up to 60 days after the parent reaches the age of 18 or becomes emancipated whichever first occurs.

(c) A voluntary declaration of paternity signed by a minor creates a rebuttable presumption of paternity until the date that it establishes paternity as specified in subdivision (a).

(d) A voluntary declaration of paternity signed by a minor shall be admissible as evidence in any civil action to establish paternity of the minor named in the voluntary declaration.

(e) A voluntary declaration of paternity that is signed by a minor shall not be admissible as evidence in a criminal prosecution for violation of Section 261.5 of the Penal Code.

*(Added by Statutes 1996, operative January 1, 1994, Chapter 1062.) (AB 1832)*

### Excerpts from PART 3. UNIFORM PARENTAGE ACT CHAPTER 1. GENERAL PROVISIONS

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**7600. Short Title.** This part may be cited as the Uniform Parentage Act.  
*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**7601. Parent and Child Relationship; Defined.** “Parent and child relationship” as used in this part means the legal relationship existing between a child and the child’s natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**7602. Application Regardless of Marital Status of Parents.** The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

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**7604. Pendente Lite Relief of Custody or Visitation Order on Finding of Parent-Child Relationship.** A court may order pendente lite relief consisting of a custody or visitation order pursuant to Part 2 (commencing with Section 3020) of Division 8, if the court finds both the following:

(a) Based on the tests authorized by Section 7541, a parent and child relationship exists pursuant to Section 7540.

(b) The custody or visitation order would be in the best interest of the child.

*(Amended by Statutes 1993, Chapter 219.) (AB 1500)*

**7604.5. Pregnancy, Childbirth and Genetic Testing Bills as Evidence.** Notwithstanding any other provision of law, bills for pregnancy, childbirth, and genetic testing shall be admissible as evidence without third-party foundation testimony and shall constitute prima facie evidence of costs incurred for those services.

*(Added by Statutes 1997, Chapter 599.) (AB 573)*

**7605 Attorney’s Fees and Costs; Application for Award by Court; Grounds for Determination; Augmentation or Modification; Temporary Orders; Time for Determination of Application.** (a) In any proceeding to establish physical or legal custody of a child or a visitation order under this part, and in any proceeding subsequent to entry of a related judgment, the court shall ensure that each party has access to legal representation to preserve each party's rights by ordering, if necessary based on the income and needs assessments, one party, except a government entity, to pay to the other party, or to the other party's attorney, whatever amount is reasonably necessary for attorney's fees and for the cost of maintaining or defending the proceeding during the pendency of the proceeding.

(b) Whether one party shall be ordered to pay attorney's fees and costs for another party, and what amount shall be paid, shall be determined based upon (1) the respective incomes and needs of the parties, and (2) any factors affecting the parties' respective abilities to pay. A party who lacks the financial ability to hire an attorney may request, as an in pro per litigant, that the court order the other party, if that other party has the financial ability, to pay a reasonable amount to allow the unrepresented party to retain an attorney in a timely manner before proceedings in the matter go forward.

(c) Attorney's fees and costs within this section may be awarded for legal services rendered or costs incurred before or after the commencement of the proceeding.

(d) The court shall augment or modify the original award for attorney's fees and costs as may be reasonably necessary for the prosecution or defense of a proceeding described in subdivision (a), or any proceeding related thereto, including after any appeal has been concluded.

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(e) Except as provided in paragraph (g), an application for a temporary order making, augmenting, or modifying an award of attorney' s fees, including a reasonable retainer to hire an attorney, or costs, or both, shall be made by motion on notice or by an order to show cause during the pendency of any proceeding described in subdivision (a).

(f) The court shall rule on an application for fees under this section within 15 days of the hearing on the motion or order to show cause. An order described in subdivision (a) may be made without notice by an oral motion in open court at either of the following times:

(1) At the time of the hearing of the cause on the merits.

(2) At any time before entry of judgment against a party whose default has been entered pursuant to Section 585 or 586 of the Code of Civil Procedure. The court shall rule on any motion made pursuant to this subdivision within 15 days and prior to the entry of any judgment.

*(Added by Statutes of 2004, Chapter 472. ) (AB 2148)*

### Excerpts from CHAPTER 2. ESTABLISHING PARENT AND CHILD RELATIONSHIP

\* \* \*

**7610. Methods of Establishment.** The parent and child relationship may be established as follows:

(a) Between a child and the natural mother, it may be established by proof of her having given birth to the child, or under this part.

(b) Between a child and the natural father, it may be established under this part.

(c) Between a child and an adoptive parent, it may be established by proof of adoption.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**7611. Status as Natural Father; Presumption; Conditions.** A man is presumed to be the natural father of a child if he meets the conditions provided in Chapter 1 (commencing with Section 7540) or Chapter 3 (commencing with Section 7570) of Part 2 or in any of the following subdivisions:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a judgment of separation is entered by a court.

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

(2) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and either of the following is true:

(1) With his consent, he is named as the child's father on the child's birth certificate.

(2) He is obligated to support the child under a written voluntary promise or by court order.

(d) He receives the child into his home and openly holds out the child as his natural child.

## FAMILY CODE

(e) If the child was born and resides in a nation with which the United States engages in an Orderly Departure Program or successor program, he acknowledges that he is the child's father in a declaration under penalty of perjury, as specified in Section 2015.5 of the Code of Civil Procedure. This subdivision shall remain in effect only until January 1, 1997, and on that date shall become inoperative.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

\* \* \*

**7613. Artificial Insemination.** (a) If, under the supervision of a licensed physician and surgeon and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician and surgeon shall certify their signatures and the date of the insemination, and retain the husband's consent as part of the medical record, where it shall be kept confidential and in a sealed file. However, the physician and surgeon's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician and surgeon or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician and surgeon for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

**7614. Written Promise to Furnish Support; Enforcement; Confidentiality.** (a) A promise in writing to furnish support for a child, growing out of a presumed or alleged father and child relationship, does not require consideration and, subject to Section 7632, is enforceable according to its terms.

(b) In the best interest of the child or the mother, the court may, and upon the promissor's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

*(Statutes 1992, operative January 1, 1994, Chapter 162.) (AB 2650)*

## FAMILY CODE

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## GOVERNMENT CODE

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### GENERAL PROVISIONS (Approved April 13, 1943. In effect August 4, 1943.)

\* \* \*

**1. Title of Act.** This act shall be known as the Government Act.  
(*Statutes of 1943, Chapter 134.*)

\* \* \*

**8. Writing; English Language.** “Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.”  
(*Statutes of 1943, Chapter 134.*)

\* \* \*

**16. Signature or Subscription; Mark.** “Signature” or “subscription” includes mark when the signer or subscriber can not write, such signer’s or subscriber’s name being written near the mark by a witness who writes his own name near the signer’s or subscriber’s name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.  
(*Added by Statutes 1943, Chapter 134.*)

\* \* \*

**25.1. Age of Majority.** “The Legislature intends that any use or reference to the words “age of majority,” “adult,” “minor,” or words of similar intent in any instrument, order, transfer, or governmental communication whatsoever made in this state:

(a) Before March 4, 1972, shall make reference to persons 21 years of age and older, or younger than 21 years of age, and

(b) On or after March 4, 1972, shall make reference to persons 18 years of age and older, or younger than 18 years of age.

Nothing contained herein or in Chapter 1748 of the Statutes of 1971 shall prevent the amendment of any court order, will, trust, contract, transfer, or instrument to refer to the new 18-year-old age of majority where such court order, will, trust, contract, transfer, or instrument is:

(1) In existence on March 4, 1972; and

(2) Subject to amendment by law and where amendment is allowable or not prohibited by the terms thereof; and

(3) Otherwise subject to the laws of this state.

(*Added by Statutes 1973, Chapter 278.*)

\* \* \*

**33. Minors; Delegation of Powers; Incapacity.** “ A minor cannot give a delegation of power, make a contract relating to real property, or any interest therein, or relating to any personal property not in his immediate possession or control.”  
(*Amended by Statutes 1971, Chapter 1748.*)

**GOVERNMENT CODE**

**Excerpts from  
TITLE 1. GENERAL  
DIVISION 1. SOVEREIGNTY AND PEOPLE OF THE STATE**

**CHAPTER 1. SOVEREIGNTY OF THE STATE**

**Article 3. State Boundaries**

\* \* \*

**170. Coastal Boundary of State.** To give greater precision to the boundary of the State of California as defined in Article XXI of the Constitution, it is hereby declared that the part of the boundary which is described as "running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude," and as "including all the islands, harbors, and bays along and adjacent to the coast," runs and has in the past run three English nautical miles oceanward of lines drawn along the outer sides of the outermost of the islands, reefs and rocks along and adjacent to the mainland and across intervening waters; and where there are harbors, but no such outlying islands, reefs and rocks, it runs and in the past has run three English nautical miles oceanward of lines drawn in front of the harbors along the outermost works and installations thereof, and, in the case of all bays (including inlets and estuaries) three English nautical miles from lines drawn from headland to headland across the mouth of each bay, inlet and estuary, regardless of the length of the lines.

Where there are no outlying islands, reefs or rocks and no harbors or bays or inlets or estuaries, the boundary runs and has in the past run three English nautical miles oceanward of the lowest low-water mark on the shore.

*(Added by Statutes 1949, Chapter 65.)*

**Excerpts from  
CHAPTER 2. PEOPLE OF THE STATE**

**Article 1. General**

\* \* \*

**244. Determination of Place of Residence.** In determining the place of residence the following rules shall be observed:

(a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.

(b) There can only be one residence.

(c) A residence cannot be lost until another is gained.

(d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.

(e) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.

(f) The residence can be changed only by the union of act and intent.

(g) A married person shall have the right to retain his or her legal residence in the State of California notwithstanding the legal residence or domicile of his or her spouse.

*(Amended by Statutes 1976, Chapter 1436.)*

**GOVERNMENT CODE**

**Excerpts from  
DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES**

**CHAPTER 1. GENERAL**

**Article 7. Deputies and Subordinates**

\* \* \*

**1194. Powers and Duties.** When not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of his principal.  
*(Added by Statutes 1943, Chapter 134.)*

**Excerpts from  
DIVISION 7. MISCELLANEOUS**

**CHAPTER 2. FEES**

\* \* \*

**6100. Performance of Services; Officers; Notaries Public.** Officers of the state, or of a county or judicial district, shall not perform any official services unless upon the payment of the fees prescribed by law for the performance of the services, except as provided in this chapter.

This section shall not be construed to prohibit any notary public, except a notary public whose fees are required by law to be remitted to the state or any other public agency, from performing notarial services without charging a fee.

*(Amended by Statutes 1977, effective June 30, 1977, Chapter 179.)*

**6103. State and Political Subdivisions; Filing and Service Fees; Judgments for Agencies; Costs of Court Reporters.** Neither the state or any county, city, district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the state, or any county, city, district, or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or where it is specifically provided otherwise. No fee shall be charged for the filing of a confession of judgment in favor of any of the public agencies named in this section.

No fee shall be charged any of the public agencies named in this section to defray the costs of reporting services by court reporters.

Such fees shall be recoverable as costs as provided in Section 6103.5.  
*(Amended by Statutes 1978, Chapter 142.)*

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## GOVERNMENT CODE

**6103.9 Child Support of Child or Spouse Support Enforcement Proceedings; Exemption from Fees; Reimbursement of Costs; Plan of Cooperation.** (a) Notwithstanding any other provision of law, except as provided in this section, the local child support agency and the district attorney shall be exempt from the payment of any fees, including fees for service of process and filing fees, in any action or proceeding brought for the establishment of a child support obligation or the enforcement of a child or spousal support obligation.

(b) A court or courts may be reimbursed a county for those direct costs related to the establishment of a child support obligation or the enforcement of a child or spousal support obligation which have been agreed to pursuant to a plan of cooperation. Any reimbursement pursuant to a plan of cooperation shall not include any amount which is payable as a filing fee.

(c) For purposes of this section, a "plan of cooperation" includes an agreement entered into by a court and the administrative office of the courts of the California Judicial Council which provides for reimbursement for the cost of providing clerical and administrative support furnished by the court.

*(Added by Statutes 1976, Chapter 1034.)*

**6107. Veterans.** (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.

*(Amended by Statutes 2004, Chapter 6.) (AB 1179)*

## GOVERNMENT CODE

### Excerpts from CHAPTER 2.5. MEDIUM OF PAYMENT

\* \* \*

**6157. Personal Checks; Returned Check Charges.** (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to, and becoming a part of, an obligation, which constitutes a lien on real property, do not apply to obligations under the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).

*(Amended by Statutes 1992, Chapter 233.) (AB 2274)*

### Excerpts from CHAPTER 3. CRIMES RELATING TO PUBLIC RECORDS, DOCUMENTS, AND CERTIFICATES

\* \* \*

**6200. Offenses by Official Custodian.** Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his or her hands for any purpose, is punishable by imprisonment in the state prison for two, three, or four years if, as to the whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or permits any other person to do any of the following:

- (a) Steal, remove, or secrete.
- (b) Destroy, mutilate, or deface.
- (c) Alter or falsify.

*(Amended by Statutes 1990, Chapter 350.) (SB 2084)*

**6201. Theft, Destruction, Falsification or Removal by Person Other Than Officer Custodian.** Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment.

*(Amended by Statutes 1983, Chapter 1092, effective September 27, 1983, operative January 1, 1984.)*

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**6203. False Certificate or Writing by Officer.** Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he makes and delivers as true any certificate or writing containing statements, which he knows to be false.

*(Added by Statutes 1983, Chapter 134.)*

### **Excerpts from CHAPTER 3.1. ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE AND STALKING**

\* \* \*

**6205. Legislative Findings.** The Legislature finds that persons attempting to escape from actual or threatened domestic violence or stalking frequently establish new names or addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the changed name or location of a victim of domestic violence or stalking, to enable interagency cooperation with the Secretary of State in providing name and address confidentiality for victims of domestic violence or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the Secretary of State as a substitute mailing address.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6205.5. Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) "Address" means a residential street address, school address, or work address of an individual, as specified on the individual's application to be a program participant under this chapter.

(b) "Domestic violence" means an act as defined in Section 6211 of the Family Code.

(c) "Stalking" means an act as defined in Section 646.9 of the Penal Code.

(d) "Program participant" means a person certified as a program participant under Section 6206.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6206. Application to Have Address Designated by Secretary of State Serve as Person's Address; Adults or Persons Acting on Behalf of Minors or Incapacitated Persons; Certification of Program Participant.** (a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person may apply to the Secretary of State to have an address designated by the Secretary of State serve as the person's address or the address of the minor or incapacitated person. An application shall be completed in person at a community-based victims' assistance program. The application process shall include a requirement that the applicant shall meet with a victims' assistance counselor and receive orientation information about the program. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State and if it contains all of the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe both of the following:

(A) That the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence or stalking.

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(B) That the applicant fears for his or her safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(2) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, the application may be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Documentation from a domestic violence program if the person is alleged to be a victim of domestic violence.

(C) Documentation from a legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged domestic violence.

(D) Any other evidence that supports the sworn statement, such as a statement from any other individual with knowledge of the circumstances that provides the basis for the claim, or physical evidence of the act or acts of domestic violence.

(3) If the applicant alleges that the basis for the application is that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of stalking, the application shall be accompanied by evidence including, but not limited to, any of the following:

(A) Police, court, or other government agency records or files.

(B) Legal, clerical, medical, or other professional from whom the applicant or person on whose behalf the application is made has sought assistance in dealing with the alleged stalking.

(C) Any other evidence that supports the sworn statement, such as a sworn statement from any other individual with knowledge of the circumstances that provide the basis for the claim, or physical evidence of the act or acts of stalking.

(4) A statement of whether there are any existing court orders involving the applicant for child support, child custody, or child visitation, and whether there are any active court actions involving the applicant for child support, child custody, or child visitation, the name and address of legal counsel of record, and the last known address of the other parent or parents involved in those court orders or court actions.

(5) A designation of the Secretary of State as agent for purposes of service of process and for the purpose of receipt of mail.

(A) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the Office of the Secretary of State two copies of the summons, writ, notice, demand, or process.

(B) If a summons, writ, notice, demand, or process is served on the Secretary of State, the Secretary of State shall immediately cause a copy to be forwarded to the program participant at the address shown on the records of the address confidentiality program so that the summons, writ, notice, demand, or process is received by the program participant within three days of the Secretary of State's having received it.

(C) The Secretary of State shall keep a record of all summonses, writs, notices, demands, and processes served upon the Secretary of State under this section and shall record the time of that service and the Secretary of State's action.

(D) The office of the Secretary of State and any agent or person employed by the Secretary of State shall be held harmless from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants.

(6) The mailing address where the applicant can be contacted by the Secretary of State, and the phone number or numbers where the applicant can be called by the Secretary of State.

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(7) The address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic violence or stalking.

(8) The signature of the applicant and of any individual or representative of any office designated in writing under Section 6208.5 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(b) Applications shall be filed with the office of the Secretary of State.

(c) Upon filing a properly completed application, the Secretary of State shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall by rule establish a renewal procedure.

(d) Upon certification, in any case where there are court orders or court actions identified in paragraph (4) of subdivision (a) of Section 6206 and there is no other or superseding court order dictating the specific terms of communication between the parties, the Secretary of State shall, within 10 days, notify the other parent or parents of the address designated by the Secretary of State for the program participant and the designation of the Secretary of State as agent for purposes of service of process. The notice shall be given by mail, return receipt requested, postage prepaid, to the last known address of the other parent to be notified. A copy shall also be sent to that parent's counsel of record.

(e) A person who falsely attests in an application that disclosure of the applicant's address would endanger the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor. A notice shall be printed in bold type and in a conspicuous location on the face of the application informing the applicant of the penalties under this subdivision.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6206.4. Confidentiality of Name Changes; Responsibilities and Obligation of Secretary of State.** Secretary of State shall keep confidential name changes of program participants obtained pursuant to subdivision (b) of Section 1277 of the Code of Civil Procedure. The Secretary of State shall have the same responsibilities and obligations to program participants who have obtained a name change as to any other program participant under this chapter.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6206.5. Loss or Cancellation of Certification.** (a) The Secretary of State may cancel program participant's certification if there is a change in the residential address from the one listed on the application, unless the program participant provides the Secretary of State with at least seven days' prior notice of the change of address.

(b) The Secretary of State may cancel a program participant's certification if the program participant changes his or her name from the one listed in the application and fails to notify the Secretary of State of the name change within seven days of the change.

(c) The Secretary of State may cancel certification of a program participant if mail forwarded by the secretary to the program participant's address is returned as nondeliverable.

(d) The Secretary of State shall cancel certification of a program participant who applies using false information.

(e) Any records or documents pertaining to a program participant shall be retained and held confidential for a period of three years after termination of certification and then destroyed.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

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**6206.7. Withdrawal From Program; Termination of Certification by Program Manager; Notice.** (a) A program participant may withdraw from program participation by submitting to the address confidentiality program manager written notification of withdrawal and his or her current identification card. Certification shall be terminated on the date of receipt of this notification.

(b) The address confidentiality program manager may terminate a program participant's certification and invalidate his or her authorization card for any of the following reasons:

(1) The program participant's certification term has expired and certification renewal has not been completed.

(2) The address confidentiality program manager has determined that false information was used in the application process or that participation in the program is being used as a subterfuge to avoid detection of illegal or criminal activity or apprehension by law enforcement.

(3) The program participant no longer resides at the residential address listed on the application, and has not provided at least seven days' prior notice in writing of a change in address.

(4) A service of process document or mail forwarded to the program participant by the address confidentiality program manager is returned as non-deliverable.

(5) The program participant obtains a legal name change and fails to notify the Secretary of State within 7 days.

(c) If termination is a result of paragraph (1), (3), (4) or (5) of subdivision (b), the address confidentiality program manager shall send written notification of the intended termination to the program participant. The program participant shall have five business days in which to appeal the termination under procedures developed by the Secretary of State.

(d) The address confidentiality program manager shall notify in writing the county elections official and authorized personnel of the appropriate county clerk's office, county recording office, and department of health of the program participant's certification withdrawal, invalidation, expiration, or termination.

(e) Upon receipt of this termination notification, authorized personnel shall transmit to the address confidentiality program manager all appropriate administrative records pertaining to the program participant and the record transmitting agency is no longer responsible for maintaining the confidentiality of a terminated program participant's record.

(f) Following termination of program participant certification as a result of subdivision (b), the address confidentiality program manager may disclose information contained in the participant's application.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6207. Use of Substitute Address by State and Local Agencies; Mail Forwarding.** (a) A program participant may request that state and local agencies use the address designated by the Secretary of State as his or her address. When creating a public record, state and local agencies shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined both of the following:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address, which would otherwise be confidential under this chapter.

(2) This address will be used only for those statutory and administrative purposes and shall not be publicly disseminated.

(b) A program participant may request that state and local agencies use the address designated by the Secretary of State as his or her address. When modifying or maintaining a public record, excluding the record of any birth, fetal death, death, or marriage registered under Division 102 (commencing with Section 102100) of the Health and Safety Code, state and local agencies shall

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accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined both of the following:

(1) The agency has a bona fide statutory or administrative requirement for the use of the address, which would otherwise be confidential under this chapter.

(2) This address will be used only for those statutory and administrative purposes and shall not be publicly disseminated.

(c) A program participant may use the address designated by the Secretary of State as his or her work address.

(d) The office of the Secretary of State shall forward all first-class mail and all mail sent by a governmental agency to the appropriate program participants. The office of the Secretary of State shall not handle or forward packages regardless of size or type of mailing.

(e) Notwithstanding subdivisions (a) and (b), program participants shall comply with the provisions specified in subdivision (d) of Section 1808.21 of the Vehicle Code if requesting suppression of the records maintained by the Department of Motor Vehicles. Program participants shall also comply with all other provisions of the Vehicle Code relating to providing current address information to the department.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6207.5. Voting.** A program participant who is otherwise qualified to vote may seek to register and vote in a confidential manner pursuant to Section 2166.5 of the Elections Code.

*(Repealed and Added by Statutes 1998, Chapter 1005.) (AB 489)*

**6208. Disclosure of Participant's Address.** The Secretary of State may not make a program participant's address, other than the address designated by the Secretary of State, or a program participant's name change available for inspection or copying, except under any of the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency.

(b) If directed by a court order, to a person identified in the order.

(c) If certification has been canceled.

*(Amended by Statutes 2000, Chapter 33.) (AB 205)*

**6208.5. Designation of Agencies to Assist Applicants.** The Secretary of State shall designate state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of domestic violence or stalking to assist persons applying to be program participants. Any assistance and counseling rendered by the office of the Secretary of State or its designees to applicants shall in no way be construed as legal advice.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6209. Adoption of Rules.** The Secretary of State may adopt rules to facilitate the administration of this chapter by state and local agencies.

*(Repealed and Added by Statutes 1998, Chapter 1005.) (AB 489)*

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**6209.7. Custody and Visitation Orders.** (a) Nothing in this chapter, nor participation in this program, affects custody or visitation orders in effect prior to or during program participation. A program participant who falsifies his or her location in order to unlawfully avoid custody or visitation orders is subject to immediate termination from the program and is guilty of a misdemeanor.

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(b) Participation in the program does not constitute evidence of domestic violence or stalking for purposes of making custody or visitation orders.

*(Amended by Statutes 2000, Chapter 562.) (SB 1318)*

**6210. Report to Legislature; Commencement of Program.** (a) Notwithstanding Section 7550.5, the Secretary of State shall submit to the Legislature, no later than January 10 of each year, a report that includes the total number of applications received for the program established by this chapter. The report shall disclose the number of program participants within each county and shall also describe any allegations of misuse relating to election purposes.

(b) The Secretary of State shall commence accepting applications and other activities under this program on July 1, 1999.

(c) Notwithstanding Section 7550.5, the Secretary of State shall submit to the Legislature by January 1, 2004, a report that includes the total number of pieces of mail forwarded to program participants, the number of program participants during the program's duration, the number of program participants who obtained a confidential name change pursuant to subdivision (b) of Section 1277 of the Code of Civil Procedure, the average length of time a participant remains in the program, and the targeted code changes needed to improve the program's efficiency and cost-effectiveness.

*(Amended by Statutes 2000, Chapter 33.) (AB 205)*

**6211. Duration of Chapter.** This chapter shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

*(Repealed and Added by Statutes 1998, Chapter 1005.) (AB 489)*

### Excerpts from CHAPTER 3.5 INSPECTION OF PUBLIC RECORDS

#### Article 1. General Provisions

\* \* \*

**6250. Legislative Findings and Declarations.** In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state

*(Amended by Statutes 1970, Chapter 575.)*

**6251. California Public Records Act.** This chapter shall be known and may be cited as the California Public Records Act.

*(Added by Statutes 1968, Chapter 1473.)*

**6252. Definitions.** As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or

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agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the governor's office means any writing prepared on or after January 6, 1975.

(f) "Writing" means any handwriting, typewriting, printing, Photostatting, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(g) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

*(Amended by Statutes 2002, Chapter 1073.) (AB 2937)*

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**6252.5. Elected Member or Officer of State or Local Agency.** Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

*(Added by Statutes 1998, Chapter 620.) (SB 143)*

**6253. Public Records Open to Inspection; Agency Duties; Time Limits.** (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

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(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

*(Amended by Statutes 1999, Chapter 83.) (SB 966)*

**6253.4. Agency Regulations and Guidelines.** (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

- Department of Motor Vehicles
- Department of Consumer Affairs
- Department of Transportation
- Department of Real Estate
- Department of Corrections
- Department of the Youth Authority
- Department of Justice
- Department of Insurance
- Department of Corporations
- Department of Managed Health Care
- Secretary of State
- State Air Resources Board
- Department of Water Resources
- Department of Parks and Recreation
- San Francisco Bay Conservation and Development Commission
- State Board of Equalization
- State Department of Health Services
- Employment Development Department
- State Department of Social Services
- State Department of Mental Health
- State Department of Developmental Services
- State Department of Alcohol and Drug Abuse
- Office of Statewide Health Planning and Development
- Public Employees' Retirement System
- Teachers' Retirement Board

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Department of Industrial Relations  
Department of General Services  
Department of Veterans Affairs  
Public Utilities Commission  
California Coastal Commission  
State Water Resources Control Board  
San Francisco Bay Area Rapid Transit District  
All regional water quality control boards  
Los Angeles County Air Pollution Control District  
Bay Area Air Pollution Control District  
Golden Gate Bridge, Highway and Transportation District  
Department of Toxic Substances Control  
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

*(Amended by Statutes 1999, Chapter 525.) (AB 78)*

**6253.9. Information in an Electronic Format; Costs; Application; Availability.** (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would

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jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

*(Added by Statutes 2000, Chapter 982.) (AB 2799)*

**6254. Exemption of Particular Records.** Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

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Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.



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(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary, provided that public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into

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contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 32000) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

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(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program that are related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or, financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations,

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meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(bb) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Homeland Security for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(cc) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

*(Amended by Statutes 2005, Chapter 670.) (SB 922)*

**6254.1. Disclosure of Residence or Mailing Address.** (a) Except as provided in Section 6254.7, nothing in this chapter requires disclosure of records that are the residence address of any person contained in the records of the Department of Housing and Community Development, if the person has requested confidentiality of that information, in accordance with Section 18081 of the Health and Safety Code.

(b) Nothing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the Department of Motor Vehicles except in accordance with Section 1808.21 of the Vehicle Code.

(c) Nothing in this chapter requires the disclosure of the results of a test undertaken pursuant to Section 12804.8 of the Vehicle Code.

*(Amended by Statutes 1993, Chapter 546.) (AB 2284)*

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**6254.5. Disclosure of Public Record; Waiver of Exemption; Agency; Application of Section.** Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254, 6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

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- (b) Made through other legal proceedings or as otherwise required by law.
  - (c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.
  - (d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.
  - (e) Made to any governmental agency, which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.
  - (f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.
  - (g) Of records relating to any person that is subject to the jurisdiction of the Department of Corporations, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Corporations.
  - (h) Made by the Commissioner of Financial Institutions under Section 1909, 8009, or 18396 of the Financial Code.
  - (i) Of records relating to any person that is subject to the jurisdiction of the Department of Managed Care, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.
- (Amended by Statutes 1996, operative July 1, 1997, Chapter 1064.) (AB 3351)*

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**6254.8. Employment Contracts Between State or Local Agency and Public Official or Employee; Public Record.** Every employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the provisions of Sections 6254 and 6255.

*(Added by Statutes 1974, Chapter 1198.)*

**6254.9. Computer Software; Status as Public Record; Sale, Lease, or License Authorized; Limitations.** (a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

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(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

*(Added by Statutes 1988, Chapter 447.)*

**6255. Justification for Withholding of Records.** (a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

*(Amended by Statutes 2000, Chapter 982.) (AB 2799)*

\* \* \*

**6257.5. Purpose of Request for Disclosure; Effect.** This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

*(Added by Statutes 1998, Chapter 1049.) (SB 2174)*

**6258. Proceedings to Enforce Right to Inspect or to Receive Copy of Record.** Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

*(Amended by Statutes 1990, Chapter 908.) (SB 2272)*

**6259. Order of Court; Contempt; Court Costs and Attorney's Fees.** (a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such

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further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

*(Amended by Statutes 1993, Chapter 926.) (AB 2205)*

**6260. Effect of Chapter on Prior Rights and Proceedings.** The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

*(Amended by Statutes 1976, Chapter 314.)*

**6261. Itemized Statement of Total Expenditures and Disbursement of any Agency.** Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

*(Added by Statutes 1975, Chapter 1246.)*

**6262. Exemption of Records of Complaints to, or Investigations by, any State or Local Agency for Licensing Purposes; Inapplicability to District Attorney.** The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

*(Added by Statutes 1979, Chapter 601.)*

**6263. District Attorney; Inspection or Copying of Nonexempt Public Record.** A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

*(Added by Statutes 1979, Chapter 601.)*

**6264. Order to Allow District Attorney to Inspect or Copy Records.** The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

*(Added by Statutes 1979, Chapter 601.)*

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**6265. Disclosure of Records to District Attorney; Status of Records.** Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

*(Added by Statutes 1979, Chapter 601.)*

\* \* \*

**6270. Sale, Exchange or Otherwise Providing Records Subject to Disclosure to Private Entities; Prohibition; Exception.** (a) Notwithstanding any other provision of law, no state or local agency shall sell, exchange, furnish, or otherwise provide a public record subject to disclosure pursuant to this chapter to a private entity in a manner that prevents a state or local agency from providing the record directly pursuant to this chapter. Nothing in this section requires a state or local agency to use the State Printer to print public records. Nothing in this section prevents the destruction of records pursuant to law.

(b) This section shall not apply to contracts entered into prior to January 1, 1996, between the County of Santa Clara and a private entity for the provision of public records subject to disclosure under this chapter.

*(Added by Statutes 1995, Chapter 108.) (AB 141)*

### Excerpts from CHAPTER 7. HOLIDAYS

\* \* \*

**6700. State Holidays; Memorandum of Understanding; Altered Holidays.** The holidays in this state are:

- (a) Every Sunday.
- (b) January 1st.
- (c) The third Monday in January, known as "Dr. Martin Luther King, Jr. Day."
- (d) February 12th, known as "Lincoln Day."
- (e) The third Monday in February.
- (f) March 31st known as "Cesar Chavez Day."
- (g) The last Monday in May.
- (h) July 4th.
- (i) The first Monday in September.
- (j) September 9th, known as "Admission Day."
- (k) The second Monday in October, known as "Columbus Day."
- (l) November 11th, known as "Veterans Day."
- (m) December 25th.
- (n) Good Friday from 12 noon until 3 p.m.
- (o) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision and subdivisions (c) and (f) shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of



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funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

*(Amended by Statutes 1985, Chapter 1450, operative January 1, 1989.)*

**6701. Holidays Falling on Saturdays and Sundays.** If January 1st, February 12th, March 31st, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution provide that an alternate day shall be a holiday for the employees of the county, except those employees of the county working as court attaches.

*(Amended by Statutes 2002, Chapter 784.) (SB 1316)*

**6702. Saturday Half-Holiday; Closing City Offices on Holidays.** Every Saturday from noon to midnight is a holiday as regards the transaction of business in the public offices of the state and political divisions where laws, ordinances, or charters provide that public offices shall be closed on holidays. This section shall not be construed to prevent or invalidate the issuance, filing, service, execution, or recording of any legal process or written instrument during such period. Public offices of a city shall be closed on those holidays enumerated in Section 6700 unless otherwise provided by charter, ordinance or resolution.

*(Amended by Statutes 1970, Chapter 565.)*

**6703. Admission Day; Veteran's Day.** Public offices of the State, state institutions, and the University of California shall be closed on Admission Day. Public offices of the State and state institutions, except the University of California, shall be closed on Veterans Day.

*(Amended by Statutes 1955, Chapter 235.)*

**6704. Cities or Districts; Saturday as Holiday.** The legislative body of any city or district may, by ordinance or resolution, provide that every Saturday is a holiday as respects the transaction of business in the public offices of such cities or districts except that provision shall be made for the continuance of essential public services such as police and fire protection.

*(Amended by Statutes 2002, Chapter 784.) (SB 1316)*

### Excerpts from CHAPTER 8. COMPUTATION OF TIME

\* \* \*

**6800. First and Last Days.** The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

*(Amended by Statutes 1984, Chapter 295.)*

**6801. Gregorian Computation; First Day of Year.** Time is computed according to the Gregorian or new style; and January 1st, in every year, after 1752 is reckoned as the first day of the year.

*(Added by Statutes 1951, Chapter 655.)*

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**6802. Leap Years.** The years 1900, 2100, 2200, 2300, or any other future hundredth year, of which the year 2000 is the first, except only every fourth hundredth year, are not leap years, but common years of 365 days. The years 2000, 2400, 2800, and every other fourth hundredth year thereafter 2000 and every fourth year, except as provided in this section, which, by usage in this State is considered a leap year, is a leap year consisting of 366 days.

*(Amended by Statutes 1985, operative January 1, 1989, Chapter 1450.)*

**6803. Year; Half Year; Quarter of a Year.** “Year” means a period of 365 days; “half year,” 182 days; “quarter of a year,” 91 days. The added day of a leap year, and the day immediately preceding, if they occur in any such period, shall be reckoned together as one day.

*(Added by Statutes 1951, Chapter 655.)*

**6804. Month.** “Month” means a calendar month, unless otherwise expressed.

*(Added by Statutes 1951, Chapter 655.)*

**6805. Week.** A week consists of seven consecutive days.

*(Added by Statutes 1951, Chapter 655.)*

**6806. Day.** A day is a period of time between any midnight and the midnight following.

*(Added by Statutes 1951, Chapter 655.)*

**6807. Daytime; Nighttime.** “Daytime” is the period of time between sunrise and sunset. “Nighttime” is the period between sunset and sunrise.

*(Added by Statutes 1951, Chapter 655.)*

**6807-1. Daylight Savings Time Act.** This act shall be known and may be cited as the Daylight Savings Time Act.

*(Initiative Measure, Statutes of 1951, effective December 10, 1949, operative April 30, 1995.)*

**6807-2. Standard Time.** The standard time within the State, except as hereinafter provided, is that of the One Hundred and Twentieth (120th) degree of longitude west from Greenwich and which is now known, described and designated by Act of Congress as “United States Standard Pacific Time.”

*(Initiative Measure, Statutes of 1950, effective December 10, 1949, operative April 30, 1950.)*

### Excerpts from TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

#### DIVISION 1. GENERAL

#### CHAPTER 3. NOTARIES PUBLIC

\* \* \*

**8209. Resignation, Disqualification or Removal of Notary; Records Delivered to Clerk; Misdemeanor; Death; Destruction of Records.** (a) If any notary public resigns, is disqualified, removed from office, or allows his or her appointment to expire without obtaining reappointment within 30 days, all notarial records and papers shall be delivered within 30 days to the clerk of the county in which the notary public's current official oath of office is on file. If the notary

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public willfully fails or refuses to deliver all notarial records and papers to the county clerk within 30 days, the person is guilty of a misdemeanor and shall be personally liable for damages to any person injured by that action or inaction.

(b) In the case of the death of a notary public, the personal representative of the deceased shall promptly notify the Secretary of State of the death of the notary public and shall deliver all notarial records and papers of the deceased to the clerk of the county in which the notary public's official oath of office is on file.

(c) After 10 years from the date of deposit with the county clerk, if no request for, or reference to such records has been made, they may be destroyed upon order of court.

*(Amended by Statutes 1982, Chapter 1543.)*

\* \* \*

**8214.1. Grounds for Refusal, Revocation or Suspension of Commission.** The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(a) Substantial and material misstatement or omission in the application submitted to the Secretary of State.

(b) Conviction of a felony, a lesser offense involving moral turpitude or a lesser offense of a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(c) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct for dishonesty, or for any cause substantially relating to the duties or responsibilities of a notary public.

(d) Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.

(e) When adjudged liable for damages in any suit grounded in fraud, misrepresentation, or violation of the state regulatory laws or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.

(f) The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights, or privileges that he or she does not possess by law.

(g) The practice of law in violation of Section 6125 of the Business and Professions Code.

(h) Charging more than the fees prescribed by this chapter.

(i) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.

(j) Failure to complete the acknowledgment at the time the notary's signature and seal are affixed to the document.

(k) Failure to administer the oath or affirmation as required by paragraph (3) of subdivision (a) of Section 8205.

(l) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(m) Violation of Section 8223.

(n) Failure to submit any remittance payable upon demand by the Secretary of State under this chapter or failure to satisfy any court ordered money judgment, including restitution.

(o) Failure to secure the sequential journal of official acts, pursuant to Section 8206, or the official seal, pursuant to Section 8207.

(p) Violation of Section 8219.5.

*(Amended by Statutes 1998, Chapter 879.) (SB 2230)*

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### Excerpts from DIVISION 3. EXECUTIVE DEPARTMENT

#### PART 4. CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

#### CHAPTER 5. INDEMNIFICATION OF VICTIMS OF CRIME

##### Article 6. Administration

**13962. Review, Verification, and Consideration of Application.** (a) The board shall publicize through the board, law enforcement agencies, victim centers, hospitals, medical, mental health or other counseling service providers, and other public or private agencies, the existence of the program established pursuant

to this chapter, including the procedures for obtaining compensation under the program.

(b) It shall be the duty of every local law enforcement agency to inform crime victims of the provisions of this chapter, of the existence of victim centers, and in counties where no victim center exists, to provide application forms to victims who desire to seek compensation pursuant to this chapter. The board shall provide application forms and all other documents that local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with victim centers, shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply with the standards.

*(Amended by Statutes 1996, Chapter 1077.) (AB 2898)*

##### Excerpt from

#### PART 5.5. DEPARTMENT OF GENERAL SERVICES CHAPTER 5.5. STATE FORMS MANAGEMENT

**14771. Duties of Director.** (a) The director, through the forms management center, shall do all of the following:

(1) Establish a State Forms Management Program for all state agencies, and provide assistance in establishing internal forms management capabilities.

(2) Study, develop, coordinate and initiate forms of interagency and common administrative usage, and establish basic state design and specification criteria to effect the standardization of public-use forms.

(3) Provide assistance to state agencies for economical forms design and forms artwork composition and establish and supervise control procedures to prevent the undue creation and reproduction of public-use forms.

(4) Provide assistance, training, and instruction in forms management techniques to state agencies, forms management representatives, and departmental forms coordinators, and provide direct administrative and forms management assistance to new state organizations as they are created.

(5) Maintain a central cross index of public-use forms to facilitate the standardization of these forms, to eliminate redundant forms, and to provide a central source of information on the usage and availability of forms.

(6) Utilize appropriate procurement techniques to take advantage of competitive bidding, consolidated orders, and contract procurement of forms, and work directly with the Office of

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State Publishing toward more efficient, economical and timely procurement, receipt, storage, and distribution of state forms.

(7) Coordinate the forms management program with the existing state archives and records management program to ensure timely disposition of outdated forms and related records.

(8) Conduct periodic evaluations of the effectiveness of the overall forms management program and the forms management practices of the individual state agencies, and maintain records which indicate net dollar savings which have been realized through centralized forms management.

(9) Develop and promulgate rules and standards to implement the overall purposes of this section.

(10) Create and maintain by July 1, 1986, a complete and comprehensive inventory of public-use forms in current use by the state.

(11) Establish and maintain, by July 1, 1986, an index of all public-use forms in current use by the state.

(12) Assign, by January 1, 1987, a control number to all public-use forms in current use by the state.

(13) Establish a goal to reduce the existing burden of state collections of public information by 30 percent by July 1, 1987, and to reduce that burden by an additional 15 percent by July 1, 1988.

(14) Notwithstanding any other provision of law, including, but not limited to, Section 14774, provide notice to state agencies, forms management representatives, and departmental forms coordinators, that in the usual course of reviewing and revising all public-use forms that refer to or use the terms spouse, husband, wife, father, mother, marriage, or marital status, that appropriate references to state-registered domestic partner, parent, or state-registered domestic partnership are to be included.

(15) Delegate implementing authority to state agencies where the delegation will result in the most timely and economical method of accomplishing the responsibilities set forth in this section.

The director, through the forms management center, may require any agency to revise any public-use form which the director determines is inefficient.

(b) Due to the need for tax forms to be available to the public on a timely basis, all tax forms, including returns, schedules, notices, and instructions prepared by the Franchise Tax Board for public use in connection with its administration of the Personal Income Tax Law, Senior Citizens Property Tax Assistance and Postponement Law, Bank and Corporation Tax Law, and the Political Reform Act of 1974 and the State Board of Equalization's administration of county assessment standards, state-assessed property, timber tax, sales and use tax, hazardous substances tax, alcoholic beverage tax, cigarette tax, motor vehicle fuel license tax, use fuel tax, energy resources surcharge, emergency telephone users surcharge, insurance tax, and universal telephone service tax shall be exempt from subdivision (a), and, instead, each board shall do all of the following:

(1) Establish a goal to standardize, consolidate, simplify, efficiently manage, and, where possible, reduce the number of tax forms.

(2) Create and maintain, by July 1, 1986, a complete and comprehensive inventory of tax forms in current use by the board.

(3) Establish and maintain, by July 1, 1986, an index of all tax forms in current use by the board.

(4) Report to the Legislature, by January 1, 1987, on its progress to improve the effectiveness and efficiency of all tax forms. (c) The director, through the forms management center, shall develop and maintain, by December 31, 1995, an ongoing master inventory of all nontax

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reporting forms required of businesses by state agencies, including a schedule for notifying each state agency of the impending expiration of certain report review requirements pursuant to subdivision (b) of Section 14775.

*(Amended by Statutes 2004, operative January 1, 2006, Chapter 947.) (AB 2580)*

### Excerpt from TITLE 3. GOVERNMENT OF COUNTIES

#### DIVISION 2. OFFICERS

#### PART 1. OFFICERS GENERALLY

#### CHAPTER 1. COUNTY OFFICERS

\* \* \*

**24010. Medical Examiner; Abolition of Office of Coroner.** Notwithstanding any other provision of law, the board of supervisors may by ordinance abolish the office of coroner and provide instead for the office of medical examiner, to be appointed by the said board and to exercise the powers and perform the duties of the coroner. The medical examiner shall be a licensed physician and surgeon duly qualified as a specialist in pathology.

*(Added by Statutes 1969, Chapter 1398.)*

### Excerpt from CHAPTER 6. OFFICES AND OFFICE HOURS

\* \* \*

**24260. Supervisors to Fix Business Hours of County Offices.** In all counties county officers shall keep their offices open for the transaction of business during such hours and on such days as are fixed by the board of supervisors by ordinance or resolution.

*(Amended by Statutes 1974, Chapter 661.)*

### Excerpts from CHAPTER 7. CONSOLIDATION OF OFFICES

\* \* \*

**24300. Consolidation Authorized; Term of Office; Vacancies.** By ordinance the board of supervisors may consolidate the duties of certain of the county offices in one or more of these combinations:

- (a) Sheriff and tax collector.
- (b) Auditor and recorder.
- (c) County clerk, auditor, and recorder.
- (d) County clerk and public administrator.
- (e) County clerk and recorder.
- (f) County clerk and auditor.
- (g) Treasurer and tax collector.
- (h) Treasurer and recorder.
- (i) Treasurer and assessor.

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- (j) Treasurer and public administrator.
- (k) Public administrator and coroner.
- (l) District attorney and public administrator.
- (m) District attorney and coroner.
- (n) Sheriff and coroner.
- (o) Sheriff and public administrator.
- (p) County agricultural commissioner and county sealer of weights and measures.
- (q) Road commissioner and surveyor. A county may create an office entitled public works director, combining the duties of road commissioner and surveyor and any other compatible duties not legally required to be performed by another county officer.
- (r) County surveyor and director of transportation.

By the ordinance that consolidates the duties of the appointive county offices described in subdivision (p), notwithstanding Section 2122 and Sections 2181 to 2187, inclusive, of the Food and Agricultural Code, and Sections 12200 and 12214 of the Business and Professions Code, the board of supervisors may provide that the first term only of the newly consolidated office expires when the first of the remaining unexpired terms of the two unconsolidated offices would have expired. Where a vacancy in either of the unconsolidated offices exists the term of office of the newly consolidated office shall be the longer of the remaining unexpired terms.

*(Amended by Statutes 1987, Chapter 544.) (AB 443)*

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### **24304. Counties of Thirteenth to Fifty-Eight Classes; Offices Subject to Consolidation.**

Notwithstanding the provisions of Section 24300, in counties of the 13th to 58th classes, inclusive, the board of supervisors by ordinance may consolidate the duties of certain of the county offices in one or more of these combinations:

- (a) Sheriff and tax collector.
- (b) Auditor and recorder.
- (c) County clerk, auditor, and recorder.
- (d) County clerk and public administrator.
- (e) County clerk and recorder.
- (f) County clerk and auditor.
- (g) Treasurer and tax collector.
- (h) Treasurer and recorder.
- (i) Treasurer and assessor.
- (j) Treasurer and public administrator.
- (k) Public administrator and coroner.
- (l) District attorney and public administrator.
- (m) District attorney and coroner.
- (n) Sheriff and coroner.
- (o) Sheriff and public administrator.
- (p) County agricultural commissioner and county sealer of weights and measures.
- (q) County clerk and tax collector.
- (r) Treasurer, tax collector, and recorder.
- (s) Sheriff, tax collector, and coroner.
- (t) Coroner and health officer.
- (u) Road commissioner and surveyor. A county may create an office entitled public works director, combining the duties of road commissioner and surveyor and any other compatible duties not legally required to be performed by another county officer.
- (v) Sheriff, coroner, and public administrator.

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- (w) Treasurer, tax collector, and public administrator.
- (x) County clerk, assessor, and recorder.
- (y) Assessor and recorder.
- (z) Tax collector/county clerk and treasurer.

*(Amended by Statutes 1993, Chapter 1195.) (SB 405)*

**24304.1. Consolidation of Offices of County Clerk, Assessor and Recorder, and/or Sheriff, Coroner and Public Administrator.** Notwithstanding the provisions of Section 24300, in counties of the 11th class, the board of supervisors by ordinance may consolidate the duties of certain of the county offices, in one or both of these combinations:

- (a) County clerk, assessor, and recorder.
- (b) Sheriff, coroner, and public administrator.

*(Added by Statutes 1997, operative October 6, 1997, Chapter 703)*

**24304.2 Sonoma County and Tulare County; Consolidation of Duties of Auditor-Controller and Treasurer-Tax Collector.** Notwithstanding Section 24300, in Sonoma County and Tulare County, the board of supervisors, by ordinance, may consolidate the duties of the offices of Auditor-Controller and Treasurer-Tax Collector into the elected office of Auditor-Controller-Treasurer-Tax Collector.

*(Added by Statutes 2005, Chapter 407.) (AB 443)*

### Excerpts from CHAPTER 13. MISCELLANEOUS POWERS

\* \* \*

**26202. Destruction of Old Records.** The board may authorize the destruction or disposition of any record, paper, or document which is more than two years old and which was prepared or received in any manner other than pursuant to a state statute or county charter. The board may authorize the destruction or disposition of any record, paper or document which is more than two years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the board determines by four-fifths (4/5) vote that the retention of any such record, paper or document is no longer necessary or required for county purposes. Such records, papers or documents need not be photographed, reproduced or microfilmed prior to destruction and no copy thereof need be retained.

*(Amended by Statutes 1963, Chapter 1123.)*

\* \* \*

**26205.1. Destruction of Non-Judicial Public Records, Documents, etc.** (a) The county officer having custody of non-judicial public records, documents, instruments, books, and papers may cause to be destroyed any or all of the records, documents, instruments, books, and papers if all of the following conditions exist:

(1) The board of supervisors of the county has adopted a resolution authorizing the county officer to destroy records, documents, instruments, books, and papers pursuant to this subdivision. The resolution may impose conditions, in addition to those specified in this subdivision, that the board of supervisors determines are appropriate.

(2) The county officer who destroys any record, document, instrument, book, or paper pursuant to the authority granted by this subdivision and a resolution of the board of supervisors adopted



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pursuant to paragraph (1) shall maintain for the use of the public a photographic or microphotographic film, electronically recorded video production, a record contained in the electronic data processing system, a record recorded on optical disk, a record recorded by any other medium that does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed.

(3) The record, paper or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk or reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) Paragraphs (2) and (3) of subdivision (a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records that are not expressly required by law to be filed and preserved.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

(c) The county clerk having custody of the original or a copy of the articles of any corporation may cause the destruction of any or all the documents. "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, certificate of incorporation, certificates of determination of preferences, dissolution certificates, merger certificates, and agreements of consolidation or merger.

(d) Notwithstanding any other provision of this section, destruction of the original records, papers, or documents is not authorized when the method of reproduction pursuant to this section is reproduction of electronically recorded video images on magnetic surfaces unless a duplicate videotape of the images is separately maintained. A duplicate copy of a record contained in the electronic data processing system, on optical disk, or on any other medium that does not permit additions, deletions, or changes to the original document shall also be separately maintained.

*(Amended by Statutes 2000, Chapter 569.) (SB 2067)*

**26205.5. Destruction of Records in Recorder's Custody; Conditions.** At the request of the county recorder, the board of supervisors of any county may authorize the destruction of any or all of the filed papers or record books created by handwriting, typing on printed forms, by typewriting, or by photographic methods, in the recorder's official custody, if all of the following conditions are complied with:

(a) The record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk, reproduced on film or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document, or reproduced under the direction and control of the county recorder on film, optical disk, or any other medium in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(b) The device used to reproduce the record, paper, or document on film, optical disk, or any other medium is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions, or changes to the original document images.

(c) The photographs, microphotographs, or other reproductions on film, optical disk, or any other medium are made as accessible for public reference as the original records were.

(d) A true copy of archival quality of the film, optical disk, or any other medium reproductions shall be kept in a safe and separate place for security purposes.

## GOVERNMENT CODE

However, no page of any record, paper, or document shall be destroyed if any page cannot be reproduced on film with full legibility. Every unreproducible page shall be permanently preserved in a manner that will afford easy reference.

For the purposes of this section, every reproduction shall be deemed to be an original record and a transcript, exemplification, or certified copy of any reproduction shall be deemed to be a transcript, exemplification, or certified copy, as the case may be, of the original.

*(Amended by Statutes 2000, Chapter 569.) (SB 2067)*

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### **26205.7. Handwritten Records: Historical Value; Notice to the Secretary of State.**

Recognizing that certain early created handwritten records of the county recorder may be of historical value, the recorder shall, prior to destroying any of his handwritten records under the authority granted in Section 26205.5, notify the Secretary of State of his intention to destroy or dispose of such records. The Secretary of State shall have 90 days to request the transfer of such records. If the Secretary of State does not request the transfer of such records, the county recorder may destroy them pursuant to Section 26205.5.

*(Added by Statutes 1972, Chapter 187.)*

## **Excerpts from PART 3. OTHER OFFICERS**

### **Chapter 3. County Clerk**

#### **Article 2. Fees**

\* \* \*

**26826. Filing First Paper on Behalf of Defendant and Others; Fees; Paper not to Include Certain Items.** (a) The total fee for filing the first paper in the action described in Section 26820.4 on behalf of any defendant, intervenor, respondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer shall be one hundred eighty-two dollars (\$182).

(b) As used in this section, the term "paper" does not include any of the following:

(1) A stipulation for the appointment of a temporary judge or of a court investigator, or the report made by the court investigator.

(2) The declaration of a spouse filed in an order to show cause proceeding.

(3) A marital settlement agreement which is signed by a defaulted respondent and intended for incorporation in a proposed decree of dissolution of marriage.

(4) A stipulation regarding the date of termination of the marital status when the court has retained jurisdiction over that date.

(5) A document relating to a stipulated post-judgment modification of child support.

(6) A stipulation to modify a marital settlement agreement which was signed by a defaulted respondent and incorporated in a decree of dissolution if the stipulation is presented by the petitioner.

*(Amended by Statutes 1998, effective September 28, 1998, Chapter 931.)*

\* \* \*

## GOVERNMENT CODE

**26832. Marriage Dissolution Record; Certified Copies.** (a) Notwithstanding the fee authorized by Section 26833, a fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Three dollars (\$3) of any six-dollar (\$6) fee shall be transmitted monthly by each county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(b) As used in this section, "marriage dissolution record" means the judgment.  
*(Amended by Statutes 1992, operative January 1, 1994, Chapter 163.) (AB 2641)*

**26832.1. Marriage Dissolution Record; Public Agency Applicants.** (a) Notwithstanding the fee authorized by Section 26833.1, a fee of five dollars (\$5) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record that the agency is required to obtain in the ordinary course of business. A fee of ten dollars (\$10) shall be paid by any other applicant for a certified copy of a marriage dissolution record. Five dollars (\$5) of any ten dollar (\$10) fee shall be transmitted monthly by each clerk of the court to the state for deposit into the Family Law Trust Fund as provided by Section 1852 of the Family Code.

(b) As used in this section, "marriage dissolution record" means the judgment.

(c) Notwithstanding Section 68085, three dollars (\$3) of the five dollar (\$5) fee and three dollars (\$3) of the ten dollar (\$10) fee authorized in subdivision (a) shall be deposited in the county general fund for use as county general fund revenue.

*(Added by Statutes 1997, Chapter 850.) (AB 233)*

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**26833.1. Certified Copies of Paper on File in Clerk of Court's Office.** The fee for certifying a copy of any paper, record, or proceeding on file in the office of the clerk of any court is six dollars (\$6). For every certificate the fee for which is not otherwise fixed, the fee is six dollars (\$6). Notwithstanding Section 68085, one dollar and seventy-five cents (\$1.75) of the fee authorized in this section shall be deposited in the county general fund for use as county general fund revenue.

*(Added by Statutes 1997, Chapter 850.) (AB 233)*

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**26840. Marriage License; Disposition of Fees.** The fee for issuing a marriage license is ten dollars (\$10), to be collected at the time it is issued. One dollar (\$1) of this fee shall be paid to the county recorder, one dollar (\$1) of this fee shall be paid to the county clerk, and one dollar (\$1) of this fee shall be paid to the State Registrar of Vital Statistics and seven dollars (\$7) of this fee shall be disposed of pursuant to the provisions of Section 54 of Chapter 120, Statutes of 1966, First Extraordinary Session. In counties where the salary of the county recorder is the sole compensation allowed by law, this fee shall be paid to the county treasurer who shall credit one dollar (\$1) to the county recorder and shall pay one dollar (\$1) to the State Registrar of Vital Statistics. The fee provided by this section is in full for all services of the clerk and recorder in connection with the issuance of a marriage license and the filing of a certificate of registry of marriage.

*(Amended by Statutes 1979, Chapter 139.)*

## GOVERNMENT CODE

**26840.1. Marriage Certificate.** (a) The fee for filing a marriage certificate pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code is fourteen dollars (\$14), to be collected at the time an authorization for the performance of the marriage is issued or a blank authorization form is obtained from the county clerk pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code. Four dollars (\$4) of the fee shall be paid to the State Registrar of Vital Statistics. One dollar (\$1) of the fee shall be paid to the county treasurer and shall be used to defray any local costs incurred pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code.

(b) Notwithstanding subdivision (a), in addition to the amount authorized by subdivision (a) the county clerk may impose an additional amount, not to exceed three dollars (\$3), if he or she determines that the additional amount is necessary to defray local costs.

*(Amended by Statutes 1992, Chapter 163, operative January 1, 1994.) (AB 2641)*

**26840.2. Marriage License; Issuance Outside Normal Business Hours; Additional Fee.** Whenever the board of supervisors of a county makes provision by ordinance for the issuance of marriage licenses outside of the normal business hours, the board may establish a fee, in addition to that provided in Section 26840, not to exceed five dollars (\$5), which shall be paid to the county treasury.

*(Amended by Statutes 1981, Chapter 199.)*

**26840.3. Increase of Fees for Support of Family Conciliation Court and Mediation Services; Conditions.** (a) The superior court in any county may, for the support of the family conciliation court or for conciliation and mediation services provided pursuant to Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code, upon action of the board of supervisors to provide all space costs and indirect overhead costs from other sources, increase:

(1) The fee for issuing a marriage license, by an amount not to exceed five dollars (\$5).

(2) The fee for issuing a marriage certificate pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, by an amount not to exceed five dollars (\$5).

(b) The funds shall be paid to the county treasury and an amount equal thereto shall be used exclusively to pay the costs of maintaining the family conciliation court or conciliation and mediation services provided pursuant to Chapter 11 (commencing with Section 3160) of Part 2 of Division 8 of the Family Code.

*(Amended by Statutes 1993, Chapter 219.) (AB 1500)*

**26840.4. Napa and Shasta Counties; Additional Fees; Limitations.** As an alternative to the procedure in paragraph (1) of subdivision (a) of Section 26840.3, the Board of Supervisors of Napa or Shasta County may impose a fee for the filing of a petition for dissolution of a marriage, a petition for legal separation, or a petition for nullity of a marriage, which, when added to the additional fees, if any, collected pursuant to paragraphs (2) and (3) of subdivision (a) of Section 26840.3, is sufficient to cover the costs of operation of the conciliation court. However, no fee adopted pursuant to this subdivision shall exceed the fee charged on January 1, 1978, by more than sixty dollars (\$60).

The funds shall be paid to the county treasury and shall be used exclusively to pay the costs of maintaining the conciliation court.

*(Added by Statutes 1977, Chapter 786.)*

\* \* \*

## GOVERNMENT CODE

**26840.7. Marriage License; Additional Fee Upon Issuance; Use of Fee.** In addition to the fee prescribed by Section 26840 and as authorized by Section 26840.3, the county clerk shall collect a fee of twenty-three dollars (\$23) at the time of issuance of the license.

The fee shall be disposed of by the clerk pursuant to Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. Of this amount, four dollars (\$4) shall be used, to the extent feasible, to develop or expand domestic violence shelter-based programs to target underserved areas and populations.

*(Amended by Statutes 2006, Chapter 857.) (AB 2084)*

**26840.8. Marriage Authorization; Additional Fee Upon Filing; Use of Fee.** In addition to the fee prescribed by Section 26840.1 and as authorized by Section 26840.3, the person issuing an authorization for the performance of a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code or the county clerk, upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect a fee of twenty-three dollars (\$23) at the time of providing the authorization. The fee shall be disposed of pursuant to Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. Of this amount, four dollars (\$4) shall be used, to the extent feasible, to develop or expand domestic violence shelter-based programs to target underserved areas and populations.

*(Amended by Statutes 2006, Chapter 857.) (AB 2084)*

**26840.9. Contra Costa Board of Supervisors; Domestic Violence; Fee Increase for Marriage and Confidential Marriage Licenses; Collection; Report.** (a) The Contra Costa County Board of Supervisors, upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for marriage licenses and confidential marriage licenses, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Contra Costa County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar. The fees shall be allocated pursuant to Section 18308 of the Welfare and Institutions Code.

(c) In addition to the fee prescribed by Section 26840.1, in Contra Costa County, the person issuing authorization for the performance of a marriage or confidential marriage, or the county clerk upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect the fees specified in subdivisions (a) and (b) of this section, at the time of providing the authorization.

(d) The Contra Costa County Board of Supervisors shall submit to the Assembly Judiciary Committee and the Senate Judiciary Committee, no later than July 1, 2006, a report containing the following information: (1) The annual amounts of funds received and expended from fee increases for the purpose of governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts in the county. (2) Outcomes achieved as a result of the activities associated with the Zero Tolerance for Domestic Violence Act.

(e) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

*(Added by Statutes 2001, Chapter 90.) (SB 425)*

## GOVERNMENT CODE

**26840.10. Increased License Fees in Alameda County for Governmental Oversight and Coordination of Agencies Dealing with Domestic Violence.** (a) The Alameda County Board of Supervisors, upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for marriage licenses and confidential marriage licenses, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Alameda County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar (\$0.50). The fees shall be allocated pursuant to Section 18309 of the Welfare and Institutions Code.

(c) In addition to the fee prescribed by Section 26840.1, in Alameda County, the person issuing authorization for the performance of a marriage or confidential marriage, or the county clerk upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect the fees specified in subdivisions (a) and (b), at the time of providing the authorization.

(d) The Alameda County Board of Supervisors shall submit to the Assembly Judiciary Committee and the Senate Judiciary Committee, no later than July 1, 2009, a report containing the following information:

(1) The annual amounts of funds received and expended from fee increases for the purpose of governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts in the county.

(2) Outcomes achieved as a result of the activities associated with the implementation of this section.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

*(Amended by Statutes 2004, operative January 1, 2005, Chapter 830.) (AB 2010)*

**26840.11. Increased License Fees in Solano County for Governmental Oversight and Coordination of Agencies Dealing with Domestic Violence.** (a) The Solano County Board of Supervisors, upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for marriage licenses and confidential marriage licenses, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Solano County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest one-half dollar (\$0.50). The fees shall be allocated pursuant to Section 18309.5 of the Welfare and Institutions Code.

(c) In addition to the fee prescribed by Section 26840.1, in Solano County, the person issuing authorization for the performance of a marriage or confidential marriage, or the county clerk upon providing a blank authorization form pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code, shall collect the fees specified in subdivisions (a) and (b), at the time of providing the authorization.

(d) The Solano County Board of Supervisors shall submit to the Assembly and Senate Committees on Judiciary, no later than July 1, 2009, a report containing the following information:

## GOVERNMENT CODE

(1) The annual amounts of funds received and expended from fee increases for the purpose of governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts in the county.

(2) Outcomes achieved as a result of the activities associated with the implementation of this section.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date. *(Amended by Statutes 2004, operative January 1, 2005, Chapter 830.) (AB 2010)*

\* \* \*

**26841. Fee Increase for Protective Order Filings; Authorization.** The superior court in any county may increase the fee for the filing of any paper in response to an order or an application for a protective order, as defined in Section 6218 of the Family Code, by five dollars (\$5), upon the adoption of a resolution to that effect by the board of supervisors. The five dollars (\$5) shall be disposed of pursuant to the provisions of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code.

*(Added by Statutes 1982, Chapter 1238.)*

\* \* \*

**26854. Searching Records or Files.** The fee for searching records of files is five dollars (\$5) for each file.

*(Amended by Statutes 1991, Chapter 651.) (SB 757)*

\* \* \*

**26857. Enumeration of Instances not Subject to Fees.** No fee shall be charged by the clerk for service rendered to a defendant in any criminal action or, to the petitioner in any adoption proceeding except as provided in Section 103730 of the Health and Safety Code nor shall any fees be charged for any service to the state or for any proceeding brought pursuant to Section 7841 of the Family Code to declare a minor free from parental custody or control. No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the state or national government, nor for any service relating thereto.

*(Amended by Statutes 1998, effective July 13, 1998, Chapter 146.) (AB 1301)*

**26857.5. Member of the Armed Forces; Respondent in Dissolution Action; Exemption.** Notwithstanding any other provision of law, no fee shall be charged to file a respondent's or defendant's appearance, stipulation if any, and waiver of rights in the action under the Soldier's and Sailor's Civil Relief Act of 1940 in an action for dissolution of marriage, legal separation, or nullity, or to establish paternity, in any case wherein the respondent or defendant is a member of the armed forces of the United States and does not contest the action for dissolution of marriage, legal separation, or nullity, or to establish paternity.

*(Amended by Statutes 1996, Chapter 348.) (AB 3148)*

**26858. Fees not to be Charged in Pension Matters.** No fees or other compensation shall be charged by any county clerk for taking and certifying affidavits for pension claimants, the payment of a pension voucher, or any matters relating thereto under the laws of the United States.

*(Added by Statutes 1947, Chapter 424.)*

## GOVERNMENT CODE

**26859. Petitions for Dissolution of Marriage, Legal Separation and Declaration of Nullity; Payment of Fee; Disposition.** At the time of filing of each initial petition for dissolution of marriage, legal separation, or nullity the petitioner shall pay a fee of two dollars (\$2) to the county clerk for the costs of complying with Chapter 10 (commencing with Section 103200) of Part 1 of Division 102 of the Health and Safety Code.

The county clerk shall pay one-half of all such fees to the State Registrar of Vital Statistics each month. The State Registrar shall transmit those sums to the State Treasurer for deposit in the General Fund.

*(Amended by Statutes 1996, Chapter 1023, and operative September 29, 1996.) (SB 1497)*

\* \* \*

**26861. Performance of Marriage.** A fee of fifteen dollars (\$15) may be charged for performing a marriage ceremony pursuant to Section 401 of the Family Code, which shall be paid into the county treasury.

*(Amended by Statutes 1992, operative January 1, 1994, Chapter 163.) (AB 2641)*

**26862. Family Conciliation Court; Filing Motion; Order or Other Proceeding; Custody or Visitation of Children.** In any county in which there is a family conciliation court, or in which counties have by contract established joint family conciliation court services, a fee of twenty dollars (\$20) shall be paid to the clerk of the court at the time of filing a motion, order to show cause, or other proceeding seeking to modify or enforce that portion of any judgment or order entered in this state or any other state which orders or awards the custody of a minor child or children or which specifies the rights of any party to the proceeding to visitation of a minor child or children. Notwithstanding Section 68085, fifteen dollars (\$15) of the fee authorized in this section shall be deposited in the county treasury and shall be used exclusively to pay the cost of maintaining the family conciliation court.

*(Amended by Statutes 1997, Chapter 850.) (AB 233)*

### Excerpt from CHAPTER 5. COUNTY TREASURER

#### Article 4. Inspection of Books

\* \* \*

**27100.1. Deposits Held in Trust for Depositing Entity or Official.** Notwithstanding any other provision of law, when any public entity or public official acting in a fiduciary capacity, who is required or authorized by law to deposit funds in the county treasury, makes a deposit, those funds shall be deemed to be held in trust by the county treasurer on behalf of the depositing entity or public official. The funds shall not be deemed funds or assets of the county and the relationship of the depositing entity or public official and the county shall not be one of creditor-debtor.

*(Added by Statutes 1991, Chapter 471, effective October 2, 1991.) (SB 723)*



## GOVERNMENT CODE

### Excerpt from CHAPTER 6. RECORDER

#### Article 1. Duties Generally

\* \* \*

**27210. Facsimile Signatures.** The county recorder may use a printed, stamped or photographically reproduced facsimile signature in certifying to a record in his office provided such certification has the seal of his office affixed thereto.

*(Added by Statutes 1961, Chapter 175.)*

#### Excerpt from Article 2. Books

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**27252. Indexes, Vital Statistics.** The recorder shall keep an index to the certificates of births, deaths and marriages.

*(Amended by Statutes 1951, Chapter 95.)*

#### Excerpt from Article 4. Recording

\* \* \*

**27322.2. Microphotography, Disk or Other Techniques; Instruments, Paper and Notices; Standardization; Safekeeping; Public Inspections.** A system of microphotography, optical disk, or reproduction by any other technique that does not permit additions, deletions, or changes to the original document may be used by the recorder as a photographic reproduction process to record some or all instruments, papers, and notices that are required or permitted by law to be recorded or filed. All reproductions shall be made in compliance with Section 12168.7. A true copy of the document shall be kept in a safe and separate place that will reasonably assure its preservation for the duration of the retention prescribed by law against loss or destruction. A true copy of the document shall be arranged in a suitable place in the office of the recorder to facilitate public inspection.

*(Amended by Statutes 2000, Chapter 569.) (SB 2067)*

#### Excerpts from Article 5. Fees

\* \* \*

**27360. Required Fees.** For services performed by him, the county recorder shall charge and collect the fees fixed in this article.

*(Added by Statutes 1947, Chapter 424.)*

**27361. Recording and Indexing Fees.** (a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded is four dollars (\$4) for recording the first page and three dollars (\$3) for each additional page, except the recorder may charge additional fees as follows:

## GOVERNMENT CODE

(1) If the printing on printed form is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence, the recorder shall charge one dollar (\$1) extra for each page or sheet on which printing appears excepting, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars (\$3) extra per page or sheet of the document. The extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(b) One dollar (\$1) of each three dollars (\$3) fee for each additional page shall be deposited in the county general fund.

(c) Notwithstanding Section 68085, one dollar (\$1) for recording the first page and one dollar (\$1) for each additional page shall be available solely to support, maintain, improve, and provide for full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

*(Amended by Statutes 1998, urgency clause, Chapter 146.) (AB 1301)*

**27361.5. Page and Sheet Defined.** (a) As used in Section 27361, a page shall be one printed side of a single piece of paper being 8 1/2 inches by 11 inches.

(b) A sheet shall be one printed side of a single piece of paper which is not exactly 8 1/2 inches by 11 inches but not greater than 8 1/2 inches by 14 inches.

*(Repealed and Added by Statutes 1992, operative July 1, 1994, Chapter 87.) (AB 689)*

**27361.6. Margins and Blank Spaces; Quality of Paper; Instruments Modify, Releasing, or Canceling Previously Recorded Records.** Except as otherwise provided by law or regulation, all documents submitted for recording shall have at least a 1/2-inch margin on the two vertical sides except in the space reserved for recording information. At least the top 2 1/2 inches of the first page or sheet shall be reserved for recording information. The left-hand 3 1/2 inches of the space shall be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording. In the event the first page or sheet of a document does not comply with these requirements, a separate page shall be attached by the party requesting recording to the front of the document which meets these criteria and which reflects the title or titles of the documents as required by Section 27324. Any printed form accepted for recordation that does not comply with the foregoing shall not affect the notice otherwise imparted by recording.

All instruments, papers, or notices presented for recordation shall be on a quality of paper and contain print of a size and color which will reproduce legibly by micro-photographic or imaging processes as set forth in Sections 26205.5 and 27322.2.

Any instrument, paper, or notice presented for recordation which in any way modifies, releases, or cancels the provisions of a previously recorded document shall state the recorder identification number or book and page of the document number being modified, released, or canceled.

*(Repealed and Added by Statutes 1992, operative July 1, 1994, Chapter 87.) (AB 689)*

\* \* \*

## GOVERNMENT CODE

**27364. Certificates Under Seal.** The fee for each certificate under seal shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied.  
*(Amended by Statutes 1993, Chapter 710.) (AB 130)*

**27365. Copies of Vital Statistics Certificates.** The fee for any copy of a birth, death, or marriage certificate, when the copy is made by the recorder, is the same as is payable to a state or local registrar of vital statistics.  
*(Added by Statutes 1947, Chapter 424.)*

**27366. Copies of Records on File.** The fee for any copy of any other record or paper on file in the office of the recorder, when the copy is made by the recorder, shall be set by the board of supervisors in an amount necessary to recover the direct and indirect costs of providing the product or service or the cost of enforcing any regulation for which the fee or charge is levied.  
*(Amended by Statutes 1993, Chapter 710.) (AB 130)*

\* \* \*

**27369. Searching Vital Statistics Records.** The fee for searching the records of his office for a birth, death, or marriage certificate is the same as is payable to a state or local registrar of vital statistics; in all other cases, for each year, fifty cents (\$0.50).  
*(Added by Statutes 1947, Chapter 424.)*

\* \* \*

**27380. Papers not Required to be Recorded.** The fee for filing, indexing, and keeping each paper not required by law to be recorded is three dollars (\$3.00).  
*(Amended by Statutes 1971, Chapter 59.)*

**27383. No Fees for Services to State or Political Subdivision; Exception.** No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record.  
*(Added by Statutes 1955, Chapter 488.)*

### Excerpts from CHAPTER 10. CORONER Article 1. Duties Generally

\* \* \*

**27460. Interment of Body.** If an inquest is held by the coroner and no other person takes charge of the body of the deceased, he shall cause it to be interred decently.  
*(Added by Statutes 1947, Chapter 424.)*

\* \* \*

**27465. Delivery of Personalty of Deceased to Relatives.** Within 90 days after an inquest upon a dead body the coroner shall deliver to the legal representatives of the deceased any money or other property found upon the body.  
*(Amended by Statutes 1985, Chapter 77.) (AB 135)*

## GOVERNMENT CODE

### **27466. Delivery of Unclaimed Personality of Deceased to Treasurer; Affidavit of Coroner.**

If, within 90 days after the inquest, no legal representative makes a demand upon the coroner for the money or property found upon the body of the decedent, the coroner shall deliver to the treasurer any money, and the proceeds of the sale of any property found upon the body. At the same time, the coroner shall deliver an affidavit to the treasurer showing:

(a) The amount of money belonging to the estate of the deceased person which has come into his possession since the coroner's last statement.

(b) The disposition made of any property.

*(Amended by Statutes 1985, Chapter 77.) (AB 135)*

### **27467. Proceeding Against Coroner Failing to Deliver Unclaimed Personality to Treasurer.**

If the coroner fails to deliver to the treasurer within 120 days after any inquest upon a dead body all money and proceeds from the sale of property found upon the body, unless claimed in the meantime by the public administrator or other legal representative of the decedent, the district attorney shall proceed against the coroner to recover the money or proceeds by civil action in the name of the county.

*(Amended by Statutes 1985, Chapter 77.) (AB 135)*

**27468. Sale of Unclaimed Property of Deceased; Disposal of Proceeds.** If within 90 days after an inquest upon a dead body no legal representative of the decedent demands from the coroner the property found upon the person of the decedent, the coroner shall sell the property at public auction upon reasonable public notice, and immediately thereafter deliver the proceeds of the sale to the treasurer, who shall place them to the credit of the county.

*(Amended by Statutes 1985, Chapter 77.) (AB 135)*

\* \* \*

**27471. Locating Family; Embalming; Time; Fee.** (a) Whenever the coroner takes custody of a dead body pursuant to law, he or she shall make a reasonable attempt to locate the family. After a reasonable attempt, the coroner may embalm the body or authorize the embalming by a mortician for purposes of preserving the remains for evidence, to prevent microbial and contagious disease hazards, or for investigative functions. If the embalming has been requested by the family or by a person authorized to take charge of the body prior to such embalming, and such family or person has agreed to accept the expense, the coroner may charge and collect up to one hundred and thirty-five dollars (\$135). Any family, however, which has not been located within 24 hours of the custody by the coroner of the body, shall not be charged more than sixty-five dollars (\$65).

This subdivision shall only apply to counties that own and maintain a central morgue with a paid, full-time staff that performs the embalming.

(b) Except as provided in subdivision (a), whenever the coroner takes custody of a dead body pursuant to law, he or she may embalm the body, and charge and collect up to one hundred thirty-five dollars (\$135) from the person entitled to its custody, except when the body is that of a child not more than 14 years of age or a person for whose burial there is available less than one hundred fifty dollars (\$150), in which cases the expense of embalming is a county charge. In any county where the coroner is paid a salary, the fee shall be paid into the county treasury, except that the board of supervisors may order that the fee be paid to the coroner if the coroner is a funeral director in the county.

(c) The board of supervisors shall by ordinance establish the fee to be charged pursuant to this section.

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(d) The board of supervisors may increase the amount of fees specified in subdivisions (a) and (b) pursuant to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5. *(Amended by Statutes 1978, Chapter 424.); (Amended by Statutes 1984, Chapter 182.)*

**27472. Removal and Keeping of Body; Charges for Expenses; Exemptions for Children 14 Years and Under and Crime Victims.** If authorized by the county board of supervisors by ordinance, the coroner, whenever he or she takes custody of a dead body pursuant to law, may charge and collect them from the person entitled to control the disposition of the remains, as specified in Section 7100 of the Health and Safety Code, the actual expense incurred by the coroner in removing the body from the place of death and keeping the body until its release to the person responsible for its interment. The charge shall not exceed one hundred dollars (\$100), shall not be imposed upon a person who claims and proves to be indigent, or in cases in which the body is that of a child not more than 14 years of age or in cases in which the coroner ascribes the death to the criminal act of another unless the coroner has reasonable grounds to believe that the deceased was involved in any criminal activity which contributed to his or her own death. The charge shall not include expenses of keeping the body during the time necessary for the coroner to perform his or her duties in connection with it. The charge, if not paid, may be considered a part of the funeral expenses and paid as a preferred charge against the estate of the decedent.

*(Amended by Statutes 1985, Chapter 61.) (AB 162)*

### Excerpts from Article 2. Inquests

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**27490. Duty to Hold.** The coroner shall hold inquests pursuant to this article. *(Added by Statutes 1947, Chapter 424.)*

**27491. Classification of Deaths Requiring Inquiry; Determination of Cause; Signature on Death Certificate; Exhumation; Notice to Coroner of Cause of Death.** It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden or unusual deaths; unattended deaths; deaths wherein the deceased has not been attended by a physician in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of Developmental Health; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Mental Health; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

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In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the death certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his or her report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

Any funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

*(Amended by Statutes 1985, Chapter 304.)*

**27491.1. Report of Death to Police Officials.** In all cases in which a person has died under circumstances as to afford a reasonable ground to suspect that the person's death has been occasioned by the act of another by criminal means, the coroner, upon determining that such reasonable grounds exist, shall immediately notify the law enforcement agency having jurisdiction over the criminal investigation. Notification shall be made by the most direct communication available. The report shall state the name of the deceased person, if known, the location of the remains, and all other information received by the coroner relating to the death, including any medical information of the decedent that is directly related to death. The report shall not include any information contained in the decedent's medical records regarding any other person unless that information is relevant and directly related to the decedent's death.

*(Amended by Statutes 1985, Chapter 304.) (AB 543)*

**27491.2. Examination and Identification of Body; Inquiry Into Cause of Death; Disposition of Body; Violations.** (a) The coroner or the coroner's appointed deputy, on being informed of a death and finding it to fall into the classification of deaths requiring his or her inquiry, may immediately proceed to where the body lies, examine the body, make identification, make inquiry into the circumstances, manner, and means of death, and, as circumstances warrant, either order its removal for further investigation or disposition, or release the body to the next of kin.

(b) For purpose of inquiry, the body of one who is known to be dead from any of the causes or under any of the circumstances described in Section 27491 shall not be disturbed or moved from the position or place of death without permission of the coroner or the coroner's appointed deputy. Any violation of this subdivision is a misdemeanor.

*(Amended by Statutes 1985, Chapter 304.) (AB 543)*

**27491.25. Blood, Urine, etc.; Samples From Persons Killed as Result of Motor Vehicle Accidents.** The coroner, or the coroner's appointed deputy, on being notified of a death occurring while the deceased was driving or riding in a motor vehicle, or as a result of the deceased being struck by a motor vehicle, shall take blood and urine samples from the body of the deceased before it has been prepared for burial and make appropriate related chemical tests to determine the alcoholic contents, if any, of the body. The coroner may perform other chemical

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tests including but not limited to, barbituric acid and amphetamine derivative as deemed appropriate.

The detailed medical findings, resulting from those examinations that are conducted, shall either be reduced to writing or permanently preserved on recording discs or other similar recording media and shall include all positive and negative findings pertinent to the presence or absence of any alcoholic or other substance content.

This section shall not apply to the testing of deceased persons under the age of 15 years, unless the surrounding circumstances indicate the possibility of alcoholic, barbituric acid, and amphetamine derivative consumption, nor shall it apply when the death has occurred more than 24 hours after the accident.

*(Amended by Statutes 1993, Chapter 389.) (AB 164)*

**27491.3. Possession and Disposition of Property of Deceased at Scene of Death; Sealing of Premises; Costs; Violations; Custody of Body; Death Due to Traffic Accidents; Anatomical Donor Card.** (a) In any death into which the coroner is to inquire, the coroner may take charge of any and all personal effects, valuables, and property of the deceased at the scene of death or related to the inquiry and hold or safeguard them until lawful disposition thereof can be made. The coroner may lock the premises and apply a seal to the door or doors prohibiting entrance to the premises, pending arrival of a legally authorized representative of the deceased. However, this shall not be done in such a manner as to interfere with the investigation being conducted by other law enforcement agencies.

Any costs arising from the premises being locked or sealed while occupied by property of the deceased may be a proper and legal charge against the estate of the deceased. Unless expressly permitted by law, any person who enters any premises or tampers with or removes any lock or seal in violation of this section is guilty of a misdemeanor.

(b) Any property or evidence related to the investigation or prosecution of any known or suspected criminal death may, with knowledge of the coroner, be delivered to a law enforcement agency or district attorney, receipt for which shall be acknowledged.

(c) Except as otherwise provided in subdivision (d), any person who searches for or removes any papers, moneys, valuable property or weapons constituting the estate of the deceased from the person of the deceased or from the premises, prior to the arrival of the coroner or without the permission of the coroner, is guilty of a misdemeanor. At the scene of any death, when it is immediately apparent or when it has not been previously recognized and the coroner's examination reveals that police investigation or criminal prosecution may ensue, the coroner shall not further disturb the body or any related evidence until the law enforcement agency has had reasonable opportunity to respond to the scene, if their purposes so require and they so request. Custody and control of the body shall remain with the coroner at all times. Reasonable time at the scene shall be allowed by the coroner for criminal investigation by other law enforcement agencies, with the time and location of removal of the remains to a convenient place to be determined at the discretion of the coroner.

(d) A peace officer may search the person or property on or about the person of the deceased, whose death is due to a traffic accident, for a driver's license or identification card to determine if any anatomical donor card is attached. If a peace officer locates such an anatomical donor card which indicates that the deceased is an anatomical donor, the peace officer shall immediately furnish such information to the coroner having jurisdiction.

"Peace Officer", as used in this subdivision, means only those persons designated in Sections 830.1 and 830.2 of the Penal Code.

*(Amended by Statutes 1985, Chapter 304.) (AB 543)*

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**27491.4. Sudden Infant Death Syndrome; Autopsy; Preservation of Medical Findings; Effect of Anatomical Gift.** (a) For purposes of inquiry the coroner shall, within 24 hours or as soon as feasible thereafter, where the suspected cause of death is sudden infant death syndrome and, in all other cases, the coroner may, in his or her discretion, take possession of the body, which shall include the authority to exhume the body, order it removed to a convenient place, and make or cause to be made a postmortem examination or autopsy thereon, and make or cause to be made an analysis of the stomach, stomach contents, blood, organs, fluids, or tissues of the body. The detailed medical findings resulting from an inspection of the body or autopsy by an examining physician shall be either reduced to writing or permanently preserved on recording discs or other similar recording media, shall include all positive and negative findings pertinent to establishing the cause of death in accordance with medicolegal practice and this, along with the written opinions and conclusions of the examining physician, shall be included in the coroner's record of the death. The coroner shall have the right to retain only those tissues of the body removed at the time of the autopsy as may, in his or her opinion, be necessary to advisable to the inquiry into the case, or for the verification of his or her findings. No person may be present during the performance of a coroner's autopsy without the express consent of the coroner.

(b) In any case in which the coroner knows, or has reason to believe, that the deceased has made valid provision for the disposition of his or her body or a part or parts thereof for medical or scientific purposes in accordance with Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, the coroner shall neither perform nor authorize any other person to perform an autopsy on the body unless the coroner has contacted or attempted to contact the physician last in attendance of the deceased. If the physician cannot be contact, the coroner shall then notify or attempt to notify one of the following of the need for an autopsy to determine the cause of death: (1) the surviving spouse; (2) a surviving child or parent; (3) a surviving brother or sister; (4) any other kin or person who has acquired the right to control the disposition of the remains. Following a period of 24 hours after attempting to contact the physician last in attendance and notifying or attempting to notify one of the responsible parties listed above, the coroner may perform or authorize the performance of an autopsy, as otherwise authorized or required by law.

(c) Nothing in this section shall be deemed to prohibit the discretion of the coroner to conduct autopsies upon any victim of sudden, unexpected, or unexplained death or any death known or suspected of resulting from an accident, suicide, or apparent criminal means, or other death, as described in Section 27491.

*(Amended by Statutes 1998, Chapter 457.) (AB 1225)*

### **27491.41. Sudden Infant Death Syndrome; Autopsy; Development of Protocol; Liability.**

(a) For purposes of this section, "sudden infant death syndrome" means the sudden death of any infant that is unexpected by the history of the infant and where a thorough postmortem examination fails to demonstrate an adequate cause of death.

(b) The Legislature finds and declares that sudden infant death syndrome (SIDS) is the leading cause of death for children under age one, striking one out of every 500 children. The Legislature finds and declares that sudden infant death syndrome is a serious problem within the State of California, and that public interest is served by research and study of sudden infant death syndrome, and its potential causes and indications.

(c) (1) To facilitate these purposes, the coroner shall, within 24 hours, or as soon thereafter as feasible, perform an autopsy in any case where an infant has died suddenly and unexpectedly.

(2) However, if the attending physician desires to certify that the cause of death is sudden infant death syndrome, an autopsy may be performed at the discretion of the coroner. If the



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coroner performs an autopsy pursuant to this section, he or she shall also certify the cause of death.

(d) The autopsy shall be conducted pursuant to a standardized protocol developed by the State Department of Health Services. The protocol is exempt from the procedural requirements pertaining to the adoption of administrative rules and regulations pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The protocol shall be developed and approved by July 1, 1990.

(e) The protocol shall be followed by all coroners throughout the state when conducting the autopsies required by this section. The coroner shall state on the certificate of death that sudden infant death syndrome was the cause of death when the coroner's findings are consistent with the definition of sudden infant death syndrome specified in the standardized autopsy protocol. The protocol may include requirements and standards for scene investigations, requirements for specific data, criteria for ascertaining cause of death based on the autopsy, and criteria for any specific tissue sampling, and any other requirements. The protocol may also require that specific tissue samples must be provided to a central tissue repository designated by the State Department of Health Services.

(f) The State Department of Health Services shall establish procedures and protocols for access by researchers to any tissues, or other materials or data authorized by this section. Research may be conducted by any individual with a valid scientific interest and prior approval from the State Committee for the Protection of Human Subjects. The tissue samples, the materials, and all data shall be subject to the confidentiality requirements of Section 103850 of the Health and Safety Code.

(g) The coroner may take tissue samples for research purposes from infants who have died suddenly and unexpectedly without consent of the responsible adult if the tissue removal is not likely to result in any visible disfigurement.

(h) A coroner shall not be liable for damages in a civil action for any act or omission done in compliance with this section.

(i) No consent of any person is required prior to undertaking the autopsy required by this section.

*(Amended by Statutes 1998, Chapter 457.) (AB 1225)*

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### **27491.43. Certificate of Religious Belief Against Post-Mortem Anatomical Dissection; Effect, Procedures.**

(a) (1) Notwithstanding any other provision of law, except as otherwise provided in this section in any case in which the coroner, before beginning an autopsy, dissection, or removal of corneal tissue, pituitary glands, or any other organ, tissue, or fluid, has received a certificate of religious belief, executed by the decedent as provided in subdivision (b), that the procedure would be contrary to his or her religious belief, the coroner shall not perform that procedure on the body of the decedent.

(2) If, before beginning the procedure, the coroner is informed by a relative or a friend of the decedent that the decedent had executed a certificate of religious belief, the coroner shall not perform the procedure, except as otherwise provided in this section, for 48 hours. If the certificate is produced within 48 hours, the case shall be governed by this section. If the certificate is not produced within that time, the case shall be governed by the other provisions of this article.

(b) Any person, 18 years of age or older, may execute a certificate of religious belief which shall state in clear and unambiguous language that any postmortem anatomical dissection or that specified procedures would violate the religious convictions of the person. The certificate shall

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be signed and dated by the person in the presence of at least two witnesses. Each witness shall also sign the certificate and shall print on the certificate his or her name and residence address.

(c) Notwithstanding the existence of a certificate, the coroner may at any time perform an autopsy or any other procedure if he or she has a reasonable suspicion that the death was caused by the criminal act of another or by a contagious disease constituting a public health hazard.

(d) (1) If a certificate is produced, and if subdivision (c) does not apply, the coroner may petition the superior court, without fee, for an order authorizing an autopsy or other procedure or for an order setting aside the certificate as invalid. Notice of the proceeding shall be given to the person who produced the certificate. The proceeding shall have preference over all other cases.

(2) The court shall set aside the certificate if it finds that the certificate was not properly executed or that it does not clearly state the decedent's religious objection to the proposed procedure.

(3) The court may order an autopsy or other procedure despite a valid certificate if it finds that the cause of death is not evident, and that the interest of the public in determining the cause of death outweighs its interest in permitting the decedent and like persons fully to exercise their religious convictions.

(4) Any procedure performed pursuant to paragraph (3) shall be the least intrusive procedure consistent with the order of the court.

(5) If the petition is denied, and no stay is granted, the body of the deceased shall immediately be released to the person authorized to control its disposition.

(e) In any case in which the circumstances, manner, or cause of death is not determined because of the provisions of this section, the coroner may state on the certificate of death that an autopsy was not conducted because of the provisions of this section.

(f) A coroner shall not be liable for damages in a civil action for any act or omission taken in compliance with the provisions of this section.

*(Added by Statutes 1984, Chapter 1731.) (SB 1824)*

**27491.44. Implementation of Anatomical Gift Act; Human Organs and Tissues; Removal and Disposition; Identification of Donors; Informing Next of Kin of Option to Donate.** Notwithstanding any other provision of law, the coroner is authorized to do all of the following:

(a) Assist the people of this state, as appropriate, in the implementation of the Uniform Anatomical Gift Act contained in Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, and in the otherwise lawful utilization of medically proven organ and tissue transplant procedures.

(b) Cooperate in the authorized removal and timely disposition of human organs and tissue from the bodies of deceased persons, including victims of homicide, in accordance with law and accepted medical practice.

(c) Assist medical and health service agencies in identifying donors of human organs and tissues, for purposes of providing life-enhancing benefits of transplant surgery to recipients under duly sanctioned medical conditions.

(d) Ask the deceased person's next of kin, at the time of notification of death, whether the deceased was a donor or if the family was a donor family. If not, the coroner is authorized to inform them of their option to donate viable organs and tissues.

(e) Enter into agreements with one or more procurement organizations to coordinate organ recovery procedures within that coroner's jurisdiction or in cooperation with other coroners throughout the state.

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(f) Contract with or receive assistance of any kind from any public or private entity for the purpose of providing education and training to his or her personnel in pathology or any other area of the healing arts and sciences that will assist in timely determination of the causes of death.

*(Amended by Statutes 1996, Chapter 827.) (AB 3145)*

**27491.45. Retention of Body Tissues for Investigation; Removal of Parts of Body for Transplant, or Therapeutic or Scientific Purposes Pursuant to Uniform Anatomical Gift Act.** (a) (1) The coroner shall have the right to retain parts of the body, as defined in subdivision (g) of Section 7150.1 of the Health and Safety Code, removed at the time of autopsy or acquired during a coroner's investigation as may, in the opinion of the coroner, be necessary or advisable for scientific investigation and training. The coroner may employ or use outside laboratories, hospitals, or research institutions in the conduct of the coroner's scientific investigation or training.

(2) Parts of the body retained pursuant to paragraph (1) may be released by the coroner to hospitals, medical educational research institutions, and law enforcement agencies for noncoroner training, educational, and research purposes, either upon consent of the decedent or other person, as specified in Section 7151 of the Health and Safety Code, or after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of the Health and Safety Code of their option to consent or object to the release, and the appropriate person consents or that effort has been unsuccessful. A reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151 of the Health and Safety Code.

(b) The coroner may, in his or her discretion, allow removal of parts of the body by a licensed physician and surgeon or trained transplant technician for transplant, or therapeutic, or scientific purposes pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, only if the following conditions are met:

(1) The provision of the part will not unnecessarily mutilate the body or interfere with the autopsy.

(2) The decedent or other person, as specified in Section 7151 of the Health and Safety Code, has consented to the provision of the part, as prescribed by Section 7154 of the Health and Safety Code, or after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of the Health and Safety Code of their option to consent or object to the release, and the appropriate person consents, or that effort has been unsuccessful. A reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151 of the Health and Safety Code. In obtaining this gift, the coroner shall notify the donor of the specific part or parts requested and shall obtain the donor's informed consent, as provided in Section 7150.5 or 7151 of the Health and Safety Code.

(c) Nothing in this section shall be construed as limiting any right provided for in Section 7152 of the Health and Safety Code.

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(d) For purposes of this section, "trained transplant technician," means a person who has completed training in tissue removal for transplant or therapeutic, or scientific purposes, which the coroner determines to be adequate for the purposes.

*(Amended by Statutes 2000, Chapter 830.) (AB 2397)*

**27491.46. Removal and Retention of Pituitary Glands.** (a) The coroner shall have the right to retain pituitary glands solely for transmission to a university, for use in research or the advancement of medical science, in those cases in which the coroner has performed an autopsy pursuant to this chapter, and during a 48-hour period following such autopsy the body has not been claimed and the coroner has not been informed of any relatives of the decedent.

(b) In the course of any autopsy performed by the coroner, the coroner may remove the pituitary gland from the body for transmittal to any public agency for use in manufacturing a hormone necessary for the physical growth of persons who are, or may become, hypopituitary dwarfs, if the coroner has no knowledge of objection to the removal and release of the pituitary gland having been made by the decedent or any other person specified in Section 7151.5 of the Health and Safety Code. Neither the coroner nor the medical examiner authorizing the removal of the pituitary gland, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of the pituitary gland pursuant to this section, shall incur civil liability for the removal of the pituitary gland in an action brought by any person who did not object prior to the removal of the pituitary gland, nor be subject to criminal prosecution for removal of the pituitary gland pursuant to the authority of this section.

Nothing in this subdivision shall supersede the terms of any gift made pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code.

*(Amended by Statutes 1984, Chapter 1737.) (SB 2142)*

**27491.47. Removal of Corneal Eye Tissue; Conditions; Civil and Criminal Immunity.** (a) Notwithstanding any other provision of law, the coroner may, in the course of an autopsy, remove and release or authorize the removal and release of corneal eye tissue from a body within the coroner's custody, if all of the following conditions are met:

(1) The autopsy has otherwise been authorized.

(2) The coroner has no knowledge of objection to the removal and release of corneal tissue having been made by the decedent or any other person specified in Section 7151 of the Health and Safety Code and has obtained any one of the following:

(A) A dated and signed written consent by the donor or any other person specified in Section 7151 of the Health and Safety Code on a form that clearly indicates the general intended use of the tissue and contains the signature of at least one witness.

(B) Proof of the existence of a recorded telephonic consent by the donor or any other person specified in Section 7151 of the Health and Safety Code in the form of an audio tape recording of the conversation or a transcript of the recorded conversation, which indicates the general intended use of the tissue.

(C) A document recording a verbal telephonic consent by the donor or any other person specified in Section 7151 of the Health and Safety Code, witnessed and signed by no less than two members of the requesting entity, hospital, eye bank, or procurement organization, memorializing the consenting person's knowledge of and consent to the general intended use of the gift.

The form of consent obtained under subparagraph (A), (B), or (C) shall be kept on file by the requesting entity and the official agency for a minimum of three years.

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(3) The removal of the tissue will not unnecessarily mutilate the body, be accomplished by enucleation, nor interfere with the autopsy.

(4) The tissue will be removed by a coroner, licensed physician and surgeon, or a trained transplant technician.

(5) The tissue will be released to a public or nonprofit facility for transplant, therapeutic, or scientific purposes.

(b) Neither the coroner nor medical examiner authorizing the removal of the corneal tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of corneal tissue pursuant to this section, shall incur civil liability for the removal in an action brought by any person who did not object prior to the removal of the corneal tissue, nor be subject to criminal prosecution for the removal of the corneal tissue pursuant to the provisions of this section.

(c) This section may not be construed to interfere with the ability of a person to make an anatomical gift pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code.

*(Amended by Statutes 1998, Chapter 887.) (SB 1403)*

**27491.5. Cause of Death Appearing on Certificate; Conformity with Findings; Determination Without Autopsy.** The cause of death appearing on a certificate of death signed by the coroner shall be in conformity with facts ascertained from inquiry, autopsy and other scientific findings. In case of death without medical attendance and without violence, casualty, criminal or undue means, the coroner may, without holding an inquest or autopsy, make the certificate of death from statements of relatives, persons last in attendance, or persons present at the time of death, after due medical consultation and opinion has been given by one qualified and licensed to practice medicine and so recorded in the records of the death, providing such information affords clear grounds to establish the correct medical cause of death within accepted medical practice and within the requirements for accuracy prescribed by the Division of Vital Statistics of the State Department of Health Services. The coroner shall not finally exclude crime, suicide, or accident as a cause of death because of lack of evidence.

*(Amended by Statutes 1979, Chapter 373.)*

**27491.55. Delegation of Jurisdiction Over a Death to Agency of Another County or Federal Government; Conditions.** In any case where a coroner is required to inquire into a death pursuant to Section 27491, the coroner may delegate his or her jurisdiction over the death to an agency of another county or the federal government when all of the following conditions have been met:

(a) The other agency has either requested the delegation of jurisdiction, or has agreed to take jurisdiction at the request of the coroner.

(b) The other agency has the authority to perform the functions being delegated.

(c) When both the coroner and the other agency have a jurisdictional interest or involvement in the death.

*(Added by Statutes 1988, Chapter 1139.) (SB 2359)*

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**27491.6. Holding of Inquest in Coroner's Discretion or Upon Request.** The coroner may also, in his discretion, if the circumstances warrant, hold an inquest, and he shall hold an inquest if requested to do so by the Attorney General, the district attorney, sheriff, city prosecutor, city attorney, or a chief of police of a city in the county in which such coroner has jurisdiction. Such inquest shall be held with or without a jury, at the coroner's discretion and shall be open to the public.

*(Amended by Statutes 1969, Chapter 1220.)*

**27491.7. Conduct of Inquest.** The coroner, his authorized deputy, or a hearing officer shall conduct the inquest.

*(Added by Statutes 1969, Chapter 1220.)*

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**27504. Verdict of Jury; Requisites.** After hearing the testimony, the jury shall render its verdict and certify it by an inquisition in writing signed by the members of the jury, or the coroner shall render his decision if the inquest is by the coroner sitting without a jury, setting forth the name of the deceased, the time and place of death, the medical cause of death and whether the death was by (1) natural causes, (2) suicide, (3) accident, or (4) the hands of another person other than by accident. Such findings shall not include nor shall they make any reference to civil or criminal responsibility on the part of the deceased or any other person.

*(Amended by Statutes 1971, Chapter 1573.)*

**27504.1. Transmission of Findings to District Attorney and Police Agencies.** If the findings are that the deceased met his or her death at the hands of another, the coroner shall, in addition to filing the report in his or her office or with the county clerk as determined by the board of supervisors pursuant to Section 27503, transmit his or her written findings to the district attorney, the police agency wherein the dead body was recovered, and any other police agency requesting copies of the findings.

The findings and conclusions provided for in this article shall be sufficient to satisfy the cause of death information required in death certificates under Section 102875 of the Health and Safety Code.

*(Amended by Statutes 1996, effective September 29, 1996, Chapter 1023.) (SB 1497)*

### **Article 3. Vacancy (Added by Statutes 1947, Chapter 424.)**

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**27530. Authority of Deputy if Coroner Absent.** If the coroner is absent or unable to attend, the duties of his office may be discharged by any of his deputies with like authority and subject to the same obligations and penalties as the coroner.

*(Added by Statutes 1947, Chapter 424.)*

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**Excerpts from  
TITLE 5. LOCAL AGENCIES**

**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES**

**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER  
AGENCIES**

**CHAPTER 12.5 COUNTY FEES  
(Chapter 12.5 was added by Statutes 1983, Chapter 295.)**

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**54985. Authority to Increase or Decrease Fees or Charges; Basis; Disputes; Application of Chapter.** (a) Notwithstanding any other provision of law that prescribes an amount or otherwise limits the amount of a fee or charge that may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs that may be reflected in the cost of providing any product or service or the cost of enforcing any regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.

(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the board of supervisors may request the county auditor to conduct a study and to determine whether the fee or charge is reasonable.

Nothing in this subdivision shall be construed to mean that the county shall not continue to be subject to fee review procedures required by Article XIII B of the California Constitution.

(c) This chapter shall not apply to any of the following:

(1) Any fee charged or collected by a court clerk pursuant to Section 26820.4, 26823, 26824, 26826, 26827, 26827.4, 26830, 72054, 72055, 72056, 72059, 72060, or 72061 of the Government Code or Section 103470 of the Health and Safety Code, and any other fee or charge that may be assessed, charged, collected, or levied, pursuant to law for filing judicial documents or for other judicial functions.

(2) Any fees charged or collected pursuant to Chapter 2 (commencing with Section 6100) of Division 7 of Title 1.

(3) Any standby or availability assessment or charge.

(4) Any fee charged or collected by a county agricultural commissioner.

(5) Any fee charged or collected pursuant to Article 2.1 (commencing with Section 12240) of Chapter 2 of Division 5 of the Business and Professions Code.

(6) Any fee charged or collected by a county recorder or local registrar for filing, recording, or indexing any document, performing any service, issuing any certificate, or providing a copy of any document pursuant to Section 2103 of the Code of Civil Procedure, Section 27361, 27361.1, 27361.2, 27361.3, 27361.4, 27361.8, 27364, 27365, or 27366 of the Government Code, Section 103625 of the Health and Safety Code, or Section 9525 of the Uniform Commercial Code.

(7) Any fee charged or collected pursuant to Article 7 (commencing with Section 26720) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code.

*(Amended by Statutes 1999, operative July 1, 2001, Chapter 991.) (SB 45)*

## GOVERNMENT CODE

**54986. Public Meetings; Notice; Public Data; Action of Board by Ordinance; Costs.** (a) Prior to either approving an increase in an existing fee or charge or initially imposing a new fee or charge pursuant to Section 54985, the board of supervisors shall hold at least one public meeting, at which oral or written presentations may be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the clerk of the board of supervisors for mailed notice of the meeting on new or increased fees or charges. Any written request for such mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for such mailed notices shall be filed on or before April 1st of each year. The board of supervisors may establish a reasonable annual charge for sending those notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the board of supervisors shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the product or service or the cost of enforcing any regulation for which the fee or charge is levied and the revenue sources anticipated to provide the product or service or the cost of enforcing any regulation, including general fund revenues.

(b) Any action by a board of supervisors to levy a new fee or charge or to approve an increase in an existing fee or charge pursuant to Section 54985 shall be taken only by ordinance.

(c) Any costs incurred by a county, a county service area, or county waterworks district governed by a county board of supervisors in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the product or service or the cost of enforcing any regulation which were the subject of the meeting.

*(Amended by Statutes 1984, effective May 25, 1984, Chapter 133.)*

**54987. Construction of Chapter.** (a) This chapter shall not be construed as granting any additional authority to levy any fee or charge which is not otherwise authorized by another provision of law nor shall its provisions be construed as granting authority to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

(b) This chapter shall not be construed as requiring counties, county service areas, or county waterworks districts governed by a county board of supervisors to review or revise any fee or charge which is in effect January 1, 1984.

*(Added by Statutes 1983, Chapter 295.)*





## HEALTH AND SAFETY CODE

### Excerpts from DIVISION 2. LICENSING PROVISIONS

#### CHAPTER 2. HEALTH FACILITIES Article 1. General

**1255.7 Safe Surrender Site; Parents or Others Surrendering Physical Custody of a Baby; Authority and Duties of Safe-Surrender Site Personnel; Medical Information Questionnaire; Scope of Liability of Safe-Surrender Site and Personnel of Site.** (a) (1) For purposes of this section, "safe-surrender site" means either of the following:

(A) A location designated by the board of supervisors of a county to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(B) A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child who is 72 hours old or younger from a parent or individual who has lawful custody of the child and who surrenders the child pursuant to Section 271.5 of the Penal Code.

(2) For purposes of this section, "parent" means a birth parent of a minor child who is 72 hours old or younger.

(3) For purposes of this section, "personnel" means any person who is an officer or employee of a safe-surrender site or who has staff privileges at the site.

(4) A hospital and any safe-surrender site designated by the county board of supervisors shall post a sign utilizing a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child 72 hours old or younger may be safely surrendered pursuant to this section.

(b) Any personnel on duty at a safe-surrender site shall accept physical custody of a minor child 72 hours old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

(1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require any identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child. Every questionnaire provided pursuant to this section shall begin with the following notice in no less than

12-point type:

NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT

## HEALTH AND SAFETY CODE

FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE FULLY IS ESSENTIAL. THANK YOU.

(c) Personnel of a safe-surrender site that has physical custody of a minor child pursuant to this section shall ensure that a medical screening examination and any necessary medical care is provided to the minor child. Notwithstanding any other provision of law, the consent of the parent or other relative shall not be required to provide that care to the minor child.

(d) (1) As soon as possible, but in no event later than 48 hours after the physical custody of a child has been accepted pursuant to this section, personnel of the safe-surrender site that has physical custody of the child shall notify child protective services or a county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code, that the safe-surrender site has physical custody of the child pursuant to this section. In addition, any medical information pertinent to the child's health, including, but not limited to, information obtained pursuant to the medical information questionnaire described in paragraph (3) of subdivision (b) that has been received by or is in the possession of the safe-surrender site shall be provided to that child protective services or county agency.

(2) Any personal identifying information that pertains to a parent or individual who surrenders a child that is obtained pursuant to the medical information questionnaire is confidential and shall be exempt from disclosure by the child protective services or county agency under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Any personal identifying information that pertains to a parent or individual who surrenders a child shall be redacted from any medical information provided to child protective services or the county agency providing child welfare services.

(e) Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall assume temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code immediately upon receipt of notice under subdivision (d). Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately investigate the circumstances of the case and file a petition pursuant to Section 311 of the Welfare and Institutions Code. Child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall immediately notify the State Department of Social Services of each child to whom this subdivision applies upon taking temporary custody of the child pursuant to Section 300 of the Welfare and Institutions Code. As soon as possible, but no later than 24 hours after temporary custody is assumed, child protective services or the county agency providing child welfare services pursuant to Section 16501 of the Welfare and Institutions Code shall report all known identifying information concerning the child, except personal identifying information pertaining to the parent or individual who surrendered the child, to the California Missing Children Clearinghouse and to the National Crime Information Center.

(f) If, prior to the filing of a petition under subdivision (e), a parent or individual who has voluntarily surrendered a child pursuant to this section requests that the safe-surrender site that has physical custody of the child pursuant to this section return the child and the safe-surrender site still has custody of the child, personnel of the safe-surrender site shall either return the child to the parent or individual or contact a child protective agency if any personnel at the safe-surrender site knows or reasonably suspects that the child has been the victim of child abuse or neglect. The voluntary surrender of a child pursuant to this section is not in and of itself a sufficient basis for reporting child abuse or neglect. The terms "child abuse," "child protective agency," "mandated reporter," "neglect," and "reasonably suspects" shall be given the same

## HEALTH AND SAFETY CODE

meanings as in Article 2.5 (commencing with Section 11164) of Title 1 of Part 4 of the Penal Code.

(g) Subsequent to the filing of a petition under subdivision (e), if within 14 days of the voluntary surrender described in this section, the parent or individual who surrendered custody returns to claim physical custody of the child, the child welfare agency shall verify the identity of the parent or individual, conduct an assessment of his or her circumstances and ability to parent, and request that the juvenile court dismiss the petition for dependency and order the release of the child, if the child welfare agency determines that none of the conditions described in subdivisions (a) to (d), inclusive, of Section 319 of the Welfare and Institutions Code currently exist.

(h) A safe-surrender site, or personnel of the safe-surrender site, that accepts custody of a surrendered child pursuant to this section shall not be subject to civil, criminal, or administrative liability for accepting the child and caring for the child in the good faith belief that action is required or authorized by this section, including, but not limited to, instances where the child is older than 72 hours or the parent or individual surrendering the child did not have lawful physical custody of the child. This subdivision does not confer immunity from liability for personal injury or wrongful death, including, but not limited to, injury resulting from medical malpractice.

(i) (1) In order to encourage assistance to persons who voluntarily surrender physical custody of a child pursuant to this section or Section 271.5 of the Penal Code, no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to or death of the minor child as a result of any of his or her acts or omissions. This immunity does not apply to any act or omission constituting gross negligence, recklessness, or willful misconduct.

(2) For purposes of this section, "assistance" means transporting the minor child to the safe-surrender site as a person with lawful custody, or transporting or accompanying the parent or person with lawful custody at the request of that parent or person to effect the safe surrender, or performing any other act in good faith for the purpose of effecting the safe surrender of the minor.

(j) For purposes of this section, "lawful custody" means physical custody of a minor 72 hours old or younger accepted by a person from a parent of the minor, who the person believes in good faith is the parent of the minor, with the specific intent and promise of effecting the safe surrender of the minor.

(k) Any identifying information that pertains to a parent or individual who surrenders a child pursuant to this section, that is obtained as a result of the questionnaire described in paragraph (3) of subdivision (b) or in any other manner, is confidential, shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and shall not be disclosed by any personnel of a safe-surrender site that accepts custody of a child pursuant to this section.

*(Statutes of 2005, Chapter 625 ) (SB 116)*

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# HEALTH AND SAFETY CODE

## Excerpts from DIVISION 7. DEAD BODIES PART 1. GENERAL PROVISIONS

### CHAPTER 1. DEFINITIONS

\* \* \*

**7000. Definitions.** The definitions in this chapter apply to this division, Division 8 (commencing with Section 8100) and Division 102 (commencing with Section 102100) of this code, Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7001. Human Remains; Remains.** "Human remains" or "remains" means the body of a deceased person, regardless of its stage of decomposition, and cremated remains.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7002. Cremated Remains.** "Cremated remains," means the ashes and bone fragments of a human body that are left after cremation in a crematory, and includes ashes from the cremation container. "Cremation remains" does not include foreign materials, pacemakers, or prostheses.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7003. Cemetery.** "Cemetery" means either of the following: (A) Any of the following that is used or intended to be used and dedicated, for cemetery purposes:

- (1) A burial park, for earth interments.
  - (2) A mausoleum, for crypt or vault interments.
  - (3) A crematory, or a crematory and columbarium, for cinerary interments.
- (B) A place where six or more human bodies are buried.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7004. Burial Park.** "Burial Park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.

*(Added by Statutes 1939, Chapter 60.)*

**7005. Mausoleum.** Except in Part 5 (commencing with Section 9501) of Division 8, a "mausoleum" means a structure or building for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated, for cemetery purposes.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7006. Crematory.** "Crematory" means a building or structure containing one or more furnaces for the reduction of bodies of deceased persons to cremated remains.

*(Added by Statutes 1939, Chapter 60.)*

**7006.3. Cremation Chamber.** "Cremation chamber," means the enclosed space within which the cremation of human remains is performed.

*(Added by Statutes 1993, Chapter 1232.) (AB 598)*

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**7006.5. Cremation Container.** "Cremation container" means a combustible, closed container resistant to leakage of bodily fluids into which the body of a deceased person is placed prior to insertion in a cremation chamber for cremation.

*(Added by Statutes 1993, Chapter 1232.) (AB 598)*

**7006.7. Cremated Remains Container.** "Cremated remains container," means a receptacle in which cremated remains are placed after cremation.

*(Added by Statutes 1939, Chapter 60.)*

**7007. Columbarium.** Except in Part 5 (commencing with Section 9501) of Division 8, a "columbarium" means a structure, room, or other space in a building or structure containing niches for inurnment of cremated human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7008. Crematory and Columbarium.** "Crematory and columbarium" means a building or structure containing both a crematory and columbarium.

*(Added by Statutes 1939, Chapter 60.)*

**7009. Interment.** "Interment" means the disposition of human remains by entombment or burial in a cemetery or, in the case of cremated remains, by inurnment, placement or burial in a cemetery, or burial at sea as provided in Section 7117.

*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**7010. Cremation.** "Cremation" means the process by which the following three steps are taken:

(a) The reduction of the body of a deceased human to its essential elements by incineration.

(b) The repositioning or moving of the body or remains during incineration to facilitate the process.

(c) The processing of the remains after removal from the cremation chamber pursuant to Section 7010.3.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7010.3. Processing.** "Processing," means the removal of foreign objects, pursuant to Section 7051, and the reduction of the particle size of cremated remains by mechanical means including, but not limited to, grinding, crushing, and pulverizing to a consistency appropriate for disposition.

*(Added by Statutes 1993, Chapter 1232.) (AB 598)*

**7010.5. Residue.** "Residue" means human ashes, bone fragments, prostheses, and disintegrated material from the chamber itself, imbedded in cracks and uneven spaces of a cremation chamber, that cannot be removed through reasonable manual contact with sweeping or scraping equipment. Material left in the cremation chamber, after the completion of a cremation that can be reasonably removed shall be considered "residue."

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7010.7. Scattering.** "Scattering," means the authorized dispersal of cremated remains at sea, in other areas of the State, or commingling in a defined area within a dedicated cemetery, in accordance with this part.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

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**7011. Inurnment.** "Inurnment" means placing cremated remains in a cremated remains container suitable for placement, burial, or shipment.

*(Added by Statutes 1939, Chapter 60)*

**7011.2. Placement.** "Placement" means the placing of a container holding cremated remains in a crypt, vault, or niche.

*(Added by Statutes 1993, Chapter 1232.) (AB 598)*

**7012. Entombment.** "Entombment" means the process of placing human remains in a crypt or vault.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7013. Burial.** "Burial" means the process of placing of human remains in a grave.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7014. Grave.** "Grave" means a space of earth in a burial park, used, or intended to be used, for the disposition of human remains.

*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7015. Crypt; Vault.** "Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb uncremated human remains.

*(Added by Statutes 1939, Chapter 60.)*

**7016. Niche.** "Niche" means a space in a columbarium used, or intended to be used, for the placement of cremated human remains.

*(Added by Statutes 1939, Chapter 60.)*

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**7018. Cemetery Authority.** "Cemetery authority" includes cemetery association, corporation sole, or other person owning or controlling cemetery lands or property.

*(Amended by Statutes 1939, Chapter 339.)*

**7019. Cemetery Corporation; Cemetery Association; Cemetery Corporation or Association.** "Cemetery corporation," "cemetery association," or "cemetery corporation or association," means any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more or all of the businesses of a cemetery, but do not mean or include a corporation sole.

*(Added by Statutes 1939, Chapter 60.)*

**7020. Cemetery Business; Cemetery Businesses; Cemetery Purposes.** "Cemetery business," "cemetery businesses," and "cemetery purposes" are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property, including, but not limited to, any activity or business designed for the benefit, service, convenience, education, or spiritual uplift of property owners or persons visiting the cemetery.

*(Amended by Statutes 1955, Chapter 595.)*

## HEALTH AND SAFETY CODE

**7021. Directors; Governing Body.** "Directors" or "governing body" means the board of directors, board of trustees, or other policymaking body of a cemetery association.  
*(Amended by Statutes 2001, Chapter 436.) (SB 542)*

**7022. Lot; Plot; Interment Plot.** "Lot," "plot," or "interment plot" means space in a cemetery, used or intended to be used for the interment of human remains. Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches.  
*(Added by Statutes 1939, Chapter 60.)*

**7023. Plot Owner; Owner; Lot Proprietor.** "Plot owner," "owner," or "lot proprietor," means any person in whose name an interment plot stands of record as owner, in the office of a cemetery authority.  
*(Amended by Statutes 1939, Chapter 339.)*

**7024. Permit for Disposition of Human Remains.** "Permit for Disposition of Human Remains" includes "burial permit" and is a permit, issued pursuant to law, for the interment, disinterment, removal, reinterment or transportation of human remains.  
*(Amended by Statutes 1957, Chapter 363.)*

**7025. Disposition.** "Disposition" means the interment of human remains within California, or the shipment outside of California, for lawful interment or scattering elsewhere, including release of remains pursuant to Section 103060.  
*(Amended by Statutes 1996, effective September 29, 1996, Chapter 1023.) (SB 1497)*

## CHAPTER 2. GENERAL PROVISIONS

\* \* \*

**7050.5. Removal of Human Remains From Location Other Than a Dedicated Cemetery; Offense; Discovery of Remains.** (a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (l) of Section 5097.94 of the Public Resources Code or to any person authorized to implement Section 5097.98 of the Public Resources Code.

(b) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.



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(c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

*(Amended by Statutes 1987, Chapter 404.)*

### **7051. Unlawful Removal of Human Remains or Foreign Materials; Criminal Penalty.**

Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment or cremation, with intent to sell it or to dissect it, without authority of law, or written permission of the person or persons having the right to control the remains under Section 7100, or with malice or wantonness, has committed a public offense that is punishable by imprisonment in the state prison.

This section shall not prohibit the removal of foreign materials, pacemakers, or prostheses from cremated remains by an employee of a licensed crematory prior to final processing of ashes. Dental gold or silver, jewelry, or mementos, to the extent that they can be identified, may be removed by the employee prior to final processing if the equipment is such that it will not process these materials. However, any dental gold and silver, jewelry, or mementos that are removed shall be returned to the urn or cremated remains container, unless otherwise directed by the person or persons having the right to control the disposition.

*(Amended by Statutes 1994, Chapter 570.) (AB 1392)*

**7051.5. Unlawful Removal or Possession of Dental Gold or Silver, Jewelry or Mementos; From Human Remains; Criminal Penalty.** Every person who removes or possesses dental gold or silver, jewelry, or mementos from any human remains without specific written permission of the person or persons having the right to control those remains under Section 7100 is punishable by imprisonment in the state prison. The fact that residue and any unavoidable dental gold or dental silver, or other precious metals remain in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.

*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**7052. Unlawful Mutilation or Disinterment of Human Remains; Felony.** Every person who willfully mutilates, disinters, or removes from the place of interment any human remains, without authority of law, is guilty of a felony. This section does not apply to any person who, under authority of law, removes the remains for reinterment, or performs a cremation.

*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**7052.5. Removal of Cremated Remains; Burial at Sea.** Notwithstanding the provisions of Section 7052, cremated remains may be removed from the place of interment for disposition as provided in Section 7054.6 or for burial at sea as provided in Section 7117.

*(Amended by Statutes 1972, Chapter 541.)*

**7053. Detachment or Attachment of Human Remains for Debt; Failure to Release Human Remains; Misdemeanor.** Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, or fails to release any human remains forthwith upon the delivery of authorization for such release signed by the next of kin or by any person entitled to the custody of such remains, is guilty of a misdemeanor.

*(Amended by Statutes 1953, Chapter 1037.)*

## HEALTH AND SAFETY CODE

**7054. Deposit or Disposal of Human Remains Outside Cemetery; Misdemeanor; Reburial of Native American Remains.** (a) (1) Except as authorized pursuant to the sections referred to in subdivision (b), every person who deposits or disposes of any human remains in any place, except in a cemetery, is guilty of a misdemeanor.

(2) 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 registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who, except as authorized pursuant to the sections referred to in subdivision (b), deposits or disposes of any human remains in any place, except in a cemetery, 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 both that imprisonment and fine.

(b) Cremated remains may be disposed of pursuant to Sections 7054.6, 7116, 7117 and 103060.

(c) Subdivision (a) of this section shall not apply to the reburial of Native American remains under an agreement developed pursuant to subdivision (l) of Section 5097.94 of the Public Resources Code, or implementation of a recommendation or agreement made pursuant to Section 5097.98 of the Public Resources Code.

*(Amended by Statutes 2002, Chapter 819.) (SB 17)*

**7054.1. Cremated Remains; Processing for Inurnment; Contract Provisions.** No cremated remains shall be removed from the place of cremation, nor shall there be any charge for the cremation, unless the cremated remains have been processed so that they are suitable for inurnment within a cremated remains container or an urn. Every contract for cremation services shall include specific written notification of the processing to the person having the right to control the disposition of the remains under Section 7100.

*(Amended by Statutes 1994, Chapter 570.) (AB 1392)*

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**7054.3. Recognizable Dead Human Fetus of Less Than 20 Week Uterogestation; Disposal.** Notwithstanding any other provision of law, a recognizable dead human fetus of less than 20 weeks uterogestation not disposed of by interment shall be disposed of by incineration.

*(Added by Statutes 1971, Chapter 377.) (AB 315)*

**7054.4. Human Remains Following Conclusion of Scientific Use; Disposal.** Notwithstanding any other provision of law, recognizable anatomical parts, human tissues, anatomical human remains, or infectious waste following conclusion of scientific use shall be disposed of by interment, incineration, or any other method determined by the state department to protect the public health and safety.

As used in this section, "infectious waste" means any material or article which has been, or may have been, exposed to contagious or infectious disease.

*(Amended by Statutes 1972, Chapter 883, effective August 14, 1972.)*

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**7054.6. Cremated Remains; Removal From Place of Cremation or Interment.** (a) Cremated remains may be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains under Section 7100, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 7003.

(b) Prior to disposition of cremated remains, 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 registrant, shall do all of the following:

- (1) Remove the cremated remains from the place of cremation in a durable container.
- (2) Keep the cremated remains in a durable container.
- (3) Store the cremated remains in a place free from exposure to the elements.
- (4) Responsibly maintain the cremated remains.

*(Amended by Statutes 2000, Chapter 276.) (AB 2279)*

**7054.7. Commingling or Cremation of Remains of More Than One Person; Written Permission; Exceptions; Penalty.** (a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:

(1) Cremate the remains of more than one person at the same time in the same cremation chamber or introduce the remains of a second person into a cremation chamber until incineration of any preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding remains. The fact that there is residue in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.

(2) Dispose of or scatter cremated remains in a manner or in a location that the remains are commingled with those of another person. This paragraph shall not apply to the scattering of cremated remains at sea from individual containers or to the disposal in a dedicated cemetery of accumulated residue removed from a cremation chamber or other cremation equipment.

(3) Place cremated or uncremated remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:

(A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.

(B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.

(C) Disposal in a dedicated cemetery of residue removed from a cremation chamber or other cremation equipment.

(b) Written acknowledgement from the person entitled to control the disposition of the cremated remains shall be obtained by the person with whom arrangements are made for disposition of the remains on a form that includes, but is not limited to, the following information: "The human body burns with the casket, container, or other material in the cremation chamber. Some bone fragments are not combustible at the incineration temperature and, as a result, remain in the cremation chamber. During the cremation, the contents of the chamber may be moved to facilitate incineration. The chamber is composed of ceramic or other material which disintegrates slightly during each cremation and the product of that disintegration is commingled with the cremated remains. Nearly all of the contents of the cremation chamber,

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consisting of the cremated remains, disintegrated chamber material, and small amounts of residue from previous cremations, are removed together and crushed, pulverized, or ground to facilitate inurnment or scattering. Some residue remains in the cracks and uneven places of the chamber. Periodically, the accumulation of this residue is removed and interred in a dedicated cemetery property, or scattered at sea." The acknowledgment shall be filed and retained, for at least five years, by the person who disposes of or interrs the remains.

(c) Any person, including any corporation or partnership, knowingly violating any provision of this section is guilty of a misdemeanor.

*(Amended by Statutes 1994, Chapter 570.) (AB 1392)*

**7055. Disposition or Removal of Human Remains Without Burial or Removal Permit; Misdemeanor; Penalties.** (a) Every person, who for himself or herself or for another person, interrs or incinerates a body or permits the same to be done, or removes any remains, other than cremated remains, from the primary registration district in which the death or incineration occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance or an officer of a duly accredited medical college engaged in official duties with respect to the body of a decedent who has willfully donated his or her body to the medical college from that registration district or county to another registration district or county, or within the same registration district or county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the interment occurred, or removes cremated remains from the premises on which the cremation occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows:

(1) For the first offense, by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500).

(2) For each subsequent offense, by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisonment in the county jail for not more than 60 days, or by both.

(b) Notwithstanding subdivision (a), a funeral director of a licensed out-of-state funeral establishment may transport human remains out of this state without a removal permit when he or she is acting within the requirements specified in subdivision (b) of Section 103050.

*(Amended by Statutes 2006, Chapter 463.) (AB 2105)*

### Excerpts from CHAPTER 3. CUSTODY AND DUTY OF INTERMENT

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**7100. Right to Control Disposition of Remains; Duty and Liability for Interment; Devolution; Prior Directions of Decedent.** (a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care who has the right and duty of disposition under Division 4.7 (commencing with Section 4600) of the Probate Code, except that the agent is liable for the costs of disposition only in either of the following cases:

(A) Where the agent makes a specific agreement to pay the costs of the disposition.

(B) Where, in the absence of a specific agreement, the agent makes decisions concerning disposition that incur costs, in which case the agent is liable only for the reasonable costs

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incurred as a result of the agent's decisions, to the extent that the decedent's estate or other appropriate fund is insufficient. .

(2) The competent surviving spouse.

(3) The sole surviving competent adult child of the decedent, or if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. However, less than one-half of the surviving adult children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving competent adult children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving competent adult children.

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The surviving competent adult person or persons respectively in the next degrees of kindred. If there is more than one surviving competent adult person of the same degree of kindred, the majority of those persons. Less than the majority of surviving competent adult persons of the same degree of kindred shall be vested with the rights and duties of this section if those persons have used reasonable efforts to notify all other surviving competent adult persons of the same degree of kindred of their instructions and are not aware of any opposition to those instructions on the part of one-half or more of all surviving competent adult persons of the same degree of kindred.

(6) The public administrator when the deceased has sufficient assets.

(b) (1) If any person to whom the right of control has vested pursuant to subdivision (a) has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death and those charges are known to the funeral director or cemetery authority, the right of control is relinquished and passed on to the next of kin in accordance with subdivision (a).

(2) If the charges against the person are dropped, or if the person is acquitted of the charges, the right of control is returned to the person.

(3) Notwithstanding this subdivision, no person who has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death to whom the right of control has not been returned pursuant to paragraph (2) shall have any right to control disposition pursuant to subdivision (a) which shall be applied, to the extent the funeral director or cemetery authority know about the charges, as if that person did not exist.

(c) A funeral director or cemetery authority shall have complete authority to control the disposition of the remains, and to proceed under this chapter to recover usual and customary charges for the disposition, when both of the following apply:

(1) Either of the following applies:

(A) The funeral director or cemetery authority has knowledge that none of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) exists.

(B) None of the persons described in paragraphs (1) to (5), inclusive, of subdivision (a) can be found after reasonable inquiry, or contacted by reasonable means.

(2) The public administrator fails to assume responsibility for disposition of the remains within seven days after having been given written notice of the facts. Written notice may be delivered by hand, U.S. mail, facsimile transmission, or telegraph.

(d) The liability for the reasonable cost of final disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred and upon the estate of the decedent. However, if a person accepts the gift of an entire body under subdivision (a) of Section 7155.5, that person, subject to the terms of the gift, shall be liable for the reasonable cost of final

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disposition of the decedent.

(e) This section shall be administered and construed to the end that the expressed instructions of the decedent or the person entitled to control the disposition shall be faithfully and promptly performed.

(f) A funeral director or cemetery authority shall not be liable to any person or persons for carrying out the instructions of the decedent or the person entitled to control the disposition.

(g) For purposes of this section, "adult" means an individual who has attained 18 years of age, "child" means a natural or adopted child of the decedent, and "competent" means an individual who has not been declared incompetent by a court of law or who has been declared competent by a court of law following a declaration of incompetence.

*(Amended by Statutes 2002, Chapter 230.) (AB 1278)*

### **7100.1. Directions Provided by the Decedent for the Disposition of Remains and for Goods and Services to be Provided; Requirements for Alterations, Changes or Amendments to Directions.**

(a) A decedent, prior to death, may direct, in writing the disposition of his or her remains and specify funeral goods and services to be provided. Unless there is a statement to the contrary that is signed and dated by the decedent, the directions may not be altered, changed, or otherwise amended in any material way, except as may be required by law, and shall be faithfully carried out upon his or her death, provided both of the following requirements are met:

(1) The directions set forth clearly and completely the final wishes of the decedent in sufficient detail so as to preclude any material ambiguity with regard to the instructions; and

(2) arrangements for payment through trusts, insurance, commitment by others, or any other effective and binding means, have been made, so as to preclude the payment of any funds by the survivor or survivors of the deceased that might otherwise retain the right to control the disposition.

(b) In the event arrangements for only one of either the cost of interment or the cost of the funeral goods and services are made pursuant to this section, the remaining wishes of the decedent shall be carried out only to the extent that the decedent has sufficient assets to do so, unless the person or persons that otherwise have the right to control the disposition and arrange for funeral goods and services agree to assume the cost. All other provisions of the directions shall be carried out.

(c) If the directions are contained in a will, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

*(Amended by Statutes 1998, Chapter 258.) (AB 1360)*

**7101. Liability of Estate for Cost of Interment, Plot and Funeral Services; Payment as Preferred Charge; Burden of Proof on Rejected Claim.** When any decedent leaves an estate in this state, the reasonable cost of interment and an interment plot of sufficient size to constitute a family plot and memorial including reasonable sums for either, or both, general and special endowment care of the plot proportionate to the value of the estate and in keeping with the standard of living adopted by the decedent prior to his demise, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

Reasonable costs of funeral services, together with interest thereon from 60 days after the date of death, shall be considered as a part of the funeral expenses of the decedent and shall be paid as a preferred charge against his estate as provided in the Probate Code.

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If a claim for mortuary and funeral services, an interment plot or memorial is rejected the burden of proving that the cost of the funeral service, interment plot or memorial is disproportionate to the value of the estate and the standard of living adopted by the decedent while living shall be upon the executor or administrator rejecting the claim. This chapter does not prohibit any relative or friend of a decedent from assuming the duty or paying the expense of interment or the funeral services.

*(Amended by Statutes 1968.) (Chapter 267)*

**7102. Custody of Remains; Persons Entitled to Custody; Coroner.** When a person is charged by law with the duty of interment he is entitled to the custody of the remains for the purpose of interment or, with respect to cremated remains, for the purpose of burial at sea in accordance with the provisions of this division; except that in any case where a coroner is required by law to investigate the cause of death, the coroner is entitled to the custody of the remains of the person whose death is the subject of investigation until the conclusion of the autopsy or medical investigation by the coroner. Any person in whose possession such remains are found, shall, upon demand by the coroner, surrender such remains to him.

*(Amended by Statutes 1965, Chapter 1421.)*

**7103. Failure to Perform Duty to Inter; Misdemeanor; Treble Damages.** (a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time 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 registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time 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 both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

*(Amended by Statutes 2002, Chapter 819.) (SB 17)*

**7104. Interment or Disposition of Remains by Coroner; Jurisdiction; Costs.** (a) When no provision is made by the decedent, or where the estate is insufficient to provide for interment and the duty of interment does not devolve upon any other person residing in the state or if such person can not after reasonable diligence be found within the state the person who has custody of the remains may require the coroner of the county where the decedent resided at time of death to take possession of the remains and the coroner shall inter the remains in the manner provided for the interment of indigent dead.

(b) A county exercising jurisdiction over the death of an individual pursuant to Section 27491, or who assumes jurisdiction pursuant to Section 27491.55 of the Government Code, shall be responsible for the disposition of the remains of that decedent. If the decedent is an indigent, the costs associated with disposition of the remains shall be borne by the county exercising jurisdiction.

*(Amended by Statutes 1988, Chapter 1139.)*

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**7104.1. Interment of Remains by Coroner; Recovery of Expenses.** If, within 30 days after the coroner notifies or diligently attempts to notify the person responsible for the interment or inurnment of a decedent's remains which are in the possession of the coroner, the person fails, refuses, or neglects to inter the remains, the coroner may inter the remains. The coroner may recover any expenses of the interment from the responsible person.

*(Added by Statutes 1992, Chapter 1020.) (SB 1599)*

**7105. Action to Enforce Duty of Interment.** (a) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services fails to act, or fails to delegate his or her authority to act to some other person within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(b) If the person or persons listed in paragraphs (1), (3), (4), (5), and (6) of subdivision (a) of Section 7100 that would otherwise have the right to control the disposition and arrange for funeral goods and services cannot be found within seven days of the date when the right and duty devolves upon the person or persons, or in the case of a person listed in paragraph (2) of subdivision (a) of Section 7100, within 10 days of the date when the right and duty devolves upon the person, after reasonable inquiry, the right to control the disposition and arrange for funeral goods and services shall be relinquished and passed on to the person or persons of the next degree of kinship in accordance with subdivision (a) of Section 7100.

(c) If any persons listed in paragraphs (1), (3), (4), (5), and (6), of subdivision (a) of Section 7100 that would otherwise have equal rights to control the disposition and arrange for funeral goods and services fail to agree on disposition and funeral goods and services to be provided within seven days of the date on which the right and duty of disposition devolved upon the persons, a funeral establishment or a cemetery authority having possession of the remains, or any person who has equal right to control the disposition of the remains may file a petition in the superior court in the county in which the decedent resided at the time of his or her death, or in which the remains are located, naming as a party to the action those persons who would otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties will have the control of disposition and to direct that person to make interment of the remains. The court, at the time of determining the person to whom the right of disposition will vest, shall, from the remaining parties to the action, establish an alternate order to whom the right to control disposition will pass if the person vested with the right to control disposition fails to act within seven days.

(d) If the person vested with the duty of interment has criminal charges pending against him or her for the unlawful killing of the decedent, in violation of Section 187 of, or subdivision (a) or (b) of Section 192 of, the Penal Code, the person or persons with the next highest priority prescribed by Section 7100 may petition a court of competent jurisdiction for an order for control of the disposition of the decedent's remains. For this purpose, it shall be conclusively presumed that the petitioner is the person entitled to control the disposition of the remains if the petitioner is next in the order of priority specified in Section 7100.

*(Amended by Statutes 2006, Chapter 96.) (AB 886)*



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**7106. Action by Cemetery Authority for Interment of One or More Decedents; Allegations of Petition; Separate Orders of Court.** A cemetery authority may seek an order providing for the interment of the remains of one or more decedents. Where a proceeding is commenced involving the remains of more than one decedent the allegations of the petition shall separately state the facts as to each, and the court may make a separate order as to each.

*(Added by Statutes 1939, Chapter 60.)*

**7107. Notice of Hearing; Court Order.** Notice of the time and place of the hearing on the petition shall be given as the court may direct. Upon the hearing the court shall make its order providing for the interment of the remains in such manner, at such time, and at such place as the court may determine to be just and proper, and for the best interests of the public health.

*(Added by Statutes 1939, Chapter 60.)*

**7108. Manner of Interment by Coroner.** If the coroner is directed to make such interment he shall make it in the manner provided by law for the interment of the indigent dead.

*(Amended by Statutes 1939, Chapter 339.)*

**7109. Costs and Attorney's Fees.** The court shall allow costs and reasonable attorney's fees to a prevailing plaintiff against all defendants, other than the coroner.

*(Amended by Statutes 1993, Chapter 60.)*

**7110. Warranties of Person Signing Authorization for Interment or Cremation.** Any person signing any authorization for the interment or cremation of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred or cremated, and his or her authority to order interment or cremation. He or she is personally liable for all damage occasioned by or resulting from breach of such warranty.

*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**7111. Interment or Cremation by Cemetery Authority on Written Authorization; Immunity of Authority.** A cemetery authority may make an interment or cremation of any remains upon the receipt of a written authorization of a person representing himself or herself to be a person having the right to control the disposition of the remains pursuant to Section 7100.

A cemetery authority or crematory is not liable for cremating, making an interment, or for other disposition of remains permitted by law, pursuant to that authorization, unless it has actual notice that the representation is untrue.

*(Amended by Statutes 2002, Chapter 819.) (SB 17)*

**7112. Limitation of Action Against Cemetery Authorities.** No action shall lie against any cemetery authority relating to the cremated remains of any person which have been left in its possession for a period of one year, unless a written contract has been entered into with the cemetery authority for their care or unless permanent interment has been made.

No licensed funeral director shall be liable in damages for the lawful disposition of any cremated human remains.

*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**7113. Authorization for Autopsy; Immunities; Restrictions on Verbal Authorization.** A cemetery authority or licensed funeral director or a licensed hospital or its authorized personnel may permit or assist, and a physician may perform, an autopsy of any remains in its or his custody if the decedent, prior to his death, authorizes an autopsy in his will or other written instrument, or upon the receipt of a written authorization, telegram, or a verbal authorization

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obtained by telephone and recorded on tape or other recording device, from a person representing himself to be any of the following:

- (a) The surviving spouse;
- (b) a surviving child or parent;
- (c) a surviving brother or sister;
- (d) any other kin or person who has acquired the right to control the disposition of the remains;
- (e) a public administrator;
- (f) a coroner or any other duly authorized public officer.

A cemetery authority or a licensed funeral director or a licensed hospital or its authorized personnel is not liable for permitting or assisting, and a physician is not liable for performing, an autopsy pursuant to such authorization unless he or it has actual notice that such representation is untrue at the time the autopsy is performed. If such authorization is contained in a will, the autopsy may be performed regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall not authorize the obtaining of a verbal authorization by telephone and recorded on tape or other recording device for an autopsy of a deceased person if it is made known to the physician who is to perform the autopsy that the deceased was, at the time of his death, a member of a religion, church, or denomination which relies solely upon prayer for the healing of disease.

*(Amended by Statutes 1971, Chapter 99.) (AB 534)*

**7114. Unauthorized Autopsy; Offense; Exception.** Any person who performs, permits or assists at, an autopsy on a dead body without having first obtained (a) the authorization of the deceased in writing, including, but not limited to, the last will of the deceased; or (b) the authorization in writing of the person designated by Section 7100 of this code as having the right to control the disposition of the remains of the deceased; or (c) in the case of a cemetery authority or a licensed funeral director or a licensed hospital or its agents or a physician, the written or verbal authorization described in Section 7113 or 7151.6 of this code, is guilty of a misdemeanor, except that this section shall not be applicable to the performance of an autopsy by the coroner or other officer authorized by law to perform autopsies.

*(Amended by Statutes 1972, Chapter 1048.)*

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**7116. Placement or Scattering of Cremated Remains; Location.** Cremated remains may be scattered in areas where no local prohibition exists, provided that the cremated remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains on lands under the agency's jurisdiction. The scattering of the cremated remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003, or any other provision of law.

*(Added by Statutes 1998, Chapter 614.) (AB 1705)*

**7117. Burial of Cremated Remains at Sea; Method; Verified Statement; Filing Copies of Endorsed Permit; Exercise of Right to Bury at Sea.** (a) Cremated remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains shall be removed from their container before the remains are scattered at sea.

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(b) Any person who scatters at sea, either from a boat or from the air, any human cremated remains shall, file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. Nothing in this section shall be construed to allow the scattering of cremated human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains of a deceased person may be scattered at sea as provided in this section and Section 103060.  
*(Amended by Statutes 1998, Chapter 614.) (AB 1705)*

### Excerpts from CHAPTER 3.5. UNIFORM ANATOMICAL GIFT ACT

**7150. Citation.** This chapter may be cited as the "Uniform Anatomical Gift Act."  
*(Added by Statutes 1988; Chapter 1095.)*

**7150.1. Definitions:** As used in this chapter:

(a) "Anatomical gift" means a donation of all or part of a human body or a pacemaker to take effect upon or after death.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

(d) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body or a pacemaker.

(e) "Enucleator" means an individual who removes or processes eyes or parts of eyes.

(f) "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(g) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body or a pacemaker.

(h) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(i) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the laws of any state.

(j) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state or by the State Department of Health Services for procurement, distribution, or storage of human bodies or parts.

(k) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(l) "Technician" means an individual who has completed training in removal of parts for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

*(Amended by Statutes 1994, Chapter 1010.) (SB 2053)*

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### **7150.5 Making, Amending, Revoking, and Refusing to Make Anatomical Gifts by Individual.**

(a) Except as provided in subdivision (b) of Section 12811 of, and subdivision (b) of Section 13005 of, the Vehicle Code, an individual who is at least 18 years of age, or an individual who is between 15 and 18 years of age as specified in subdivision (m), may make an anatomical gift for any of the purposes stated in subdivision (a) of Section 7153, limit an anatomical gift to one or more of those purposes, or refuse to make an anatomical gift.

(b) An anatomical gift may be made only by one of the following:

- (1) A document of gift signed by the donor.
- (2) A document of gift signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.
- (3) A document of gift orally made by a donor by means of a tape recording in his or her own voice.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift shall comply with subdivision (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by one or more of the following:

- (1) A signed statement.
- (2) An oral statement made in the presence of two individuals or by means of a tape recording in the donor's own voice.
- (3) Any form of communication during a terminal illness or injury addressed to a physician or surgeon.
- (4) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subdivision (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by a writing signed in the same manner as a document of gift, a statement attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, or any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under Section 7151 or on a removal or release of other parts under Section 7151.5.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation

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to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subdivision (i).

(l) Any signed statement that is in compliance with this chapter, or a driver's license or identification card that meets the requirements for validity set forth in subdivision (b) of Section 12811 of the Vehicle Code or subdivision (b) of Section 13005 of the Vehicle Code, shall be honored and no further consent or approval from the next of kin or other person listed in subdivision (a) of Section 7151 shall be required.

(m) Notwithstanding subdivision (a), an individual who is between 15 and 18 years of age may make an anatomical gift for any purpose stated in subdivision (a) of Section 7153, limit an anatomical gift to one or more of those purposes, refuse to make an anatomical gift, or amend or revoke an anatomical gift, only upon the written consent of a parent or guardian.

*(Amended by Statutes 1998, Chapter 457.) (AB 1225)*

**7151. Making, Revoking, and Objecting to Anatomical Gifts, by Others.** (a) Except as provided in Section 7152, any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or part of the decedent's body or a pacemaker for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(1) The agent under a power of attorney for health care that expressly authorizes or does not limit the authority of the agent to make an anatomical gift of all or part of the principal's body or a pacemaker.

(2) The spouse of the decedent.

(3) An adult son or daughter of the decedent.

(4) Either parent of the decedent.

(5) An adult brother or sister of the decedent.

(6) A grandparent of the decedent.

(7) A guardian or conservator of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in subdivision (a) if any of the following occur:

(1) A person in a prior class is available at the time of death to make an anatomical gift.

(2) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent.

(3) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under subdivision (a) shall be made by a document of gift signed by the person or the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under subdivision (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make an anatomical gift under subdivision (a) is not an objection to the making of an anatomical gift.

*(Amended by Statutes 1999, Chapter 658.) (AB 891)*

**7151.5. Authorization by Coroner or Medical Examiner, Hospital, or Public Health Officer; Records; Liability.** (a) Except as provided in Section 7152, the coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation, therapy, or reconditioning, if all of the following occur:

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(1) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization or, in the case of a pacemaker, from a person who reconditions pacemakers.

(2) A reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to making, an anatomical gift. Except in the case where the useful life of the part does not permit, a reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151.

(3) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in subdivision (a) of Section 7151.

(4) The removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator.

(5) The removal will not interfere with any autopsy or investigation.

(6) The removal will be in accordance with accepted medical standards.

(7) Cosmetic restoration will be done, if appropriate.

(b) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner, a hospital may release and permit the removal of a part from a body if the hospital, after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to making, an anatomical gift, determines and certifies that the persons are not available. A search for the persons listed in subdivision (a) of Section 7151 may be initiated in anticipation of death, but, except in the case where the useful life of the part does not permit, the determination may not be made until the search has been underway for at least 12 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivision (a) of Section 7151.

(c) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner or a hospital, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation, therapy, or reconditioning if the requirements of subdivision (a) are met.

(d) An official or hospital releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, any required written or recorded telephonic consent, and the person to whom it was released.

(e) In the case of corneal material to be used for the purpose of transplantation, the official releasing and permitting the removal of the corneal material and the requesting entity shall obtain and keep on file for not less than three years a copy of any one of the following:

(1) A dated and signed written consent by the donor or any other person specified in Section 7151 on a form that clearly indicates the general intended use of the tissue and contains the signature of at least one witness.

(2) Proof of the existence of a recorded telephonic consent by the donor or any person specified in Section 7151 in the form of an audio tape recording of the conversation or a transcript of the recorded conversation, which indicates the general intended use of the tissue.

(3) A document recording a verbal telephonic consent by the donor or any other person specified in Section 7151, witnessed and signed by no less than two members of the requesting

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entity, hospital, eye bank, or procurement organization, memorializing the consenting person's knowledge of and consent to the general intended use of the gift.

These requirements are necessary only if the official agency chooses to participate in the transfer of corneal tissue with the requesting entity.

(f) Neither the coroner nor medical examiner authorizing the removal of a body part or tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of a body part or tissue pursuant to this section, shall incur civil liability for the removal in an action brought by any person who did not object prior to the removal of the body part or tissue, nor be subject to criminal prosecution for the removal of the body part or tissue pursuant to this section.

*(Amended by Statutes 2000, Chapter 830.) (AB 2397)*

\* \* \*

**7152. Members of Faith Healing Sect or Religions With Tenets in Opposition to Gifts; Donations Only by Decedent.** Only an individual may make an anatomical gift of all or part of the individual's body or a pacemaker, if it is made known that the individual at the time of death was a member of a religion, church, sect, or denomination which relies solely upon prayer for the healing of disease or which has religious tenets that would be violated by the disposition of the human body or parts thereof or a pacemaker for any of the purposes stated in subdivision (a) of Section 7153.

*(Added by Statutes 1988, Chapter 1095.)*

**7152.5. Protocol by Hospitals to Identify Potential Donors; Search for Document and Notification.** (a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital shall comply with the protocol developed pursuant to Section 7184.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) A law enforcement officer finding an individual who the officer believes is dead or near death.

(2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(3) Ambulance or emergency medical personnel, upon providing emergency medical services to an individual, when it appears that death of that individual may be imminent. This requirement shall be secondary to the requirement that ambulance or emergency medical personnel provide emergency medical services to the patient.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (1) of subdivision (b), and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to subdivision (a) of Section 7151 or a release and removal of a part has been permitted pursuant to Section 7151.5, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

*(Amended by Statutes 1994, Chapter 211.) (AB 3111)*

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**7153. Persons Who May Become Donees; Purposes for Which Anatomical Gifts May be Made.** (a) Only the following persons may become donees of anatomical gifts for the purposes stated:

(1) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

(2) An accredited medical or dental school, college, or university for education, research, or advancement of medical or dental science.

(3) A designated individual for transplantation or therapy needed by that individual.

(4) In the case of a pacemaker, a person who reconditions pacemakers.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or, in the case of a pacemaker, the pacemaker may be accepted by any person who reconditions pacemakers.

(c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under subdivision (a) of Section 7151, the donee may not accept the anatomical gift.

*(Amended by Statutes 2000, Chapter 830.) (AB 2397)*

**7153.2. Disability of Ultimate Recipient; Discrimination Prohibited; Demonstration of Postoperative Independent Living Abilities.** (a) No hospital, physician and surgeon, procurement organization, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability, except to the extent that the physical or mental disability has been found by a physician and surgeon, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

(b) Subdivision (a) shall apply to each part of the organ transplant process. The organ transplant process includes, but is not limited to, the following:

(1) The referral from a primary care provider to a specialist.

(2) The referral from a specialist to a transplant center

(3) The evaluation of the patient for the transplant by the transplant center.

(4) The consideration of the patient for placement on the official waiting list.

(c) A person with a physical or mental disability shall not be required to demonstrate postoperative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance.

(d) The court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

(e) This section shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants.

(f) As used in this section "disabilities" has the same meaning as in the federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq., Public Law 101-336).

*(Added by Statutes 1996, Chapter 96.) (AB 2861)*

**7153.5. Delivery of Documents of Gifts; Examination by Interested Person.** (a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, accredited medical or dental school, college, or university, or, in the event that the gift is for transplantation or therapy only, to a procurement organization that accepts it for safekeeping or for facilitation of procedures after death. On



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request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

*(Amended by Statutes 2000, Chapter 830.) (AB 2397)*

**7154. Rights and Duties at Death.** (a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under subdivision (b) of Section 7155.5. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body or a pacemaker, the donee, upon the death of the donor and before embalming, shall cause the part or pacemaker to be removed without unnecessary mutilation. After removal of the part or pacemaker, custody of the remainder of the body vests in the person specified in Section 7100.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to subdivision (d) of Section 7150.5.

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

(d) For all donations made pursuant to a document of gift executed after January 1, 2001, following the final disposition of the remains of the donor, upon request of a person specified in Section 7100, the donee shall return the cremated remains of the donor at no cost to the person specified in Section 7100, unless the donor has previously designated otherwise in the document of gift.

A person who knowingly returns the cremated remains of a person other than the donor to a person specified in Section 7100 shall be punished by imprisonment in the county jail for not more than one year.

*(Amended by Statutes 2000, Chapter 830.) (AB 2397)*

**7154.5. Coordination of Procurement and Use.** Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

*(Added by Statutes 1988, Chapter 1095.)*

**7155. Sale or Purchase of Parts; Prohibition; Penalties.** (a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation, therapy, or reconditioning, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, a fine not exceeding fifty thousand dollars (\$50,000), or both.

*(Amended by Statutes 1994, Chapter 160.) (AB 2652)*

**7155.5. Examination; Autopsy; Immunity From Liability.** (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purpose intended. All donors shall be screened for infectious diseases, including human immunodeficiency virus (HIV) antibody testing, pursuant to regulations adopted by the State Department of Health Services.

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(b) The provisions of this chapter are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to Section 7150.5 or 7151 and the individual's estate or heirs are not liable for any injury, damage, or cost that may result from the making or the use of the anatomical gift.

*(Amended by Statutes 1994, Chapter 160.) (AB 2652)*

**7156. Date of Application.** This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after January 1, 1989.

*(Added by Statutes 1988, Chapter 1095.)*

**7156.5. Uniformity of Application and Construction.** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

*(Added by Statutes 1988, Chapter 1095.)*

### Excerpts from CHAPTER 3.7. DEATH

#### Article 1. Uniform Determination of Death Act

\* \* \*

**7180. Determination of Death; Application and Construction of Article; Short Title.** (a) An individual, who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(c) This article may be cited as the Uniform Determination of Death Act.

*(Added by Statutes 1982, Chapter 810.)*

#### Article 2. Confirmation of Death

\* \* \*

**7181. Pronouncement Upon Determination of Brain Cessation; Confirmation.** When an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be independent confirmation by another physician.

*(Added by Statutes 1982, Chapter 810.)*

**7182. Confirmation of Death of Donor for Transplantation.** When a part of the donor is used for direct transplantation pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)) and the death of the donor is determined by determining that the individual has suffered an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be an independent confirmation of the death by another physician.

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Neither the physician making the determination of death under Section 7155.5 nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part.

*(Added by Statutes 1982, Chapter 810.)*

**7183. Medical Records.** Complete patient medical records required of a health facility pursuant to regulations adopted by the department in accordance with Section 1275 shall be kept, maintained, and preserved with respect to the requirements of this chapter when an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem.

*(Added by Statutes 1982, Chapter 810.)*

**7184. Identifying Potential Organ and Tissue Donors; Protocol; Medi-Cal Program Participation.** (a) Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

(b) A general acute care hospital shall comply with subdivision (a) or (c) as a condition of participation in the Medi-Cal program contained in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Notwithstanding subdivision (a), the protocol may alternately provide for the hospital to contact an organ and tissue procurement organization at the time a potential organ and tissue donor is identified, and for the trained personnel of the organ and tissue procurement organization to make the inquiries described in subdivision (a) of the deceased individual's next of kin or other individual as set forth in Section 7151.

*(Amended by Statutes 1992, Chapter 583.) (SB 1012)*

**7184.5. Organ Recovery Protocols.** (a) In conjunction with entering into any agreement with any coroner or medical examiner for release and removal of organs from bodies within that official's custody and to further the purposes of Section 27491.45 of the Government Code, a procurement organization shall develop a protocol for organ recovery, as appropriate, that provides sufficient information on the medical and injury status of the deceased to permit release and removal of organs without undue prejudice to that official's investigation of, or inquiry into, the cause of death.

(b) The protocol described in subdivision (a) shall be subject to approval by the coroner or medical examiner before release or removal of organs and shall provide for the following:

(1) Relevant information on the deceased to be given to the coroner or deputy coroner at the time of the initial request for permission to recover internal organs, including, but not limited to:

(A) Information identifying the deceased.

(B) Date and time of pronouncement of brain death.

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- (C) Name of procurement organizations and coordinator.
  - (D) Organs requested.
  - (E) Organ donor number and hospital.
  - (F) Apparent cause and manner of death.
  - (G) A brief description of alleged circumstances surrounding the death to the extent they are known at the time.
  - (H) The law enforcement agency and the name of the investigating officer handling the case.
- (2) The following information, to be recorded by the organ procurement coordinator at the time of requesting permission for organ removal:
- (A) The name of the deputy coroner contacted.
  - (B) The name of the pathologist contacted by the deputy coroner.
  - (C) Whether permission for removal was obtained at the time, including the date and time if permission was obtained.
  - (D) The coroner's case number assigned by the deputy coroner.
  - (E) If the request for organ removal is refused, the reason given for the refusal.
- (3) A checklist to be completed prior to recovery of any organ by the procurement organization coordinator with the assistance, if necessary, of a physician attending the deceased, that includes, at a minimum, all of the following:
- (A) medical record review to insure documentation of external injuries, fractures, and internal injuries.
  - (B) In cases of suspected child abuse, whether:
    - (i) A child abuse consult was obtained.
    - (ii) A computerized axial tomographic scan or magnetic resonance image of the head was obtained.
    - (iii) A radiological skeletal survey was done.
    - (iv) The presence or absence of visible injury to the back of the scalp, ears, nose, and mouth, or retinal hemorrhage has been documented.
    - (v) A coagulation screen report was in the deceased's records.
  - (C) A photographic record of visible external injuries.
  - (D) Admitting blood sample, if available, and the date and time the sample was drawn.
- (4) A checklist of items to be provided to the coroner's office when the deceased's body is released after completion of organ recovery, including, but not limited to, all of the following:
- (A) A copy of the deceased's medical records.
  - (B) Film documenting abnormal findings, if used.
  - (C) The information recorded pursuant to the requirements of this subdivision.
  - (D) A sample of the deceased's blood, if taken on admission.
- (5) A form, completed by the physician and surgeon, technician, or team performing the organ recovery procedure and signed by the physician and surgeon, that describes in sufficient detail all of the following:
- (A) Tests used to determine the suitability for transplantation of all organs recovered.
  - (B) Documentation of injuries and other abnormalities, if any, noted or occurring during the organ recovery procedure.
  - (C) The date and time organ recovery was started.
  - (D) Any other information on the state of the deceased's body or organs that the physician and surgeon, technician, or team believes may assist the coroner in his or her investigation or inquiry.
- (c) The requirements of subdivision (a) shall not apply in any county that does not have a Level II trauma facility, as defined in Section 1798.160 and the regulations adopted pursuant thereto.
- (d) Notwithstanding any other provision of law, a health care provider may release the information described in this section to the procurement organization, the coroner, or the medical examiner.

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(e) For purposes of this section, "organ" or "organs" means internal whole organs, including, but not limited to, the heart, kidneys, the liver, and lungs, but does not include eyes, skin, or other similar tissue.

*(Added by Statutes 1996, Chapter 827.) (AB 3145)*

### Excerpts from CHAPTER 4. DISPOSAL OF UNCLAIMED DEAD

\* \* \*

**7200. Notice to Relatives or State Department.** Every head of a public institution, city or county undertaker, or State, county, or city officer having charge or control of remains to be interred at public expense, shall use due diligence to notify the relatives of the decedent. In the absence of any known relative of the decedent desiring to direct the disposition of the remains in a manner other than in this chapter provided, and upon written request of the State department that such notices are required for a definite period specified in the request, that officer shall notify the State department by telegraph collect, immediately after the lapse of twenty-four hours after death, stating, whenever possible the name, age, sex, and cause of death of the decedent.

*(Added by Statutes 1939, Chapter 60.)*

**7201. Transmittal of Medical History.** The person in charge of a public institution in which the decedent was an inmate shall transmit upon request, to the state department or to any person designated by it, a brief medical history of the unclaimed dead for purpose of identification and permanent record, which records shall be open to inspection by any State or county official or prosecuting attorney.

*(Added by Statutes 1939, Chapter 60.)*

**7202. Disposition of Unclaimed Dead Retained by State Department for Scientific or Educational Purposes.** The unclaimed dead retained by the State department for scientific or educational purposes shall be embalmed and disposed of in accordance with the instructions of the State Department. Such unclaimed dead shall be held for a period of thirty days by those to whom they may have been assigned for scientific or educational purposes, subject to claim and identification by any authenticated relative of the decedent for purpose of interment or other disposition in accordance with the directions of such relative.

*(Added by Statutes 1939, Chapter 60.)*

**7203. Use of Unclaimed Dead Retained by State Department.** The bodies of the unclaimed dead retained by the State department shall be used solely for the purpose of instruction and study in the promotion of medical, chiropractic, and embalming education and science within the State.

*(Added by Statutes 1939, Chapter 60.)*

**7204. Expense of Preservation and Transportation; Payment by Persons Receiving Unclaimed Dead for Educational Purposes; Permanent Record.** All persons receiving unclaimed dead for educational purposes shall bear all reasonable expense incurred in the preservation and transportation of the dead and shall keep a permanent record of bodies received, giving the identification number, the name, age, sex, nationality, and race, if possible, together with the place of last residence of the decedent and the source and disposition, with dates, of the body.

*(Added by Statutes 1939, Chapter 60.)*

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**7205. Post Mortem Examination Without Permission of State Department.** It is unlawful for any person, unless specifically authorized by law, to hold a post mortem examination of any unclaimed dead without the express permission of the State department.

*(Added by Statutes 1939, Chapter 60.)*

**7206. Permission to Obtain at Time of Necropsy Material for Scientific Purposes.** Any person authorized by law to perform post mortem examinations shall permit, with the consent of relatives, or in the absence of such relatives, with the consent of the State department, any representative of the anatomical or pathological departments of an incorporated medical, chiropractic, or osteopathic school or college to obtain at the time of the necropsy, such material in a recent state as may be needed for scientific purposes, if the material is not required for the legal purposes of the State.

*(Added by Statutes 1939, Chapter 60.)*

**7207. Failure to Notify or Deliver Body of Deceased Indigent; Interment at Expense of Person Failing to Comply with Requirements.** Whenever, through the failure of any person to notify the State department, or promptly to deliver the body of a deceased indigent as required by the State department, such body becomes unfit for scientific or educational purposes, the State department shall so certify and the remains shall be interred at the expense of those guilty of such noncompliance.

*(Added by Statutes 1939, Chapter 60.)*

**7208. Violations; Misdemeanor.** Every person who unlawfully disposes, uses, or sells the body of an unclaimed dead person, or who violates any provision of this chapter is guilty of a misdemeanor.

*(Added by Statutes 1939, Chapter 60.)*

### Excerpts from CHAPTER 5. EMBALMING AND TRANSPORTATION

#### Article 1. Embalming

\* \* \*

**7300. Death From Unknown Cause; Permission of Coroner.** No person shall embalm the body of any person who has died from an unknown cause, except with the permission of the coroner.

*(Amended by Statutes 1951, Chapter 560.)*

**7301. Crimes in Conjunction With Death; Permission of Coroner.** No embalmer shall embalm a dead human body when he has information reasonably indicating crime in connection with the death until permission of the coroner has been obtained.

*(Amended by Statutes 1977, effective January 3, 1977.)*

**7302. Report of Contagious Disease by Funeral Director or Embalmer.** Every funeral director and embalmer shall immediately report to the local health officer every contagious case on which the funeral director or embalmer may be called.

*(Added by Statutes 1939, Chapter 60.)*

**7303. Permission to Embalm Dead Human Body of Person Killed As a Result of Motor Vehicle Accident.** No embalmer shall embalm a dead human body when he has information reasonably indicating the death has occurred while the deceased was driving or riding in a motor

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vehicle, or as a result of the deceased being struck by a motor vehicle, until permission of the coroner, his appointed deputy coroner, or a judge in the county, if there is no coroner, has been obtained.

*(Added by Statutes 1970, Chapter 1355.)*

**7304. Permission; Exceptions.** No embalmer shall embalm a dead body without obtaining written or oral permission of a person who has the right to control the disposition of the remains pursuant to Section 7100, except that prior authorization is not required if embalming is necessary in order to comply with applicable laws or regulations, or is necessary to avoid irreparable deterioration of the dead body, in which case, a good faith effort shall be made to obtain permission.

*(Added by Statutes 1978, Chapter 530.)*

\* \* \*

### Excerpts from Article 2. Transportation

**7355. Transportation of Dead Bodies; Preparation of Body; Casket.** (a) Except as provided in subdivision (b), the bodies of persons who have died from any cause shall not be received for transportation by a common carrier unless the body has been embalmed and prepared by a licensed embalmer and placed in a sound casket and enclosed in a transportation case.

(b) A dead body, which cannot be embalmed or is in a state of decomposition, shall be received for transportation by a common carrier if the body is placed in an airtight metal casket enclosed in a strong transportation case or in a sound casket enclosed in an airtight metal or metal-lined transportation case.

*(Amended by Statutes 1973, Chapter 574.)*

### Excerpts from PART 2. DISINTERMENT AND REMOVAL

#### CHAPTER 1. GENERAL PROVISIONS

##### Article 1. Permits

\* \* \*

**7500. Requirement of Order for Removal; Record; Contents.** No remains of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the superior court of the county in which such cemetery is situated. A duplicate copy of the order shall be maintained as a part of the records of the cemetery. Any person who removes any remains from any cemetery shall keep and maintain a true and correct record showing:

(a) The date such remains were removed.

(b) The name and age of the person removed, when these particulars can be conveniently obtained and the place to which the remains were removed.

(c) The cemetery and the plot therein in which such remains were buried.

If the remains are disposed of other than by interment, a record shall be made and kept of such disposition. The person making the removal shall deliver to the cemetery authority operating the cemetery, from which the remains were removed, a true, full and complete copy of such record.

*(Added by Statutes 1939, Chapter 60.)*

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**7501. Requirement of Removal Permit; Applications; Issuance; Contents; Destruction of Permits.** A cemetery authority shall not remove or permit the removal of any interred remains, unless a permit for the removal has been issued by the local registrar of the district in which the premises are located, and delivered to the cemetery authority. Any person entitled by law to remove any remains may apply to the local registrar for a permit to remove them. The local registrar shall issue a permit, which in all cases, shall specify the name of a cemetery where the remains shall be interred, and shall retain a copy, except that if cremated remains are to be buried at sea as provided in Section 7117 of this code, the permit shall so specify and indicate the county where the fact of burial at sea shall be reported.

*(Amended by Statutes 1965, Chapter 1421.)*

**7502. Removal of all Remains in Cemetery.** In the disinterment, transportation and removal of human remains under Chapter 4 of this part a cemetery authority need not obtain a separate permit for the disinterment, transportation or removal of the remains of each person, but disinterment, transportation and removal of human remains shall be made subject to reasonable rules and regulations relative to the manner of disinterring, transporting or removing such remains as may be adopted by the board of health or health officer of the city or city and county in which the cemetery lands are situated.

*(Added by Statutes 1939, Chapter 60.)*

### Excerpts from Article 2. Consent to Removal

\* \* \*

**7525. Required Consent; Persons.** The remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (a) The surviving spouse.
- (b) The surviving children.
- (c) The surviving parents.
- (d) The surviving brothers or sisters.

*(Added by Statutes 1939, Chapter 60.)*

**7526. Permission of Court.** If the required consent can not be obtained, permission by the superior court of the county where the cemetery is situated is sufficient.

*(Added by Statutes 1939, Chapter 60.)*

**7527. Notice of Application to Court for Permission; Service.** Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person or association on whom service of notice may be required by the court.

*(Added by Statutes 1939, Chapter 60.)*

**7528. Exemptions.** This article does not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor does it apply to the disinterment of remains upon order of court or coroner.

*(Added by Statutes 1939, Chapter 60.)*



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## Excerpts from DIVISION 8. CEMETERIES

### PART 1. GENERAL PROVISIONS

#### CHAPTER 1. DEFINITIONS

\* \* \*

**8100. Six of More Bodies Buried at One Place.** The definitions set forth in Chapter 1 (commencing with Section 7000) of Part 1 of Division 7 shall be applicable to this division.  
*(Added by Statutes 1939, Chapter 60.)*

#### Excerpts from CHAPTER 2. VANDALISM

\* \* \*

**8102. Civil Liability.** Any person violating any provision of this chapter is liable, in a civil action by and in the name of the cemetery authority, to pay all damages occasioned by his unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed.  
*(Added by Statutes 1939, Chapter 60.)*

**8103. Acts to Which Chapter Does not Apply.** The provisions of this chapter do not apply to the removal or unavoidable breakage or injury, by a cemetery authority, of any thing placed in or upon any portion of its cemetery in violation of any of the rules or regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority which has become in a wrecked, unsightly, or dilapidated condition.  
*(Added by Statutes 1939, Chapter 60.)*

#### Excerpts from CHAPTER 3. RECORDS

\* \* \*

**8110. Record of Interments and Cremations; Contents.** The person in charge of any premises on which interments or cremations are made shall keep a record of all remains interred or cremated and of the interment of remains on the premises under his charge, in each case stating the name of each deceased person, place of death, date of interment, and name and address of the funeral director.  
*(Added by Statutes 1939, Chapter 60.)*

**8111. Inspection.** The records shall at all times be open to official inspection.  
*(Added by Statutes 1939, Chapter 60.)*

**8112. Authorized Modes of Recordkeeping.** Records required to be kept under Division 7 (commencing with Section 7000) or this division may be kept in original form or by photocopy, microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record.  
*(Added by Statutes 1993, Chapter 1232.) (AB 598)*

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### Excerpts from PART 3. PRIVATE CEMETERIES

#### CHAPTER 2. OPERATION AND MANAGEMENT

##### Article 5. Operation of Crematories

\* \* \*

**8341. Interment of Cremated Remains.** All cremated remains not disposed of in accordance with this chapter, within one year, shall be interred.  
*(Amended by Statutes 1993, Chapter 1232.) (AB 598)*

**8342. Casket not to be Required for Cremation.** No crematory shall make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall a crematory refuse to accept human remains for cremation for the reason that they are not in a casket. Every director, officer, agent, or representative of a crematory who violates this section is guilty of a misdemeanor. Nothing in this section shall be construed to prohibit the requiring of some type of container or disposal unit.  
*(Added by Statutes 1971, Chapter 1027.)*

### Excerpts from DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH

#### PART 1. CALIFORNIA DEPARTMENT OF HEALTH SERVICES

#### CHAPTER 2. GENERAL POWERS OF THE DEPARTMENT

##### Article 3. Regulatory Authorization and Review

\* \* \*

**100290. Rules and Regulations; Submission to Conference of Local Health Officers.** Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to these recommendations.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 4. Population, Public Health, and Environmental Study

\* \* \*

**100330. Confidential Nature of Records, Reports and Statements.** All records of interviews, written reports, and statements procured by the department or by any other person, agency, or organization acting jointly with the department, in connection with special morbidity and mortality studies shall be confidential insofar as the identity of the individual patient is concerned and shall be used solely for the purposes of the study. The furnishing of this

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information to the department or its authorized representative, or to any other cooperating individual, agency or organization in any special study, shall not subject any person, hospital, sanitarium, rest home, nursing home, or other organization furnishing this information to any action for damages. This section shall not apply to general morbidity and mortality studies customarily and continuously conducted by the department that do not involve patient identification.

Nothing in this section shall prohibit the publishing by the department of statistical compilations relating to morbidity and mortality studies that do not identify individual cases and sources of information or religious affiliations.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 3. ADDITIONAL ADMINISTRATIVE PROVISIONS

#### Article 4. Fees or Charges for Issuance and Renewal of Documents

\* \* \*

**100425. Annual Adjustments of Fees or Charges; Percentage Change; Publication.** (a) The fees or charges for the issuance or renewal of any permit, license, registration, or document pursuant to Sections 1639.5, 1676, 1677, 2202, 2805, 11887, 100860, 106700, 106890, 106925, 107080, 107090, 107095, 107160, 110210, 110470, 111130, 111140, 111630, 112405, 112510, 112750, 112755, 113060, 113065, 113845, 114056, 114065, paragraph (2), of subdivision (c) of Section 114090, Section 114140, subdivision (b) of Section 114290, Sections 114367, 115035, 115065, 115080, 116205, 117923, 117995, 118045, 118210, and 118245 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section.

(c) This adjustment of fees and 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.

*(Added by Statutes 2005, Chapter 22.) (SB 1108)*

**100430. Annual Adjustments; Fees and Charges for Record Search or Issuance of Licenses, Permits, Registrations or Other Documents; Published List.** (a) (1) 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, 103040.1, 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.

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(2) 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.

(Amended by Statutes 2007, Chapter 661.) (SB 850)

**100435. Marriage License Fee; Adjustment.** For the fee specified in Section 26840 of the Government Code, the adjustment authorized by Section 100430 shall apply only to the portion of the fee designated for the State Registrar of Vital Statistics. Any increase in this component of the fee shall be added to the total fee authorized by Section 26840 of the Government Code.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**100440. Annual Adjustments; Fees and Charges for Certified Copies of Marriage and Marriage Dissolution Records.** For the fee specified in subdivision (c) of Section 103625, the adjustment authorized by Section 100430 shall apply to the additional fee charged to applicants other than public agency applicants for certified copies of marriage or marriage dissolution records, as well as to the other fees imposed by that section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from DIVISION 102. VITAL RECORDS AND HEALTH STATISTICS

#### PART 1. VITAL RECORDS

#### CHAPTER 1. GENERAL PROVISIONS

\* \* \*

**102100. Registration; Prescribed Forms; Confidential Information.** Each live birth, fetal death, death, and marriage that occurs in the state shall be registered as provided in this part on the prescribed certificate forms. In addition, a report of every judgment of dissolution of marriage, legal separation, or nullity decree shall be filed with the State Registrar, as provided in this part. All confidential information included in birth, fetal death, death, and marriage certificates and reports of dissolution of marriage, legal separation, or nullity that are required to be filed by this part, shall be exempt from the California Public Records Act contained in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102105. Enforcement Agency; Regulations.** The department is charged with the uniform and thorough enforcement of this part throughout the state, and may adopt additional regulations for its enforcement.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102110. Regulations; Confidentiality of Certificate of Live Birth and Medical and Health Report; Access to Records.** The State Registrar shall adopt regulations specifying both of the following:

(a) Procedures to assure the confidentiality of the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 102425, and the medical and health report, specified in Section 102445.

(b) Procedures regarding access to records required by this part.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102115. Regulations Relating to Communicable Diseases; Post-Mortem Procedures.** The department may make and enforce regulations for the embalming, cremation, interment, disinterment and transportation of the dead in matters relating to communicable diseases.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102120. Diseases Dangerous to Public Health; Notice to Registrars.** The State Registrar shall inform all local registrars which diseases are to be considered infectious, contagious, or communicable and dangerous to the public health, as decided by the department, in order that when deaths occur in which the diseases are involved, proper precautions may be taken to prevent their spread.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102125. Certificates of Birth or Death.** All certificates of live birth, fetal death, or death shall be written legibly, in durable black ink, and a certificate is not complete and correct that does not supply all of the items of information called for, or satisfactorily account for their omission.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102130. Certificates of Marriages.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**102135. Duty to Furnish Information of Birth, Death, or Marriage.** (a) All physicians, informants, funeral directors, clergy, or judges and all other persons having knowledge of the facts, shall supply upon the prescribed forms any information that they possess regarding any birth, fetal death, death, or marriage upon demand of the state or local registrar.

(b) All physicians, informants, funeral directors, clergy, judges, public employees, or other persons who supply upon prescribed forms information that they possess regarding any birth, fetal death, death, or marriage shall in no case use a derogatory, demeaning, or colloquial racial or ethnic descriptor.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102140. Alteration of Certificates.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

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**102145. Records Required of Institutions.** Every person in charge of a hospital or other institution to which persons are admitted for treatment or confinement shall make a record of the personal, medical and other information for each patient sufficient and adequate for the completion of a birth or death certificate.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102150. Objections by Parent to Furnishing Information; Confidential Portion of Certificate of Live Birth.** (a) When objection is made by either parent to the furnishing of information requested in items (3), (9), and (10) in the confidential portion of the certificate of live birth, specified in subdivision (b) of Section 102425, this information shall not be required to be entered on that portion of the certificate of live birth.

(b) A parent is not required to disclose his or her social security number as required by paragraph (14) of subdivision (b) of Section 102425 if the parent has good cause for not disclosing his or her social security number. Good cause shall be defined by regulations adopted by the State Department of Social Services.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102155. Absence of Conflicting Information Relative to Parentage; Entries Included.** "Absence of conflicting information relative to parentage" as used in Chapter 5 (commencing with Section 102625) or Chapter 11 (commencing with Section 103225) includes entries such as "unknown," "not given," "refused to state," or "obviously fictitious names."

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from CHAPTER 2. ADMINISTRATION

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

#### Article 1. State Administration

\* \* \*

**102175. State Registrar of Vital Statistics.** The director shall be the State Registrar of Vital Statistics.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102180. Execution of Provisions; Supervisory Powers.** The State Registrar is charged with the execution of this part in this state, and has supervisory power over local registrars, so that there shall be uniform compliance with all of the requirements of this part.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102185. Investigatory Power.** The State Registrar may investigate cases of irregularity or violations of this part.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102190. Report of Violations to District Attorney.** When the State Registrar deems it necessary, he or she shall report cases of violation of any of the provisions of this part to the district attorney of the county where the violation occurred, with a statement of the facts and circumstances; and the district attorney shall forthwith initiate and promptly follow up with the necessary court proceedings.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102195. Assistance of Attorney General.** The Attorney General shall assist in the enforcement of this part upon request of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102200. Record Forms.** The State Registrar shall prescribe and furnish all record forms for use in carrying out the purposes of this part, or shall prescribe the format, quality, and content of forms electronically produced in each county, and no record forms or formats other than those prescribed shall be used.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102205. Instructions, Preparation and Issuance.** The State Registrar shall prepare and issue detailed instructions as may be required to procure the uniform observance of this part and the maintenance of a satisfactory system of registration.

*(Amended by Statutes 1995, Chapter 415.) (SB 1360)*

**102210. Registration District; Establishment.** The State Registrar shall establish registration districts within the State for the purposes of this part.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102215. Conference of Local Registrars; Expenses.** The State Registrar of Vital Statistics may call into conference the local registrars or their chief deputies, in groups and at places within the state as may be designated by him or her, to meet with him or her or his or her duly authorized representatives, for the purpose of discussing problems dealing with registration of births, fetal deaths, deaths, and marriages, in order to promote uniformity of policy and procedure throughout the state in matters pertaining to vital registration; provided further, that the actual and necessary expenses incident to attendance at not more than one such meeting per year shall with the prior approval of the local legislative body be a legal charge against the local governmental unit.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102220. Examination of Certificates Received From Local Registrars; Further Information.** The State Registrar shall carefully examine the certificates received from the local registrars of births, deaths, and fetal deaths, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102225. Examination of Marriage Certificates; Return; Registration.** The State Registrar shall carefully examine the marriage certificates received from the county recorders, and if they are incomplete or unsatisfactory shall require any further information that may be necessary to make the record complete and satisfactory. Any certificates that are determined to be incomplete or unsatisfactory shall be returned to the county recorder within 90 days after receipt by the State Registrar. If a certificate is not returned to the county recorder within 90 days, the State Registrar shall register the certificate as presented.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102230. Preservation of Certificates; Index.** (a) (1) The State Registrar shall arrange and permanently preserve the certificates in a systematic manner and shall prepare and maintain a comprehensive and continuous index of all certificates registered.

(2) The birth and death record indices prepared pursuant to paragraph (1) and all comprehensive birth and death record indices prepared or maintained by local registrars and

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county recorders shall be kept confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(3) Notwithstanding paragraph (2), the State Registrar, at his or her discretion, may release comprehensive birth and death record indices to any government agency. Local registrars and county recorders, when requested, shall release their comprehensive birth and death record indices to the State Registrar. A government agency that obtains indices pursuant to this paragraph may not sell or release the index or any portion of its contents to any other person except as necessary for official government business and shall not post the indices or any portion thereof on the Internet.

(b) (1) The State Registrar shall prepare and maintain separate non-comprehensive indices of all California birth and death records for public release.

(2) For purposes of this section, non-comprehensive birth record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, and place of birth.

(3) For purposes of this section, non-comprehensive death record indices for public release shall be comprised of first, middle, and last name, sex, date of birth, place of birth, place of death, date of death, and father's last name.

(4) Requesters of the birth or death record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) The proposed use of the birth or death record indices.

(B) A disclaimer crediting any analyses, interpretations, or conclusions reached regarding the birth or death record indices to the author and not to the State Department of Health Services.

(C) Assurance that technical descriptions of the birth or death record indices are consistent with those provided by the State Department of Health Services.

(D) Assurance that the requester shall not sell, assign, or otherwise transfer the birth or death record indices.

(E) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(5) Birth and death record indices obtained pursuant to this subdivision, and any portion thereof, shall not be used for fraudulent purposes.

(c) (1) The State Registrar shall prepare and maintain separate non-comprehensive indices of all California birth and death records for purposes of law enforcement or preventing fraud.

(2) For purposes of this section, non-comprehensive birth record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, sex, date of birth, place of birth, and mother's maiden name.

(3) For purposes of this section, non-comprehensive death record indices for the purpose of preventing fraud shall be comprised of first, middle, and last name, place of death, mother's maiden name, sex, social security number, date of birth, place of birth, date of death, and father's last name.

(4) The birth and death record indices prepared pursuant to this subdivision shall be made available to financial institutions, as defined in 15 U.S.C. Sec. 6827(4)(A) and (B), its representatives or contractors, consumer credit reporting agencies, as defined in subdivision (d) of Section 1785.3 of the Civil Code, its representatives or contractors, those entities providing information services for purposes of law enforcement or preventing fraud, officers of the court for the sole purpose of verifying a death, and to persons or entities acting on behalf of law enforcement agencies or the court, or pursuant to a court order.

(5) The birth and death record indices prepared pursuant to this subdivision may be released to any government agency.



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(6) Requesters of the birth or death record indices prepared pursuant to this subdivision shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(A) An agreement not to release or allow public access to the birth or death record indices, and an agreement not to post the indices on the Internet, except as permitted by this subdivision.

(B) The proposed use of the birth or death record indices.

(C) The names of all persons within the organization, if applicable, who will have access to the birth or death record indices.

(D) A disclaimer crediting any analyses, interpretations, or conclusions reached regarding the birth or death record indices to the author and not to the State Department of Health Services.

(E) Assurance that technical descriptions of the birth or death record indices are consistent with those provided by the State Department of Health Services.

(F) Assurance that the requester shall not sell, assign, or otherwise transfer the birth or death record indices, except as permitted by this subdivision.

(G) Assurance that the requester shall not use the birth or death record indices for fraudulent purposes.

(7) (A) Birth and death record indices, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the Internet.

(B) Notwithstanding subparagraph (A), individual information contained in birth and death record indices may be posted on the Internet if all of the following requirements are met:

(i) The individual information is posted on a Web site that is protected by a password.

(ii) The individual information is posted on a Web site that is available to subscribers only for a fee.

(iii) The individual information is not posted for public display.

(iv) The individual information is available to subscribers pursuant to a contractual agreement.

(v) The individual information is posted for purposes of law enforcement or preventing fraud.

(d) Mail-in requests from non-governmental agencies for birth and death record indices requested pursuant to subdivisions (b) and (c) shall include a notarized statement attesting to the identity of the requester.

(e) Non-comprehensive birth and death record indices pursuant to subdivisions (b) and (c) shall be updated annually.

(f) All birth and death record indices provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) Any non-comprehensive birth and death record indices created by local registrars or county recorders shall be subject to the conditions for release required by this section.

(h) A person or entity that obtains a birth or death record index, or any portion thereof, from a requester who has obtained the index in accordance with paragraph (6) of subdivision (c) may not sell, assign, or otherwise transfer that index, or any portion thereof, to any third party.

(i) Paragraphs (2) and (3) of subdivision (a) and subdivisions (b) to (h), inclusive, shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

*(Amended by Statutes 2002, Chapter 712.) (SB 1614)*

**102231. Birth and Death Data Files; Release.** (a) Notwithstanding any other provision of law, birth data files, birth data files for public release, death data files for public release, and death data files for purposes of law enforcement or preventing fraud prepared and maintained by the State Registrar, local registrars, and county recorders shall only be released as follows:

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(1) Birth data files containing personal identifiers shall be subject to the same restrictions as the confidential portion of a birth certificate and shall only be released under the terms and conditions specified in Section 102430.

(2) Birth data files for public release shall not contain the mother's maiden name.

(3) Death data files for public release shall not contain the mother's maiden name and social security number.

(4) Death data files for purposes of law enforcement or preventing fraud shall include the mother's maiden name and social security number. Death data files prepared pursuant to this subdivision may be released to governmental agencies and to those entities described in paragraph (4) of subdivision (c) of Section 102230.

(5) Death data files containing personal identifying information may be released to persons expressing a valid scientific interest, as determined by the appropriate committee constituted for the protection of human subjects that is approved by the United States Department of Health and Human Services and has a general assurance pursuant to Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(b) Requesters of birth and death data files pursuant to this section shall provide proof of identity, complete a form, and sign the form under penalty of perjury. The form shall include all of the following:

(1) An agreement not to release the birth or death data files and not to post the files on the Internet, except as permitted by this subdivision.

(2) An agreement not to provide public access to data files obtained pursuant to paragraphs (1) and (4) of subdivision (a).

(3) The proposed use of the data file.

(4) For data files obtained pursuant to paragraphs (1) and (4) of subdivision (a), the names of all persons within the organization, if applicable, who will have access to the data files.

(5) A disclaimer that credits any analyses, interpretations, or conclusions reached regarding the birth or death data files to the author and not to the State Department of Health Services.

(6) Assurance that technical descriptions of the data files are consistent with those provided by the State Department of Health Services.

(7) Assurance that the requester shall not sell, assign, or otherwise transfer the data files, except as permitted by subdivision (e).

(8) Assurance that the requester shall not use the data files for fraudulent purposes.

(c) Mail-in requests for birth and death data files pursuant to this section shall include a notarized statement attesting to the identity of the requester.

(d) Birth and death data files provided pursuant to this section shall be made available subject to cost recovery provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(e) (1) Birth and death data files, and any portion thereof, obtained pursuant to this section, shall not be used for fraudulent purposes and shall not be posted on the Internet.

(2) Notwithstanding paragraph (1), individual information contained in death data files obtained pursuant to paragraph (4) of subdivision (a) may be posted on the Internet if all of the following requirements are met:

(A) The information is posted on a Web site that is protected by a password.

(B) The information is posted on a Web site that is available to subscribers only for a fee.

(C) The information is not posted for public display.

(D) The information is available to subscribers pursuant to a contractual agreement.

(E) The information is posted for purposes of law enforcement or preventing fraud.

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(f) A person or entity that obtains a birth or death data file, or any portion thereof, from a requester who has obtained the data file in accordance with subdivision (b) may not sell, assign, or otherwise transfer that data file, or any portion thereof, to any third party.

(g) This section shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

*(Added by Statutes 2002, Chapter 712.) (SB 1614)*

**102232. Birth and Death Data Files; Violations; Penalty.** (a) (1) Any person who violates Section 102230 or 102231 may be denied further access to the indices or data files maintained by the department.

(2) Any person who violates Section 102230 or 102231 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for a period not to exceed one year, or a fine of one thousand dollars (\$1,000), or by both the imprisonment and fine, for each violation.

(3) The penalties described in paragraphs (1) and (2) shall not be construed to limit any other remedies provided by law.

(b) Notwithstanding Section 126 of the Penal Code, the crime of perjury specified in paragraph (4) of subdivision (b) of Section 102230, paragraph (6) of subdivision (c) of Section 102230, and subdivision (b) of Section 102231, shall be punishable as a misdemeanor.

(c) Paragraph (1) of subdivision (a) shall be implemented only to the extent that funds for these purposes are appropriated by the Legislature in the annual Budget Act or other statute.

*(Added by Statutes 2002, Chapter 712.) (SB 1614)*

**102235. Destruction of Original Records of Birth, Death, and Marriage; Conditions.** Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the original records of birth, death and marriage filed under this part to be destroyed if all of the following requirements have been met:

(a) One year has elapsed since the date of registration of the records.

(b) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other technique that does not permit additions, deletions, or changes to the original document in compliance with Section 12168.7 for recording of permanent records or nonpermanent records.

(c) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(d) A permanent copy is maintained in a manner that permits it to be used for all purposes served by the original record.

(e) A permanent copy has been stored at a separate physical location in a place and manner that will reasonably assure its preservation indefinitely against loss or destruction.

*(Amended by Statutes 2000, Chapter 569.) (SB 2067)*

**102240. Certified Photographic Reproduction; Deemed Certification of Original.** Any certified photographic reproduction of any record stored on a permanent storage medium under this chapter shall be deemed to be a certification of the original record.

*(Amended by Statutes 1998, Chapter 667.) (AB 972)*

**102245. Birth Record; Entry of Date of Death.** On and after January 1, 1978, whenever the State Registrar receives a death certificate from a local registrar, the State Registrar shall determine whether the state records contain the birth certificate of the deceased or a reproduction thereof as authorized under this chapter. If the State Registrar has such a record of birth, it shall be revised to indicate the date of the death of the registrant, or, alternatively, a notation to that effect shall be entered in the State Registrar's index of births adjacent to the name of the

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deceased. The State Registrar, pursuant to an ongoing program, shall distribute, without charge, on a monthly basis to each county, a list of deceased registrants to enable local registrars and recorders to update their files. Upon receipt of such a list the local registrar or county recorder shall revise the local records or indexes accordingly.

Subject to the availability of funds appropriated for that purpose, the State Registrar may similarly revise or index birth records of registrants whose death certificates were filed prior to January 1, 1978.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102247. Health Statistics Special Fund; Revenues; Expenditures; Purpose.** (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26800) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600), of Part 1, of Division 102.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, and fees collected pursuant to Section 103645, all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

*(Amended by Statutes 2002, Chapter 784.) (SB 1316)*

**102249. Expenditure of Health Statistics Special Fund.** (a) The State Registrar shall expend funds in the Health Statistics Special Fund, upon appropriation by the Legislature, for all of the following:

(1) Support existing programs within the State Registrar's office.

(2) Implement and support new programs within the State Registrar's office that meet its goals and objectives.

(3) Build a data system that will support policy analysis and program decisions at all levels, be useful to health care providers, local and community agencies, and the state, and ultimately benefit consumers of health care services.

(4) Develop and maintain public health databases.

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- (5) Access and analyze data in order to develop and evaluate California's health policy.
  - (6) Conduct special studies and prepare statistical reports concerning the health status of Californians.
  - (7) Develop and maintain an automation system for vital event registration.
  - (8) Disseminate vital event information and statistical reports to the public.
- (b) This section shall become operative on July 1, 1995.  
(Added by Statutes 1995, Chapter 415.) (SB 1360)

### Excerpts from Article 2. Local Administration

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**102275. Local Health Officer as Registrar; Duties.** The health officer of any approved local health department, as defined in Article 1 (commencing with Section 101175) of Part 3 of Division 101 and approved thereunder, is the local registrar in and for all registration districts within that health jurisdiction and shall perform all the duties of local registrar of births and deaths.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102280. Registration Districts in Other Areas; Appointment of Local Registrar of Births and Deaths; Term; Removal.** In other areas, the State Registrar shall appoint a local registrar of births and deaths for each registration district, whose term of office shall be four years. The State Registrar may remove such appointee forthwith for failure or neglect to perform his or her duty.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102285. Local Marriage Registrar; County Recorder.** The county recorder is the local registrar of marriages and shall perform all the duties of the local registrar of marriages.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102290. Assistant and Deputy Registrars.** Each assistant or deputy of a local registrar may perform all of the duties of the local registrar in the name and place of his or her principal.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102295. Enforcement of Division; Supervision; Report of Violations.** Each local registrar is hereby charged with the enforcement of this part in his or her registration district under the supervision and direction of the State Registrar and shall make an immediate report to the State Registrar of any violation of this law coming to his or her knowledge.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102300. Supplying Forms.** Each local registrar shall supply blank forms to persons who require them.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**102305. Certificates of Births and Deaths; Examination; Requiring Further Information.** The local registrar of births and deaths shall carefully examine each certificate before acceptance for registration and, if any are not completed in a manner consistent with the policies established by the State Registrar, he or she shall require further information to be furnished as may be necessary to make the record consistent with those policies before acceptance for registration.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

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**102310. Certificates of Marriage; Examinations; Requiring Further Information.** 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.

*(Amended by Statutes 2006, operative, January 1, 2008, Chapter 816.) (AB 1102)*

**102315. Attestation of Date of Acceptance.** The local registrar shall affix his or her signature to each certificate in attest to the date of acceptance for registration in his or her office.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102320. Numbering Live Birth, Fetal Death and Death Certificates.** The local registrar shall number the certificates of live birth, fetal death, and death consecutively in separate series, beginning with number one for the first event in each calendar year.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102325. Numbering of Marriage Certificates.** 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.

*(Amended by Statutes 2006, effective January 1, 2008, Chapter 816.) (AB 1102)*

**102330. Preservation of Copy of Certificate.** The local registrar shall make a complete and accurate copy of each certificate accepted for registration and shall preserve it in his or her office as the local registrar's copy of the record in the manner directed by the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102335. Copies of Birth and Death Certificates; Transmittal to County Recorder; Special County Record.** Each local registrar of births and deaths, except a local registrar of a city and county shall transmit to the county recorder for a special county record at the same time the original certificates are forwarded to the State Registrar a copy of each original birth certificate and death certificate.

In lieu of the procedure outlined above in this section, the county recorder may make the copies of certificates for the special county record, in which case the original certificates shall be transmitted by the local registrar to the county recorder for this purpose, after which the county recorder shall forward the original certificates to the State Registrar pursuant to Section 102345.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102340. Transmittal of Copies of Birth and Death Certificates to County Recorder; Exception.** Any local registrar serving a county-wide health jurisdiction of over 550,000 population, as determined by the official 1950 census, and in whose office is maintained a central depository of birth and death records, is excepted from Section 102335.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102345. Original Birth and Death Certificates; Transmittal to State Registrar.** (a) The local registrar of births and deaths shall transmit each week to the State Registrar all original certificates accepted for registration by him or her during the preceding week.

(b) This section shall become operative on January 1, 1993.

*(Added by Statutes by Statutes 1995, Chapter 415.) (SB 1360)*

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**102346. Transmittal of Copies of Death Certificates to Division of Labor.** (a) The local registrar of births and deaths shall transmit each month to the Division of Labor Statistics and Research of the Department of Industrial Relations a copy of each certificate of death for which the death has been marked as work-related and which was accepted for registration by him or her during the preceding month.

(b) This section shall become operative on January 1, 2003.  
*(Added by Statutes 2002, Chapter 885.) (AB 2837)*

**102350. Death Certificate; Transmittal to Attending Physician.** The county board of supervisors may, by resolution, require the local registrar to send a copy of each certificate of death to the physician and surgeon whose statement appears on the certificate pursuant to Section 102825.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102355. Original Marriage Registry Certificates; Transmittal to State Registrar.** 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.

*(Amended by Statutes 2006, effective January 1, 2008, Chapter 816.) (AB 1102)*

**102360. Notification of Deaths; Copies of Notification List.** The local registrar of births and deaths shall furnish to the registrar of voters or county clerk not later than the 15th day of each month a notification of all deceased persons 18 years of age and over whose deaths were registered with him or her or of whose deaths he or she was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, social security number, sex, age, birthplace, birthdate, place of residence, and date and place of death for each decedent. Copies of this notification list shall be sent at the same time to the county welfare department and the local district social security office.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102365. Disposition of Local Registrar's Copies of Records; Conditions.** Notwithstanding any other law to the contrary, a local registrar of births and deaths, after one year from the date of registration and with the approval of, and under the supervision of, the State Registrar, may dispose of the local registrar's copies of the records, if both of the following exist:

(a) The original copies of the records are on file in the office of the State Registrar.

(b) Copies of the records are on file in the office of the county recorder. If the county recorder does not have copies of the records, he or she may accept the local registrar's copies as a special county record of the events.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102370. County Recorder; Receipt of Birth or Death Records Filed Before July 1, 1905.** The local custodian of records is hereby authorized to receive original records or abstracts of records of any birth or death that were filed with any political subdivision prior to July 1, 1905, and to retain them as a special county record of the events.

*(Amended by Statutes 1996, Chapter 889.) (AB 2755)*

**102375. Public Inspection of Special County Records of Birth and Death Certificates; Restriction on Compiles of Business Contact Lists.** Special county records of birth certificates and death certificates transmitted and filed with the county recorder under this article shall be

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open for inspection by the public in accordance with regulations adopted by the department for local registrars.

Nothing in this section shall authorize the use of a certificate marked pursuant to subdivision (a) of former Section 10056.5 by any person compiling a business contact list.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102380. Disposition of County Records; Conditions.** The county recorder and the local registrar of births and deaths, with the approval and under the supervision of the State Registrar and with the approval of the board of supervisors of any county or city and county by ordinance, may authorize the transfer of special county records of deaths and marriages and local registrar's records of deaths for events that occurred subsequent to July 1, 1905, to a private nonprofit agency or public agency that shall preserve the records for local public use. The receiving agency shall protect and preserve the records to assure access for any person who has a need or interest in reviewing the records, and shall prohibit the photocopying or sale of copies of the records, but may convert the records to microform format.

If the office of the local registrar or the county recorder does not have copies of the records, that office is hereby authorized to accept them from the county recorder or local registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102385. Assurance of Continued Preservation and Protection of Records; Return to Registrar or Recorder.** If a public agency or private nonprofit agency that receives copies of records pursuant to this section is unable to assure the continued preservation and protection of those records for public use, the records shall be returned to the contributing local registrar or county recorder.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102390. Record of Death and Marriage Transferred to Public or Private Agency; Exemption From Certain State Registrar Provisions.** Any record of death and marriage transferred to a public agency or private nonprofit agency pursuant to Section 102380 is exempt from Sections 102230 and 103245.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102395. Special County and Local Registrar's Records of Birth, Death, and Marriage; Subject to Certain Government Code Provisions.** Special county records of birth, death, and marriage and the local registrar's records of birth, death, and marriage shall be subject to Sections 26205.5 and 26205.7 of the Government Code.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from CHAPTER 3. LIVE BIRTH REGISTRATION

#### Article 1. Duty of Registering Live Birth

**102400. Registration Required; Time.** Each live birth shall be registered with the local registrar of births and deaths for the district in which the birth occurred within 10 days following the date of the event.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102405. Births Occurring in Hospitals, Hospital Administrator or Representative; Signing and Registering of Birth Certificate; Persons Authorized.** For live births that occur in a hospital, or a state licensed alternative birth center, as defined in paragraph (4) of subdivision (b) of Section 1204, the administrator of the hospital or center or a representative designated by the



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administrator in writing may sign the birth certificate certifying the fact of birth instead of the attending physician and surgeon, certified nurse midwife, or principal attendant if the physician and surgeon, certified nurse midwife, or principal attendant is not available to sign the certificate; and shall be responsible for registering the certificate with the local registrar within the time specified in Section 102400.

*(Amended by Statutes 2000, Chapter 64.) (AB 1797)*

**102410. Births Occurring in Hospitals; Footprints.** For those live births occurring in a hospital, and upon a parent's request, a footprint shall be taken of the child prior to discharge from the facility and shall be made available to the parents. The footprint shall be placed on a sheet of paper that is separate from the birth certificate, shall only be prepared for the parents prior to discharge from the hospital, and need not be retained or kept on file.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102415. Births Occurring Outside Hospitals; Preparation and Registration of Birth Certificate; Persons Authorized.** For live births that occur outside of a hospital, or outside of a state-licensed alternative birth center, as defined in paragraph (4) of subdivision (b) of Section 1204, the physician in attendance at the birth or, in the absence of a physician, the professionally licensed midwife in attendance at the birth or, in the absence of a physician or midwife, either one of the parents shall be responsible for entering the information on the certificate, securing the required signatures, and for registering the certificate with the local registrar.

*(Amended by Statutes 2000, Chapter 303.) (SB 1479)*

### Excerpts from Article 2. Content of Certificate of Live Birth

**102425. Certificate of Live Birth; Required Information.** (a) The certificate of live birth for any live birth occurring on or after January 1, 1980, shall contain those items necessary to establish the fact of the birth and shall contain only the following information:

- (1) Full name and sex of the child.
- (2) Date of birth, including month, day, hour, and year.
- (3) Place of birth.
- (4) Full name of the father, birthplace, and date of birth of the father including month, day, and year. If the parents are not married to each other, the father's name shall not be listed on the birth certificate unless the father and the mother sign a voluntary declaration of paternity at the hospital before the birth certificate is prepared. The birth certificate may be amended to add the father's name at a later date only if paternity for the child has been established by a judgment of a court of competent jurisdiction or by the filing of a voluntary declaration of paternity.
- (5) Full birth name of mother, birthplace, and date of birth of the mother including month, day, and year.
- (6) Multiple births and birth order of multiple births.
- (7) Signature, and relationship to the child, of a parent or other informant, and date signed.
- (8) Name, title, and mailing address of the attending physician and surgeon or principal attendant, signature, and certification of live birth by the attending physician and surgeon or principal attendant or certifier, date signed, and name and title of the certifier if other than the attending physician and surgeon or principal attendant.
- (9) Date accepted for registration and signature of local registrar.
- (10) A state birth certificate number and local registration district and number.
- (11) A blank space for entry of the date of death with a caption reading "Date of Death."

(b) In addition to the items listed in subdivision (a), the certificate of live birth shall contain the following medical and social information, provided that the information is kept confidential

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pursuant to Sections 102430 and 102447 and is clearly labeled "Confidential Information for Public Health Use Only:"

- (1) Birth weight.
  - (2) Pregnancy history.
  - (3) Race and ethnicity of mother and father.
  - (4) Residence address of the mother.
  - (5) A blank space for entry of census tract for mother's address.
  - (6) Date of first prenatal care visit, the number of prenatal care visits, and commencing January 1, 2007, the date of last prenatal care visit.
  - (7) Date of last normal menses and, commencing January 1, 2007, an obstetric estimate of completed weeks of gestation at delivery.
  - (8) Description of complications and procedures of pregnancy and concurrent illnesses, congenital malformation, and any complication or procedure of labor and delivery, including surgery, provided that this information is essential medical information and appears in total on the face of the certificate.
  - (9) Commencing January 1, 2007, hearing screen results.
  - (10) Mother's and father's occupations and kind of business or industry.
  - (11) Education level of the mother and father.
  - (12) Principal source of payment for prenatal care, which shall include the following: Medi-Cal, private insurance, self-pay, other sources, and any other categories as may be determined by the State Department of Health Services.
  - (13) Expected principal source of payment for delivery, which shall include the following: Medi-Cal, private insurance, self-pay, other sources, and any other categories as may be determined by the State Department of Health Services.
  - (14) An indication of whether or not the child's parent desires the automatic issuance of a social security number to the child.
  - (15) On and after January 1, 1995, the social security numbers of the mother and father, unless subdivision (b) of Section 102150 applies.
- (c) Paragraph (8) of subdivision (b) shall be completed by the attending physician and surgeon or the attending physician and surgeon's designated representative. The names and addresses of children born with congenital malformations who require followup treatment, as determined by the child's physician and surgeon, shall be furnished by the physician and surgeon to the local health officer, if permission is granted by either parent of the child.
- (d) The parent shall only be asked to sign the form after both the public portion and the confidential medical and social information items have been entered upon the certificate of live birth.
- (e) The State Registrar shall instruct all local registrars to collect the information specified in this section with respect to certificates of live birth. The information shall be transcribed on the certificate of live birth in use at the time and shall be limited to the information specified in this section.

Information relating to concurrent illnesses, complications and procedures of pregnancy and delivery, and congenital malformations shall be completed by the physician and surgeon, or the physician and surgeon's designee, who shall insert in the space provided on the confidential portion of the certificate the appropriate number or numbers listed on the VS-10A supplemental worksheet. The VS-10A supplemental form shall be used as a worksheet only and shall not in any manner be linked with the identity of the child or the mother, nor submitted with the certificate to the State Registrar. All information transferred from the worksheet to the certificate shall be fully explained to the parent or other informant prior to the signing of the certificate. No questions relating to drug or alcohol abuse may be asked.

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(f) (1) The Vital Statistics Advisory Committee, in accordance with Section 102465, shall conduct a review of the contents of the certificate of live birth to coincide with decennial revisions by the National Center for Health Statistics to the United States Standard Certificate of Live Birth. The Vital Statistics Advisory Committee shall make recommendations to the State Registrar regarding the adoption of modifications to the state certificate of live birth that are similar to those made to the federal certificate.

(2) Notwithstanding Section 102470, the State Registrar shall review the Vital Statistics Advisory Committee recommendations and, at the State Registrar's discretion, shall submit to the Legislature, for approval, additions or deletions to the certificate of live birth.

*(Amended by Statutes 2005, Chapter 430.) (AB 1278)*

**102426. Electronic File; Mother's Marital Status; Disclosure** (a) (1) In addition to the items of information collected pursuant to Section 102425, the State Registrar shall instruct all local registrars that have automated birth registration to electronically capture the information specified in paragraph (2) in an electronic file. The information shall not be transcribed onto the actual hard copy of the certificate of live birth.

(2) The information required pursuant to paragraph (1) shall consist of the following:

(A) The mother's marital status.

(B) The mother's mailing address. The mother may designate an alternate address at her discretion.

(C) Information about whether the birth mother received food for herself during the pregnancy pursuant to the Women, Infants, and Children (WIC) program.

(D) The Activity, Pulse, Grimace, Appearance, and Respiration (Apgar) scores of 5 and 10 minutes.

(E) The birth mother's prepregnancy weight, weight at delivery, and height.

(F) Information about smoking before and during pregnancy, including the average number of cigarettes or packs of cigarettes smoked during the three months before pregnancy and the average number of cigarettes or packs of cigarettes smoked during each trimester of pregnancy.

(3) Subparagraphs (B) to (F), inclusive, of paragraph (2) shall become operative on January 1, 2007.

(b) Notwithstanding any provisions of law to the contrary, information collected pursuant to subparagraph (A) of paragraph (2) of subdivision (a) shall not under any circumstances be disclosed or available to anyone except to the department for demographic and statistical analysis, and to the federal government, without any personal identifying information, for demographic and statistical analysis.

*(Added by Statutes 2005, Chapter 430.) (AB 1278)*

**102430. Certificate of Live Birth; Confidentiality of Second Section; Access** (a) The second section of the certificate of live birth as specified in subdivision (b) of Section 102425, the electronic file of birth information collected pursuant to subparagraphs (B) to (F), inclusive, of paragraph (2) of subdivision (a) of Section 102426, and the second section of the certificate of fetal death as specified in Section 103025, shall be confidential. Access to the confidential portion of any certificate of live birth or fetal death, and the electronic file of birth information collected pursuant to subparagraphs (B) to (F), inclusive, of paragraph (2) of subdivision (a) of Section 102426, shall be limited to the following:

(1) Department staff.

(2) Local registrar's staff and local health department staff when approved by the local registrar or local health officer, respectively.

(3) The county coroner.

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(4) Persons with a valid scientific interest as determined by the State Registrar, who are engaged in demographic, epidemiological or other similar studies related to health, and who agree to maintain confidentiality as prescribed by this part and by regulation of the State Registrar.

(5) The parent who signed the certificate or, if no parent signed the certificate, the mother.

(6) The person named on the certificate.

(7) Any person who has petitioned to adopt the person named on the certificate of live birth, subject to Section 102705 of the Health and Safety Code and Sections 9200 and 9203 of the Family Code.

(b) The department shall maintain an accurate record of all persons who are given access to the confidential portion of the certificates. The record shall include: the name of the person authorizing access; name, title, and organizational affiliation of persons given access; dates of access; and specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the department.

(c) All research proposed to be conducted using the confidential medical and social information on the birth certificate or fetal death certificate shall first be reviewed by the appropriate committee constituted for the protection of human subjects that is approved by the federal Department of Health and Human Services and has a general assurance pursuant to Part 46 of Title 45 of the Code of Federal Regulations. No information shall be released until the request for information has been reviewed by the Vital Statistics Advisory Committee and the committee has recommended to the State Registrar that the information shall be released.

*(Added by Statutes 2005, Chapter 430.) (AB 1278)*

**102440. Transmission of Information Necessary to Issue Social Security Number Requested by Parent.** Notwithstanding Sections 102425 and 102430, the department may transmit to the Social Security Administration the information necessary to issue a Social Security number to a child in a case where the child's parent has requested the issuance pursuant to paragraph (14) of subdivision (b) of Section 102425.

*(Added by Statutes 2005, Chapter 430.) (AB 1278)*

**102445. Medical and Health Report; Rules and Regulations Specifying Contents; Forms.** After public hearing and consultation with the Vital Statistics Advisory Committee, the State Registrar shall adopt regulations specifying the contents of a medical and health report and shall supply the necessary forms to hospitals and local registrars. The contents of the report shall be limited to the medical, health, or social data necessary to evaluate or improve maternal and child health, as determined by the State Registrar.

The State Registrar shall make a finding that the specific items of information included in the report are not available from other sources at a comparable cost and that sufficient resources and a research design are available to analyze the data collected.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102447. Social Security Numbers of Parents; Accessibility from Certificate of Live Birth for Specified Purposes.** Notwithstanding Section 102430, a parent's social security number contained in the confidential medical and social information portion of the child's certificate of live birth shall be accessible to the State Department of Child Support Services and district attorneys for the purposes of operating the Child Support Enforcement Program, as specified in Title IV-D of the federal Social Security Act.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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### **102450. Medical and Health Report; Completion and Submission for Registration; Filing.**

(a) For each registration of live birth submitted to the local registrar pursuant to Section 102400, the hospital administrator, or the person's representative, shall submit a completed medical and health report that meets the requirements of Section 102445. For live births that occur outside of a hospital, the medical and health report shall be completed and submitted by the local registrar when the local registrar receives the certificate of live birth for registration from the person designated in Section 102415.

(b) The medical and health report shall be submitted to the State Registrar by the local registrar for filing. Such report shall not be kept on file in the offices of the local registrars.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### **102455. Medical and Health Report; Communication to Parent or Informant of Purpose; Confidentiality and Voluntary Nature; Objection to Furnishing Information.**

(a) The medical and health report required pursuant to Section 102445 shall be clearly labeled "Confidential Information for Public Health Use Only." The parent or informant shall be informed of the purposes for collecting the information, its confidential nature, and that completing the specific items is voluntary.

(b) When objection is made by either parent to the furnishing of information requested in a specific item or items in the medical and health report that information shall not be entered.

(c) The mother, father or child shall not be identified by name or any other means in the medical and health report.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102460. Medical and Health Report; Confidentiality; Access; Record.** With the exception of statistical tabulation purposes, the medical and health report shall be kept confidential and access to the report shall be limited to the following persons:

(a) State and local registrar's staff.

(b) State and local health department staff.

(c) Persons with a valid educational or scientific interest, as determined by the State Registrar, who are engaged in demographic and epidemiological studies for health purposes.

The department shall maintain an accurate record of all persons who are given access to the report. The record shall include: the name of the persons authorizing access; name, title, and organizational affiliation of persons given access; dates of access; and specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the department.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102465. Vital Statistics Advisory Committee Members; Terms; Duties.** (a) The State Registrar shall appoint a Vital Statistics Advisory Committee that shall have the following duties:

(1) Review and make recommendations to the State Registrar as to the adequacy of procedures to assure accuracy and confidentiality of personal health and medical information.

(2) Review the findings of the committee for the protection of human subjects pursuant to subdivision (c) of Section 102430 and make recommendations to the State Registrar regarding all requests for studies that propose to use confidential information with respect to whether a legitimate scientific interest is presented and whether the significance of the project justifies use of the confidential information.

(3) Assure that all research conducted using the data from birth certificates is consistent with guidelines provided by an appropriately constituted committee for the protection of human subjects of the department, as specified in subdivision (c) of Section 102430.

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(4) Review and make recommendations to the State Registrar as to proposals for addition or deletion of items on the certificate of live birth and advise the State Registrar on the content and format of the certificate.

(5) Take testimony and make recommendations to the State Registrar regarding changes in the birth registration system.

(b) The Vital Statistics Advisory Committee shall include representatives from the users, providers, and informant groups who are involved in the process of the provision and collection of information for and the use of the certificate of live birth, and shall include the chairpersons of the Assembly Health Committee and the Senate Health and Welfare Committee or their designated representative, and shall have a majority of lay persons in its composition. The State Registrar shall make every effort to ensure that committee membership is representative of the community at large. Consideration shall be given to providing access to relevant classes of persons including, but not limited to, women, men, racial and ethnic minorities, in proportion to their representation in the affected population.

Membership on the committee shall be for a term of three years, appointments to be made on a staggered basis to allow for one-third membership to change annually.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102470. Recommendation by Vital Statistics Advisory Committee; Publication.** The State Registrar shall publish within 30 days of receipt of recommendations by the Vital Statistics Advisory Committee, made pursuant to Section 102465, (1) a list of the recommendations adopted, and (2) a list of the recommendations not adopted, with reasons for the action.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102475. Certificate of Live Birth; Confidential Portion; Release of Copy or Information; Offense; Civil Action.** (a) Any person who releases a copy of the confidential portion of the certificate of live birth, except as specifically provided by this part, shall be guilty of a misdemeanor, punishable by a fine of five hundred dollars (\$500) or six months in jail. The criminal penalty shall not preclude suit for civil or punitive damages by any individuals harmed by the unauthorized release.

(b) Any person who is the subject of, or the source of information for, a birth certificate, who has reason to believe there has been linkage of confidential information with his or her identity and disclosure of the confidential information to a person not specified in subdivision (a) of Section 102430, shall have a civil right of action against the person releasing the information and may seek punitive damages.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 3. Foundling Registration

\* \* \*

**102500. Certificate of Finding; Registration; Time.** A certificate of finding of an unidentified live child of less than one year of age shall be registered with the local registrar of births and deaths by the person or institution with whom the child is placed, within four days following the finding.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102505. Contents of Certificate.** The certificate shall include the name, sex, color or race, the date and place of finding, and the name of the person or institution with whom the child is placed.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102510. Naming Child; Legal Place and Date of Birth.** The person or institution with whom the child is placed shall give the child a name; the place in which the child is found shall be known as the legal place of birth; and the date of birth shall be determined as closely as possible and shall be known as the legal date of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102515. Manner of Handling Certificate; Effect.** The certificate of finding shall be handled in the same manner and shall serve all the purposes of a certificate of live birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102520. Identification of Child; Report to State Registrar; Entry Upon Certificate.** If the child is later identified and a certificate of birth found or obtained, the fact shall be reported to the State Registrar and he or she shall enter this upon the certificate of finding, with citation to the certificate of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from CHAPTER 4. DELAYED REGISTRATION OF BIRTH

#### Article 1. General Provisions

\* \* \*

**102525. Alternative Procedure.** This chapter is not exclusive of Chapters 3 (commencing with Section 102400) and 12 (commencing with Section 103450), but offer an alternative method of establishing a record of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102530. Delayed Birth Certificate; Use as Evidence; Affidavit of Person Knowing Fact.** Delayed certificates of birth issued pursuant to this chapter shall not be considered as evidence in any action or proceeding involving estates of decedents or in any proceeding to establish heirship unless the affidavit of at least one person who knew the facts was filed at the time of obtaining the certificate.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102535. Persons Entitled to Make Application; Filing With State Registrar.** An application may be filed with the State Registrar for the delayed registration of birth of any person born in this state whose birth is not registered. The application may be made only by the person whose birth is being registered if he or she is 18 years of age or over at the time of filing the application. If the person whose birth is being registered is under 18 years of age at the time of filing the application, the application may be made only by his or her mother, father, legal guardian, or the attending physician or principal attendant at birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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### Excerpts from Article 2. Application

\* \* \*

**102550. Form and Contents; Accompanying Affidavits and Documents.** The application shall be made on the forms prescribed and furnished by the State Registrar and shall contain information and shall be accompanied by affidavits and documentary evidence as required to enable the State Registrar to determine whether the birth did in fact occur at the place and date alleged.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 3. Evidence

\* \* \*

**102575. Affidavit; Definition; Contents.** "Affidavit," as used in this chapter, is defined as a written statement executed under oath by a person who at the time of birth was at least 5 years old and had knowledge of the facts of birth and shall include the full name of the person whose birth is being registered, the names of his or her parents, the date and place of his or her birth and the basis of the affiant's knowledge of these facts.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102580. Documentary Evidence; Definition; Examples.** "Documentary evidence," as used in this chapter, is defined as original or certified copies of a record that was executed at least five years prior to the date of application, and that substantiates the date and place of birth of the person whose birth is being registered; except that if the person whose birth is being registered is under 12 years of age the record shall have been executed only at least two years before the date of application. Examples of documentary evidence that shall generally be considered acceptable are hospital records of birth, baptismal certificates or other church records, school records, census records, social security records, military service records, voting registration records, birth certificate of child of person whose birth is being registered, certificates of registry of marriage, and newspaper notices of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102585. Necessary Evidence and Affidavits.** For births that are being registered under this chapter there shall be required documentary evidence and affidavits pursuant to one of the following:

- (a) Two pieces of documentary evidence, at least one of which shall support the parentage.
- (b) One piece of documentary evidence and one affidavit executed by the physician or other principal attendant.
- (c) One piece of documentary evidence and two affidavits executed by either the mother, father, or other persons having knowledge of the facts of birth.

*(Amended by Statutes 1996, Chapter 1023.) (SB 1497)*



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### Excerpts from Article 4. Registration

\* \* \*

**102600. Review of Application and Accompanying Evidence; Acceptance; Delayed Birth Certificate; Preservation; Index.** (a) Upon receipt by the State Registrar of an application for delayed registration of birth and payment of the required fee, he or she shall review the application together with the affidavits and documentary evidence accompanying it and shall accept the application if the application and evidence submitted comply with this chapter. After acceptance by the State Registrar the application shall constitute a delayed certificate of birth, and the State Registrar shall permanently preserve the certificates in a systematic manner and shall prepare and maintain a comprehensive and continuous index of all the certificates.

(b) In processing applications for the delayed registration of birth pursuant to this section, the State Registrar shall give priority to an application for a child who has been adjudged a dependent child of, and who is subject to the jurisdiction of, the juvenile court, pursuant to Section 300 of the Welfare and Institutions Code.

*(Amended by Statutes 2003, Chapter 315.) (AB 1413)*

**102605. Forwarding Certified Copy to Applicant.** The State Registrar shall send a certified copy of the delayed certificate of birth to the applicant without additional cost.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102610. Transmittal of Certified Copies to Local Registrar and County Recorder.** The State Registrar shall send certified copies of the delayed certificate of birth to the local registrar and the county recorder within which area the birth occurred and in whose offices copies of records of the year of occurrence of the event are on file.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from CHAPTER 5. CERTIFICATES OF BIRTH FOLLOWING ADOPTION, LEGITIMATION, COURT DETERMINATION OF PATERNITY, AND ACKNOWLEDGMENT

#### Article 1. Adoption

\* \* \*

**102625. Report of Adoption; Completion and Forwarding by Clerk of Court.** The clerk of the court shall complete a report upon a form provided for that purpose and forward the report to the State Registrar within five days after a decree of adoption has been entered declaring a child legally adopted by any court in the state. The report shall be forwarded within five days after an interlocutory decree of adoption becomes a final decree of adoption, and not earlier.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102630. Out of State Births; Forwarding Report to Place of Birth.** The court reports of adoption that are received by the State Registrar for births that occurred in another state, the District of Columbia, in any territory of the United States, or Canada shall be transmitted to the registration authority of the place of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102635. Establishment of New Birth Certificate.** A new birth certificate shall be established by the State Registrar upon receipt of a report of adoption from any court of record that has jurisdiction of the child of this state, another state, the District of Columbia, in any territory of

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the United States, or in any foreign country, for any child born in California and whose certificate of birth is on file in the office of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102640. New Certificate not Established Upon Request of Adopting Parent.** When requested by the adopting parent or parents, a new certificate shall not be established by the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102645. Contents; Form.** The new birth certificate shall bear the name of the child as shown in the report of adoption, the names and ages of his or her adopting parents, the date and place of birth, and no reference shall be made in the new birth certificate to the adoption of the child. The new certificate shall be identical with a birth certificate registered for the birth of a child of natural parents, except, when requested by the adopting parents, the new birth certificate shall not include the specific name and address of the hospital or other facility where the birth occurred, the color and race of the parents, or both.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102650. Single-Parent Adoption; Content of Certificate.** Notwithstanding other provisions in this article, when a child is adopted by an unmarried man or woman, the new certificate shall, if the adopting parent so requests, reflect the fact that it is a single-parent adoption.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102660. Inclusion of Name of Deceased Adopting Parent.** If both adopting parents were in the home at the time of the initial placement of the child for adoption the newly amended birth record may include the names of both adopting parents despite the death of one of the adopting parents, upon receipt of an order from the court granting the adoption that directs under the authority of Section 8615 of the Family Code that the names of both adopting parents shall be included on the newly amended birth record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102670. Preparation of Additional Amended Record; Fee.** Notwithstanding any other provision of law, an adopting parent who has adopted a child for whom an amended record has already been prepared under authority of this article may have another amended record prepared for the child, upon application, furnishing a copy of the court order made in an action brought pursuant to Section 8615 of the Family Code, and payment of the required fee.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102675. Amended Certificate; Deletions.** At any time after the issuance of a new birth certificate another amended certificate may be issued, at the request of the adopting parents, that omits any or all of the following:

- (a) The specific name and address of the hospital or other facility where the birth occurred.
- (b) The city and county of birth.
- (c) The color and race of the parents.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102680. Effect on Prior Certificate.** The new birth certificate shall supplant any birth certificate previously registered for the child and shall be the only birth certificate open to public inspection.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102685. Transmittal or Sealing of Local Registrar's Copies of Original Birth Certificate.** When a new birth certificate is established under this article, the State Registrar shall inform the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward the copies to the State Registrar for filing with the original certificate, if it is practical for him or her to do so. If it is impractical for him or her to forward the copy to the State Registrar, he or she shall effectually seal a cover over the copy in a manner as not to deface or destroy the copy and forward a verified statement of his or her action to the State Registrar. Thereafter the information contained in the record shall be available only as provided in this article.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102690. Child Born in State and Having no Original Birth Record; Report as Court Order Delayed Birth Registration.** For court reports of adoptions received from any court of record of this State, another state, the District of Columbia, or in any territory of the United States, that has jurisdiction of a child born in this State and for whom no original record of birth is on file in the Office of the State Registrar the court report of adoption shall constitute a court order delayed birth registration; provided, the court report contains a statement of the date and place of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102695. Birth Outside United States; Territories of United States or Canada; Report as Court Order Delayed Birth Registration.** A court report of adoption received from any court of record in this State, wherein the birth occurred outside the United States, the Territories of the United States, or Canada shall constitute a court order delayed registration of birth; provided, the court report contains a statement of the date and place of birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102700. Filing Court Report of Adoption With Original Birth Record.** The court report of adoption shall be filed with the original record of birth, that shall remain as a part of the records of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102705. Availability of Records and Information Upon Court Order.** All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon the order of the superior court of the county of residence of the adopted child or the superior court of the county granting the order of adoption.

No such order shall be granted by the superior court unless a verified petition setting forth facts showing the necessity of the order has been presented to the court and good and compelling cause is shown for the granting of the order. The clerk of the superior court shall send a copy of the petition to the State Department of Social Services and the department shall send a copy of all records and information it has concerning the adopted person with the name and address of the natural parents removed to the court. The court must review these records before making an order and the order should so state. If the petition is by or on behalf of an adopted child who has attained majority, these facts shall be given great weight, but the granting of any petition is solely within the sound discretion of the court.

The name and address of the natural parents shall be given to the petitioner only if he or she can demonstrate that the name and address, or either of them, are necessary to assist him or her in establishing a legal right.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102710. Certified Copy of Amended Record; Cost.** The State Registrar shall furnish a certified copy of the newly amended record of birth prepared under authority of this article to the registrant without additional cost.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 2. Adjudication of Facts of Parentage

\* \* \*

**102725. Establishment of New Birth Certificate.** Whenever the existence or nonexistence of the parent and child relationship has been determined by a court of this state or a court of another state, and upon receipt of a certified copy of the court order, application, and payment of the required fee, the State Registrar shall establish a new birth certificate for the child in the manner prescribed in Article 1 (commencing with Section 102625), if the original record of birth is on file in the office of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102730. Records and Information; Availability Only on Order of Court.** All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102735. Certified Copy of Amended Record; Cost.** The State Registrar shall furnish a certified copy of the newly amended record of birth prepared under authority of this article to the registrant without additional cost.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 3. Acknowledgment of Paternity

\* \* \*

**102750. Affidavit of Parents.** Whenever the mother and father acknowledge paternity of a child by affidavit, and in the absence of conflicting information on the originally registered certificate of live birth, an application including the affidavits may be filed with the office of State Registrar upon a form provided for that purpose.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102755. Establishment of New Birth Certificate.** Upon receipt of the application and payment of the required fee, and in the absence of conflicting information on the originally registered certificate of live birth, the State Registrar shall review the application for acceptance for filing, and if accepted shall establish a new birth certificate for the child in the manner prescribed in Article 1 (commencing with Section 102625), if the original record of birth is on file in the office of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102760. Records and Information; Availability Only on Order of Court.** All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102765. Certified Copy of Amended Record; Cost.** The State Registrar shall furnish a certified copy of the new record of birth prepared under authority of this article to the registrant with additional cost.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 4. Voluntary Declaration of Paternity

\* \* \*

**102766. Adoption of Father's Name to Birth Certificate; Application; Review.** (a) When a voluntary declaration of paternity is filed with the State Department of Social Services pursuant to subdivision (d) of Section 7571 of the Family Code, an application may be submitted to the State Registrar requesting that the father's name be added to the child's birth certificate.

(b) Upon receipt of the application and payment of the required fee, the State Registrar shall review the application for acceptance for filing, and if accepted, shall establish a new birth certificate for the child in the manner prescribed in Article 1 (commencing with Section 102625), if the original record of birth is on file in the office of the State Registrar.

*(Amended by Statutes 1998, Chapter 858.) (AB 2169)*

**102767. Removal of Father's Name from Birth Certificate Following Rescission; Application.** (a) When a voluntary declaration of paternity is rescinded pursuant to subdivision (a) of Section 7575 of the Family Code, an application may be submitted to the State Registrar requesting that the father's name be removed from the child's birth certificate.

(b) Upon receipt of the application and payment of the required fee, the State Registrar shall establish a new birth certificate for the child in the manner prescribed in Article 1 (commencing with Section 102625), if the original record of birth is on file in the office of the State Registrar.

*(Added by Statutes 1996, Chapter 1062.) (AB 1832)*

**102768. Availability of Records.** All records and information specified in this article, other than the newly established certificate, shall be available only to those persons specified in subdivision (h) of Section 7571 of the Family Code or upon order of a court of record.

*(Added by Statutes 1996, Chapter 1062.) (AB 1832)*

**102769. Certified Copy; Provision to Registrant.** The State Registrar shall furnish a certified copy of the new record of birth prepared under authority of this article to the registrant without additional cost.

*(Added by Statutes 1996, Chapter 1062.) (AB 1832)*

### Excerpts from CHAPTER 6. DEATH REGISTRATION

#### Article 1. Duty of Registering Death

\* \* \*

**102775. Registration Required; Time.** Each death shall be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found, within eight calendar days after death and prior to any disposition of the human remains.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102778. Electronic Death Registration System.** (a) On or before January 1, 2005, the department shall implement an Internet-based electronic death registration system for the creation, storage, and transfer of death registration information.

(b) The electronic death registration system implemented pursuant to this section shall protect the proper use of the death registration information created, stored, and transferred within the system.

(c) The electronic death registration system that is implemented pursuant to this section shall be subject to any limitation placed on the accessibility and release of personally identifying information contained in those death records by any other provision of law or subsequently enacted legislation.

*(Amended by Statutes 2002, Chapter 857.) (AB 2550)*

**102780. Preparation and Registration of Certificate.** A funeral director, or person acting in lieu thereof, shall prepare the certificate and register it with the local registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102785. Computer or Telephone Facsimile Technology; Pilot Program.** The State Registrar, at his or her discretion, may incorporate computer or telephone facsimile technology, or both, in the statewide program of death and fetal death registration, including, but not limited to, the issuing of permits for disposition of human remains.

Nothing in this section shall limit the ability of local districts to file certificates of death and fetal death manually within the local registration districts.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102790. Source of Information.** The funeral director shall obtain the required information other than medical and health section data from the person or source best qualified to supply this information.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102795. Medical and Health Section Data; Completion and Attestation.** The medical and health section data and the time of death shall be completed and attested to by the physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, by the physician and surgeon last in attendance or by a licensed physician assistant under the supervision of the physician and surgeon last in attendance if the physician and surgeon or licensed physician assistant is legally authorized to certify and attest to these facts, and if the physician assistant has visited the patient within 72 hours of the patient's death. In the event the licensed physician assistant certifies the medical and health section data and the time of death, then the physician assistant shall also provide on the document the name of the last attending physician and surgeon and provide the coroner with a copy of the certificate of death. However, the medical health section data and the time of death shall be completed and attested to by the coroner in those cases in which he or she is required to complete the medical and health section data and certify and attest to these facts.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102800. Completion of Certificate; Time; Delivery.** The medical and health section data and the physician's or coroner's certification shall be completed by the attending physician within 15 hours after the death, or by the coroner within three days after examination of the body.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102805. Embalmer's Signature; Affixation by Written Special Power of Attorney.** An embalmer may authorize his or her signature to be affixed to the certificate after he or she has embalmed a body, as required by this chapter, by a written special power of attorney that shall be retained for a period of one year.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 2. Responsibility of Attending Physician

\* \* \*

**102825. Statement of Physicians and Surgeons or Physicians' Assistant; Existence of Cancer; Designation of Agent.** The physician and surgeon last in attendance, or in the case of a patient in a skilled nursing or intermediate care facility at the time of death, the physician and surgeon last in attendance or a licensed physician assistant under the supervision of the physician and surgeon last in attendance, on a deceased person shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and any other medical and health section data as may be required on the certificate; he or she shall also specify the time in attendance, the time he or she last saw the deceased person alive, and the hour and day on which death occurred, except in deaths required to be investigated by the coroner. The physician and surgeon or physician assistant shall specifically indicate the existence of any cancer as defined in subdivision (e) of Section 103885, of which the physician and surgeon or physician assistant has actual knowledge.

A physician and surgeon may designate, one or more other physicians and surgeons who have access to the physician and surgeon's records, to act as agent for the physician and surgeon for purposes of the performance of his or her duties under this section, provided that any person so designated acts in consultation with the physician and surgeon.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 3. Responsibility of Coroner

\* \* \*

**102850. Notification of Coroner; Violations.** A physician and surgeon, physician assistant, funeral director, or other person shall immediately notify the coroner when he or she has knowledge of a death that occurred or has charge of a body in which death occurred under any of the following circumstances:

- (a) Without medical attendance.
- (b) During the continued absence of the attending physician and surgeon.
- (c) Where the attending physician and surgeon or the physician assistant is unable to state the cause of death.
- (d) Where suicide is suspected.
- (e) Following an injury or an accident.
- (f) Under circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another.

Any person who does not notify the coroner as required by this section is guilty of a misdemeanor.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102855. Investigation.** The coroner whose duty it is to investigate such deaths shall ascertain as many as possible of the facts required by this chapter.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102860. Statement of Coroner; Existence of Cancer; Delivery of Certificate.** The coroner shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and other medical and health section data as may be required on the certificate, and the hour and day on which death occurred. The coroner shall specifically indicate the existence of any cancer, as defined in subdivision (e) of Section 103885, of which he or she has actual knowledge.

The coroner shall within three days after examining the body deliver the death certificate to the attending funeral director.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102865. Sudden Infant Death Syndrome; Notice to County Health Officer.** In any case involving an infant under the age of one year where the gross autopsy results in a presumed diagnosis of sudden infant death syndrome, the coroner shall, within 24 hours of the gross autopsy, notify the local health officer, as defined in Section 123740.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102870. Dental Examinations; Records for Identification; Report.** (a) In deaths investigated by the coroner or medical examiner where he or she is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner may have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains. If the coroner or medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward the dental examination records to the Department of Justice on forms supplied by the Department of Justice for that purpose.

(b) The Department of Justice shall act as a repository or computer center, or both, with respect to those dental examination records and the final report of investigation specified in Section 27521 of the Government Code. The Department of Justice shall compare the dental examination records and the final report of investigation, if applicable, to records filed with the Violent Crime Information Center (Title 12 (commencing with Section 14200) of Part 4 of the Penal Code), shall determine which scoring probabilities are the highest for purposes of identification, and shall submit the information to the coroner or medical examiner who submitted the dental examination records and the final report of investigation, if applicable.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 4. Content of Certificate of Death

\* \* \*

**102875. Division Into Two Sections; Contents of Each Section.** The certificate of death shall be divided into two sections.

(a) The first section shall contain those items necessary to establish the fact of the death, including all of the following and those other items as the State Registrar may designate:

(1) Personal data concerning decedent including full name, sex, color or race, marital status, name of spouse, date of birth and age at death, birthplace, usual residence, and occupation and industry or business.

(2) Date of death, including month, day, and year.



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- (3) Place of death.
  - (4) Full name of father and birthplace of father, and full maiden name of mother and birthplace of mother.
  - (5) Informant.
  - (6) Disposition of body information including signature and license number of embalmer if body embalmed or name of embalmer if affixed by attorney-in-fact; name of funeral director, or person acting as such; and date and place of interment or removal. Notwithstanding any other provision of law to the contrary, an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar may be used in lieu of the actual signature of the embalmer.
  - (7) Certification and signature of attending physician and surgeon or certification and signature of coroner when required to act by law. Notwithstanding any other provision of law to the contrary, the person completing the portion of the certificate setting forth the cause of death may attest to its accuracy by use of an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.
  - (8) Date accepted for registration and signature of local registrar. Notwithstanding any other provision of law to the contrary, the local registrar may elect to use an electronic signature substitute, or some other indicator of authenticity, approved by the State Registrar in lieu of a signature.
    - (b) The second section shall contain those items relating to medical and health data, including all of the following and other items as the State Registrar may designate:
      - (1) Disease or conditions leading directly to death and antecedent causes.
      - (2) Operations and major findings thereof.
      - (3) Accident and injury information.
      - (4) Information indicating whether the decedent was pregnant at the time of death, or within the year prior to the death, if known, as determined by observation, autopsy, or review of the medical record. This paragraph shall not be interpreted to require the performance of a pregnancy test on a decedent, or to require a review of medical records in order to determine pregnancy.
- (Amended by Statutes 2002, Chapter 827.) (AB 1139)*

### Excerpts from Article 5. American Indians

\* \* \*

**102900. Legislative Findings and Declarations; Lack of Accurate Demographic Data.** The Legislature finds and declares all of the following:

(a) Birth and death certificate-linking studies done by the department in 1974 and repeated in 1984, show unacceptably high rates of error in the completion of death certificate information recording ethnicity for American Indian infants.

(b) Official vital data on deaths for American Indians in the State of California indicate an implausible death rate equal to one-half of the United States rate for all races and one-quarter of the rate for American Indians in all states.

(c) Good demographic data on the American Indian people within the state does not exist and the data that does exist is fragmented and difficult to access and compile.

(d) The lack of accurate vital data on American Indians in California results in a significant loss of federal funds for the provision of health care and promotion services to American Indian people residing in 37 rural counties within the state.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**102905. Study to Establish Vital Statistics Regarding Death Rates.** (a) The Rural Health Division of the department shall cause to be undertaken a three-year study for the purpose of establishing more valid statistics regarding American Indian death rates, including rates for the 10 leading causes of death for American Indians within the 37 designated rural Indian counties as follows: Humboldt, Shasta, Siskiyou, Modoc, Del Norte, Mendocino, Lake, Sonoma, Glenn, Butte, Colusa, Plumas, Yuba, Yolo, Tehama, Sutter, El Dorado, Nevada, Placer, Sierra, Tulare, Tuolumne, Amador, Mariposa, Calaveras, Fresno, Kings, Madera, Mono, Inyo, Riverside, San Bernardino, Imperial, Lassen, Santa Barbara, Trinity, and San Diego.

(b) This study shall enlist the fullest possible participation of the Indian community and specifically the Indian clinics currently providing health care services to rural Indians of the state. This project shall be administered in a manner that allows for input from, and consultation with, concerned tribes and tribal organizations and American Indian-controlled health care corporations.

(c) This study shall identify methods to improve the quality of official state data on Indian mortality and carry out activities to achieve that goal, including the provision of training and the development of educational materials for morticians and coroners operating within the state.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102910. Contracts for Conduct of Study.** For the purpose of conducting the three-year study required pursuant to Section 102905, the department is hereby encouraged to contract with a federally recognized tribe or tribal organization or an American Indian-controlled health care corporation or research institution having a record of good standing with the Department of Managed Care and the Indian Health program within the department, and established competence in the area of records management.

*(Amended by Statutes 1999, Chapter 525.) (AB 78)*

**102915. Conduct of Study.** The study shall be conducted in three phases, as follows:

(a) Phase one of the study shall include research design and data acquisition, including funds for the purchase of data from tribal, federal, state, and county sources and the encoding of this data to a computer-readable form.

(b) Phase two of the study shall include a computerized matching of the American Indian-specific data with the officially known deaths within the state for a selected two-year period, and all necessary statistical analysis and validation of any findings.

(c) Phase three shall include the dissemination of the findings from the study, including efforts to improve the collection of vital event data on the American Indian population within the state.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102920. Reports to Legislature.** The department shall report to the Legislature on or before January 1, 1994, on the implementation of this article. The department also shall report to the Legislature, on or before four years after the date that the initial funding is received to implement this article, on the results of the study required by this article.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102925. Implementation of Specified Section.** The state department shall begin to implement the activities referred to in Sections 102905, 102910, 102915, and 102920 only upon an appropriation for the specific purpose of funding the activities.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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### Excerpts from CHAPTER 7. FETAL DEATH REGISTRATION

#### Article 1. Duty of Registering Fetal Death

\* \* \*

**102950. Fetus Advanced to 20 Weeks of Uterogestation; Registration Required; Time.** (a) Each fetal death in which the fetus has advanced to or beyond the 20th week of uterogestation shall be registered with the local registrar of births and deaths of the district in which the fetal death was officially pronounced within eight calendar days following the event and prior to any disposition of the fetus.

(b) Subdivision (a) shall not apply to the termination of a pregnancy performed in compliance with Article 2.5 (commencing with Section 123460) of Chapter 2 of Part 2 of Division 106.  
*(Amended by Statutes 2007, Chapter 661.) (SB 850)*

**102955. Preparation of Certificate; Registration.** A funeral director, or if there is no funeral director, the person acting in lieu thereof, shall prepare the certificate and register it with the local registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**102960. Source of Information.** A funeral director, or if there is no funeral director, the person acting in lieu thereof, shall obtain the required information other than medical and health section data from the person or source best qualified to supply this information.

*(Amended by Statutes 1996, operative September 29, 1996, Chapter 1023.) (SB 1497)*

#### Excerpts from Article 2. Responsibility of Attending Physician

\* \* \*

**102975. Statement of Physician; Attestation; Delivery of Certificate.** The physician, if any, in attendance on the delivery of a fetus shall within 15 hours after the delivery state on the certificate of fetal death the time of fetal death or delivery, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts.

The physician shall within 15 hours after the death deposit the certificate at the place of death, or deliver it to the attending funeral director at his or her place of business or at the office of the physician.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

#### Excerpts from Article 3. Responsibility of Coroner

\* \* \*

**103000. Registration; Manner of Handling.** All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103005. Examination of Fetus; Statement of Coroner; Attestation; Delivery of Certificate.** The coroner shall within three days after examination of the fetus state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall within three days after examining the body deliver the death certificate to the attending funeral director.  
(Added by Statutes 1995, Chapter 415.) (SB 1360)

### Excerpts from Article 4. Content of Certificate of Fetal Death

\* \* \*

**103025. Designation of Items by State Registrar; Division into Two Sections; Contents of Sections.** The certificate of fetal death shall contain items as may be designated by the State Registrar and shall be divided into two sections. The first section shall contain those items necessary to establish the fact of the fetal death. The second section shall contain those items relating to medical and health data and shall be clearly labeled "Confidential Information for Public Health Use Only." The information included in the second section shall be kept confidential pursuant to Section 102430.  
(Added by Statutes 2005, Chapter 430.) (AB 1278)

### Excerpts from Article 4.5. Missing Angels Act

\* \* \*

**103040 Short Title.** This act shall be known, and may be cited, as the Missing Angels Act.  
(Added by Statutes 2007, Chapter 661.) (SB 850)

**103040.1 Certificate of Still Birth.** (a) The local registrar of births and deaths of the county in which a fetal death, in which the fetus has advanced beyond the 20th week of uterogestation, is registered, shall issue, upon the request of the mother or father of the fetus, a Certificate of Still Birth, on a form approved by the State Registrar of Vital Statistics for each naturally occurring intrauterine fetal death after a gestational age of not less than 20 completed weeks.

(b) A Certificate of Still Birth issued pursuant to subdivision (a) shall, except as otherwise set forth in this section, comply with all of the format requirements governing a certificate for a live birth contained in Article 2 (commencing with Section 102425). The Certificate of Still Birth shall be in addition to and shall not replace the fetal death certificate issued pursuant to Article 1 (commencing with Section 102950).

(c) The request for a Certificate of Still Birth shall be on a form prescribed by the State Registrar of Vital Statistics.

(d) The Certificate of Still Birth shall be on a form prescribed by the State Registrar of Vital Statistics and shall only contain the following information taken from the fetal death certificate:

- (1) The date of the stillbirth.
- (2) The county in which the stillbirth occurred.
- (3) The name of and sex of the stillborn fetus, as provided on the original or amended fetal death certificate.
- (4) The time and place of stillbirth, including the street address and city, and, if applicable, the name of the hospital.

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- (5) The names, date of birth, and state of birth of the mother and father.
  - (6) The corresponding file number of the final fetal death certificate.
  - (7) A title at the top of the Certificate of Still Birth that reads: Certificate of Still Birth.
  - (8) A statement at the bottom of the Certificate of Still Birth that states: This Certificate of Still Birth is not proof of a live birth.
- (e) The State Registrar of Vital Statistics shall not use the information included on a Certificate of Still Birth for any governmental purpose other than to respond to the request for the certificate from the persons identified in subdivision (a).
- (f) The State Registrar of Vital Statistics may charge an appropriate fee for processing and issuing a Certificate of Still Birth. The fee shall cover, but shall not exceed, the entity's full cost of providing the certificate. During the 2007-08 fiscal year, the fee shall not exceed twenty dollars (\$20), thereafter, the fee may be adjusted annually pursuant to Section 100430. The local registrar of births and deaths may charge an appropriate fee for the processing and issuing of a Certificate of Live Birth, not to exceed the entity's full cost of providing the certificate.
- (g) The State Registrar of Vital Statistics shall issue a Certificate of Still Birth upon request regardless of the date on which the certificate of fetal death was issued.
- (h) This section shall not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth.
- (i) For the purposes of this section, "stillbirth" as recorded in the Certificate of Still Birth means the delivery of a fetus where there was a naturally occurring intrauterine fetal death after a gestational age of not less than 20 completed weeks.
- (j) This section shall not supercede any other provision of law. The terms and conditions contained in this section shall only apply to this section, and shall not affect the definition, use, meaning, or intent of those terms as they may appear in any other statute, California case law, or the California Constitution. Other than prescribing the right to request a Certificate of Still Birth, nothing in this section shall be construed to create any new right, privilege, or entitlement, or to abrogate any existing right, privilege, or entitlement.
- (k) Through its courts, statutes, and under its Constitution, California law protects a woman's right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections in accordance with the California Supreme Court's decision in *People v. Belous* (1969) 71 Cal.2d 954, 966-968.
- (Added by Statutes 2007, Chapter 661.) (SB 850)*

### Excerpts from CHAPTER 8. PERMITS FOR DISPOSITION OF HUMAN REMAINS

\* \* \*

**103050. Necessity of Death Certificate and Disposition Permit.** (a) No person shall dispose of human remains unless both of the following has occurred:

- (1) There has been obtained and filed with a local registrar a death certificate, as provided in Chapter 6 (commencing with Section 102775).
  - (2) There has been obtained from a local registrar a permit for disposition.
- (b) (1) Notwithstanding subdivision (a), neither a death certificate nor a permit for disposition shall be required to transport human remains from California to an adjacent state for disposition in that state when all of the following circumstances exist:

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(A) The remains are found within 50 miles of the California border and the nearest licensed funeral establishment is within 20 miles of the border in the adjacent state, and the remains are released to that funeral establishment.

(B) The coroner with jurisdiction over the area in which the remains were found authorizes their release pursuant to paragraph (2).

(2) The coroner may release the remains to a licensed out-of-state funeral establishment without a death certificate or permit for disposition when he or she determines that all of the following conditions exist:

(A) No forensic interest in the remains exists.

(B) A reasonable certainty exists that the cause of death will be provided either by the primary physician, or by a review of medical records by the coroner or medical examiner.

(3) The coroner with jurisdiction over the area in which the remains were found who releases the remains to an out-of-state funeral establishment shall, within 72 hours after the remains were found, file a death certificate with the local registrar.

(c) Nothing in this section shall exempt a coroner, health officer, health care provider, or other individual from requirements to report a case or suspected case of any reportable communicable diseases or conditions pursuant to any provision of the Health and Safety Code or the California Code of Regulations.

*(Added by Statutes 2006, Chapter 463.) (AB 2105)*

**103055. Issuance; Contents; Death Due to Disease.** (a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition, that in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address or description of the place where remains shall be buried or scattered.

(4) The address of the location where the cremated remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body shall be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103060. Removal of Cremated Remains From Place of Cremation or Interment; Permit; Contents; Issuance; Return.** A permit for disposition for the purpose of removing cremated remains from the place of cremation or interment shall include a description of the final place of disposition sufficient to identify the place and shall be issued by the local registrar to the person having the right to control the disposition of the remains under Section 7100 upon the application of that person.

A permit for disposition shall be issued under this section only upon the signed acknowledgment by the person making application that trespass and nuisance laws apply to the disposition and that the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains.

The person to whom the permit for disposition was issued shall sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the permit so endorsed to

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the local registrar of the district in which the disposition took place. The third copy of the permit shall be returned to the office of issuance. After one year the local registrar may destroy any original or duplicate permit retained by him or her pursuant to this section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103065. Permit for Disposition; Issuance by Local Registrar; Forwarding of Death Certificate and Duplicate of Permit to Local Registrar of District; Fee.** (a) Upon the presentation of a certificate of death properly executed and completed in accordance with the policies and procedures of the county coroner in which the death occurred that are not in conflict with state law, the permit for disposition required by Sections 103050, 103055, and 103060 shall be issued by any local registrar pursuant to this section. The local registrar issuing the permit for disposition pursuant to this section shall promptly forward the death certificate and a duplicate of the permit for disposition to the local registrar of the district in which death occurred or the body was found.

(b) The applicant for a permit under this section shall pay a fee of six dollars (\$6) to the issuing registrar. Thirty percent of the fee shall be transferred by the issuing registrar to the local registrar of the county where the death occurred and 40 percent shall be transferred to the State Registrar for the administration of this section.

(c) Applicants for a permit for disposition pursuant to this section shall not be subject to Section 103675.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103070. Holding Body Pending Disposition.** The body of any person whose death occurs in this state, or whose body is found in the state, or that is brought in from outside the state, shall not be temporarily held pending disposition more than eight calendar days after death, unless a permit for disposition is issued by the local registrar of the registration district in which the death occurred or the body was found.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103075. Permit to Accompany Body; Delivery.** Except when a permit is not required to be issued pursuant to subdivision (b) of Section 103050, the permit shall accompany the body to its destination, where, if within this state, it shall be delivered to the person in charge of the place of interment.

*(Added by Statutes 2006, Chapter 463.) (AB 2105)*

**103080. Signature of Person in Charge; Indorsement of Date of Interment or Cremation; Return to Local Registrar and Office of Issuance; Destruction of Permits.** The person in charge of the place of interment, or the funeral director or person acting as funeral director if no person is in charge, shall sign the permit, endorse upon it the date of interment or cremation, and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the interment took place. The third copy of the permit shall be returned to the office of issuance. After one year the local registrar may destroy any original or duplicate permit retained by the local registrar pursuant to this section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103085. Out of State Disposition Permits; Issuance of Local Permits.** When human remains are transported from outside the state into a registration district in California for interment, the permit for disposition, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the human remains have been transported, as a basis upon which he or she shall issue a local permit,

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noting upon the face of the permit the fact that human remains were shipped in for interment and the place of death.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103090. Removal of Body for Preparation.** This chapter does not prevent a funeral director from removing a body from the registration district where the death occurred or the body was found to another registration district in the same or another county in a funeral director's conveyance for the purpose of preparing the body for interment or shipment.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103095. Validity of Burial Permit in County Specified.** A permit issued in one county or city is valid and sufficient in any county it specifies as the place of interment.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103100. Cemetery Located in Two Registration Districts; Necessity of Single Permit; Return.** If any cemetery is located partly in one registration district and partly in another, only one permit shall be required for interment and a permit authorizing interment in the cemetery shall entitle interment to be made within or without the district to which the permit is directed. The permit shall be returned to the registration district in which the interment is made irrespective of the district to which it is directed. The local registrar of the district in which the interment is made shall forthwith file the permit on presentation without charge.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103105. Permits for the Disinterment or Removal of Interred Remains.** Permits for the disinterment or removal of interred remains shall be required, as specified in Part 2 (commencing with Section 7500) of Division 7.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from CHAPTER 9. MARRIAGE REGISTRATION

#### Article 1. General Provisions

\* \* \*

**103125. Forms** The forms for the marriage license shall be prescribed by the State Registrar.  
*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

#### Excerpts from Article 2. Duty of Registering

\* \* \*

**103150. Required Registration; Time.** Each marriage that is performed shall be registered by the person performing the ceremony as provided by Chapter 2 (commencing with Section 420) of Part 3 of Division 3 of the Family Code.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*



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### Excerpts from Article 3. Content of Certificate of Registry of Marriage

\* \* \*

**103175. Division Into Three Sections; Items.** (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. (*Amended by Statutes 2006, operative January 1, 2008, Chapter 816.*) (AB 1102)

**103180. Religious Societies or Denominations; Marriages not Solemnized by Clergy; License and Certificate of Declaration of Marriage.** (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.

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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.  
(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)

### Excerpts from CHAPTER 10. FINAL DECREES OF DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION

\* \* \*

**103200. Judgments; Vacation Orders; Copies to State Registrar.** 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.

(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)

**103205. Index of Decrees.** The State Registrar shall maintain a comprehensive and continuous index of all decrees received under Section 103200.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

### Excerpts from CHAPTER 11. AMENDMENT OF RECORDS

#### Article 1. Amendment of a Record of Birth, Death or Marriage

\* \* \*

**103225. Affidavit; Oath.** Whenever the facts are not correctly stated in any certificate of birth, death, fetal death, or marriage already registered, the person asserting that the error exists may make an affidavit under oath stating the changes necessary to make the record correct, that shall be supported by the affidavit of one other credible person having knowledge of the facts, and file it with the state or local registrar.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**103230. Certificates of Birth; Application of Section 103225 Only in Absence of Conflicting Information Relative to Parentage.** Section 103225 shall be applicable to certificates of birth only in the absence of conflicting information relative to parentage on the originally registered certificate of birth.

(Added by Statutes 1995, Chapter 415.) (SB 1360)

**103235. Untransmitted Certificate; Review of Amendment by Local Registrar; Acceptance; Filing; Note on Original Certificate.** 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.

(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)

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**103240. Transmitted Certificate; Transmittal of Amendment to State Registrar; Review.** If the amendment relates to a certificate that has been transmitted to the State Registrar, the amendment shall be transmitted to the State Registrar who shall review it for acceptance for filing.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103245. Acceptance of Amendment; Transmittal of Copies.** If the amendment is accepted, the State Registrar shall transmit copies of the amendment to the local registrar and county recorder in whose office copies of the original record and information are on file.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103250. Sending Certified Copy of Amended Record to Applicant.** The State Registrar shall send a certified copy of the newly amended record of birth, death or marriage to the applicant without additional charge, except for those amendments that are filed within one year of the date of occurrence of the event.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103255. Filing Amendment as Part of Record.** The amendment shall be filed with and become a part of the record to which it pertains.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103260. Derogatory, Demeaning, or Colloquial Racial Descriptor; Request for New Birth Certificate; Fee; Copies.** (a) A person born in this state whose birth is registered in this state, or the person's conservator, or if a minor, the person's parent or guardian, may submit a written request to the state registrar for a new birth certificate on the ground that his or her existing birth certificate contains a derogatory, demeaning, or colloquial racial descriptor. For purposes of this section, a derogatory, demeaning, or colloquial racial descriptor means any term that the registrant determines is insulting to a racial group.

(b) The State Registrar shall review the request, and if the request identifies the term that the registrant has determined is a derogatory, demeaning, or colloquial racial descriptor, identifies the accurate racial descriptor, and is accompanied with the payment of the fee required by Section 103700, then the State Registrar shall issue a new birth certificate with the accurate racial descriptor identified in the request and shall transmit copies of the new birth certificate to the following:

(1) The local registrar and county recorder in whose office copies of the previously issued birth certificate are on file. Upon receipt of the new birth certificate, the local registrar and county recorder shall transmit any copies of the previously issued birth certificate to the State Registrar if it is practical for him or her to do so. If it is impractical for him or her to forward all the copies to the state registrar, he or she shall effectually seal a cover over the copy in a manner as not to deface or destroy the copy and forward a verified statement of his or her action to the state registrar.

(2) The registrant.

(c) The new birth certificate shall supplant any previously issued birth certificate registered for the registrant and shall be the only birth certificate of the registrant open to public inspection. The request and previously issued birth certificate shall remain as part of the records of the State Registrar. All records and information referred to in this section, other than the newly issued birth certificate, shall be available only upon the written request of the registrant or an order of a court of competent jurisdiction.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103265. Death Certificates: Peace Officers.** An amended certificate of death of an individual who is a peace officer pursuant to Section 830 of the Penal Code, who was killed in the line of duty, shall be processed immediately upon acceptance for filing and shall be issued by the State Registrar no later than 10 business days following acceptance for filing.  
*(Added by Statutes 2003, Chapter 307.) (AB 540)*

### Excerpts from Article 2. Amendment of a Death Record of a Previously Unidentified Body

\* \* \*

**103275. Registration by Coroner.** The coroner having jurisdiction shall register with the local registrar of births and deaths a certificate of death giving the name of the person and all statistical particulars that have been discovered concerning him or her, in the case of the identification of a person previously unidentified at the time of the original registration of the death.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103280. Manner of Handling Amendment.** This amendment to the record shall be handled in the manner prescribed in Article 1 (commencing with Section 103225).  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 3. Amendment of Medical and Health Section Data on Death, Fetal Death, and Live Birth Records

\* \* \*

**103300. Declaration of Changes; Filing.** Notwithstanding other provisions in this part relative to amendment of records, whenever the information originally furnished in the medical and health data section of any record of death, fetal death or live birth is modified by supplemental information relative thereto, the certifying physician or coroner having knowledge of this information may make a declaration as provided in Section 2015.5 of the Code of Civil Procedure stating the changes necessary to make the information correct and file it with the state or local registrar.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103305. Manner of Handling Amendment.** This amendment shall be handled in the manner prescribed in Article 1 (commencing with Section 103225).  
*(Amended by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 4. Supplemental Name Reports

\* \* \*

**103325. Unnamed Living Child; Special Report Form.** When any certificate of birth of a living child is registered without the name of the child being entered thereon, the local registrar shall make out and deliver to the parents of the child a special blank for a supplemental report of the name of the child.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103330. Completion of Report; Delivery to Local Registrar.** The parents shall complete the report and return it to the local registrar as soon as the child is named.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103335. Sending Certified Copy of Amended Record to Applicant.** The State Registrar shall send a certified copy of the newly amended record of birth to the applicant without additional cost, except for those amendments that are filed within one year of the date of occurrence of the event.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103340. Manner of Handling Amendment.** This amendment to the record shall be handled in the manner prescribed in Article 1 (commencing with Section 103225).

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 5. Amendment of Birth Certificate to Delete Racial Slurs

\* \* \*

**103350. Purpose.** The purpose of this article is to provide a remedy for correction of birth certificates that contain entries regarding race or color that, in the opinion of the registrant, constitute racial slurs or are otherwise offensive.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103355. Application for New Birth Certificate; Sealing of Original; Certification.** Any person who was born in this state and whose birth is registered in this state may apply to the State Registrar for the establishment and issuance of a new birth certificate and the sealing of the original if the person certifies that the entry or entries in the original birth certificate regarding race or color contain a term or terms that in the opinion of the registrant, constitute racial slurs or are otherwise offensive. The application shall identify the offensive terms to be deleted and indicate the proper entries for race or color to be substituted. The determination as to whether the entries to be deleted are offensive shall be left to the judgment of the applicant and the State Registrar shall give deference to that determination.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103360. Establishment of New Birth Certificate.** Upon receipt of the application and payment of the required fee, the State Registrar shall establish a new birth certificate for the person.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103365. Contents and Effect of New Birth Certificate.** The entry for race or color in the new certificate shall be as indicated in the application. No reference shall be made in the new birth certificate that it is not the original birth certificate of the registrant. The new birth certificate shall supplant any birth certificate previously registered for the registrant and shall be the only birth certificate open to public inspection.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103370. Transmittal of Certified Copy to Registrant.** The State Registrar shall transmit a certified copy of a birth certificate newly established under this article to the registrant without additional charge.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103375. Informing Local Registrar and County Recorder; Forwarding or Sealing Copies of Original Birth Certificate.** When a new birth certificate is established pursuant to this article, the State Registrar shall inform the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward the copies to the State Registrar for filing with the original certificate, if it is practical for him or her to do so. If it is impractical for him or her to forward the copy to the State Registrar, he or she shall effectually seal a cover over the copy in a manner as not to deface or destroy the copy and forward a verified statement of his or her action to the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 6. Amendment of Birth Record to Reflect Court Order Change of Name

\* \* \*

**103400. Application and Affidavit.** Whenever a person born in this state has his or her name changed by order of a court of this state, another state, the District of Columbia, or any territory of the United States, an application including an affidavit of this fact may be filed with the office of the State Registrar upon a form provided for that purpose.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103405. Filing of Amendment; Entry on Original Certificate.** Upon receipt of the application, affidavit, certified copy of the court order and payment of the required fee, the State Registrar shall review the amendment for acceptance for filing, and if accepted, shall file the amendment and shall note the fact of the amendment on the otherwise unaltered original birth certificate. The amendment shall be filed with and become a part of the record to which it pertains, if the original record of birth is on file in the office of the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103410. Certified Copy to Registrant.** The State Registrar shall furnish a certified copy of the newly amended record of birth prepared under authority of this article to the registrant without additional cost.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Excerpts from Article 7. Revision of Birth Records to Reflect Change of Sex

\* \* \*

**103425. New Birth Certificate; Petition for Issuance.** Whenever a person born in this state has undergone surgical treatment for the purpose of altering his or her sexual characteristics to those of the opposite sex, a new birth certificate may be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States. A petition for the issuance of a new birth certificate in those cases shall be filed with the superior court of the county where the petitioner resides.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103430. Affidavit of Physician; Copy of Court Order Changing Name; Hearing; Filing of Decree; Form and Contents of Certificate.** (a) The petition shall be accompanied by an affidavit of a physician documenting the sex change, and a certified copy of the court order changing the applicant's name (if applicable).

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(b) The petition shall be heard at the time appointed by the court and objections may be filed by any person who can, in those objections, show to the court good reason against the change of birth certificate. At the hearing, the court may examine on oath the petitioner, and any other person having knowledge of facts relevant to the application. At the conclusion of the hearing the court shall make an order to issue a new certificate, or dismissing the petition, as to the court may seem right and proper.

(c) A certified copy of the decree of the court ordering the new birth certificate, shall within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof together with the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate for the applicant.

(d) The new birth certificate shall indicate the sex of the registrant as it has been surgically altered and shall reflect any change of name specified in the application if accompanied by a court order, as prescribed by Section 103425. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the registrant.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103435. Petition for Change of Name and Issuance of New Birth Certificate; Procedure.** In lieu of separate proceedings, a single petition for a change of name and issuance of a new birth certificate reflecting a change of gender may be filed with the superior court. With respect to such a petition, the court shall follow the procedure set forth in Title 8 (commencing with Section 1275) of Part III of the Code of Civil Procedure. A certified copy of the decree of the court issued pursuant to this section shall within 30 days be filed with both the Secretary of State and the State Registrar. Upon its receipt, the State Registrar shall establish a new birth certificate as provided in this article.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103440. New Birth Certificates; Effect; Inspection; Filing; Availability of Information.** The new birth certificate shall supplant any birth certificate previously registered for the applicant and shall be the only birth certificate open to public inspection. The application and supporting affidavit shall be filed with the original record of birth, that shall remain as a part of the records of the State Registrar. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon written request of the registrant or an order of a court of record.

When a new birth certificate is established under this article, the State Registrar shall transmit copies of the newly established birth certificate for filing to the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward the copies of the original certificate to the State Registrar for filing with the original certificate, if it is practical for him or her to do so. If it is impractical for him or her to forward the copy to the State Registrar, he or she shall effectually seal a cover over the copy of the original certificate in a manner as not to deface or destroy the copy and forward a verified statement of his or her action to the State Registrar. Thereafter the information contained in the record shall be available only upon written request of the registrant or on order of a court of record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103445. Transmittal of Certified Copy of Certificate to Registrant.** The State Registrar shall transmit a certified copy of a birth certificate newly established under this article to the registrant without additional charge.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

# HEALTH AND SAFETY CODE

## CHAPTER 11.

### **Article 8. Revision of Birth Records to Correct Gender Errors Made by Birthing Hospitals or Local Registrars** *(Added by Statutes 2000, Chapter 780.) (AB 2735)*

\* \* \*

**103446. Legislative Intent; Correction of Birth Certificates.** It is the intent of the Legislature that this article provide a remedy for the correction of birth certificates that contain gender errors made by the birthing hospital or local registrar when completing the original birth certificate.  
*(Added by Statutes 2000, Chapter 780.) (AB 2735)*

**103447. Application for Issuance of New Birth Certificates.** (a) Notwithstanding any other provision of this chapter, any person born in this state, or, in the case of a minor or incompetent person, his or her parent, legal guardian, or conservator, may apply to the State Registrar for the establishment and issuance of a new birth certificate and the sealing of the original, upon finding that the birthing hospital or local registrar made a gender error when completing the original birth certificate.

(b) The application shall be accompanied by one of the following:

(1) The sworn affidavit of the administrator of the hospital where the applicant was born or by a representative designated by the administrator, verifying that the incorrect gender information entered on the birth certificate was due to a hospital error.

(2) The sworn affidavit of the representative of the local registrar, verifying that the incorrect gender information entered on the birth certificate was due to an administrative error of the local registrar.

(3) The sworn affidavit of the physician attending the birth of the applicant and the sworn affidavit of the applicant's mother or father or a relative who was at least five years old at the time of the applicant's birth, verifying that, at the time of birth, the applicant's gender was different from that indicated on the original birth certificate.

*(Added by Statutes 2000, Chapter 780.) (AB 2735)*

**103447.5. Establishment of New Birth Certificate.** Upon receipt of the application and sworn affidavit or affidavits, and upon payment of the fee required by Section 103700, the State Registrar shall establish a new birth certificate for the person.

*(Added by Statutes 2000, Chapter 780.) (AB 2735)*

**103448. Supplantation of any Previous Birth Certificate.** The new birth certificate established pursuant to this article shall in no way indicate that it is not the original birth certificate of the applicant. The new birth certificate shall supplant any birth certificate previously registered for the applicant, and shall be the only birth certificate open to public inspection.

*(Added by Statutes 2000, Chapter 780.) (AB 2735)*

**103448.5. Transmittal of Birth Certificate to Applicant.** The State Registrar shall transmit a certified copy of a birth certificate established pursuant to this article to the applicant, without additional charge.

*(Added by Statutes 2000, Chapter 780.) (AB 2735)*



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**103449. Local Registrar and County Recorder; Forwarding Copies of Original Birth Certificates.** (a) When a new birth certificate is established pursuant to this article, the State Registrar shall so inform the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward those copies to the State Registrar for filing with the original certificate, if he or she determines that it is practical for him or her to do so.

(b) If the local registrar or county recorder determines that it would be impractical to forward the copies of the original certificate to the State Registrar, he or she shall cover and seal the copies in a manner that does not deface or destroy them, and shall forward a verified statement of this action to the State Registrar.

*(Added by Statutes 2000, Chapter 780.) (AB 2735)*

### Excerpts from CHAPTER 12. COURT PROCEEDINGS TO ESTABLISH RECORD OF BIRTH, DEATH OR MARRIAGE

**103450. Filing Petition; Venue.** (a) A verified petition may be filed by any beneficially interested person with the county clerk of the superior court in and for (1) the county in which the birth, death or marriage is alleged to have occurred, or (2) the county of residence of the person whose birth or marriage it is sought to establish, or (3) the county in which the person was domiciled at the date of death, if the person has died, for an order to judicially establish the fact of, and the time and place of a birth, death or marriage that is not registered or for which a certified copy is not obtainable.

(b) In the event of a mass fatalities incident, a verified petition may be filed by a coroner, medical examiner, or any beneficially interested person with the clerk of the superior court in and for (1) the county in which the death is alleged to have occurred, or (2) the county in which the person was domiciled at the date of death for an order to judicially establish the fact of, and the time and place of, a death that is not registered or for which a certified copy of the death certificate is not obtainable.

(c) In the event of a mass fatalities incident, a single verified petition with respect to all persons who died may be filed by a coroner or medical examiner with the clerk of the superior court in and for the county in which the mass fatalities incident occurred for an order to judicially establish the fact of, and the time and place of, each person's death that is not registered or for which a certified copy of the death certificate is not obtainable.

*(Amended by Statutes 2002, Chapter 717.) (AB 1872)*

**103451. Filing Petition; Mass Fatalities Incident.** (a) For purposes of this chapter, "mass fatalities incident" means a situation in which any of the following conditions exist:

(1) There are more dead bodies than can be handled using local resources.  
(2) Numerous persons are known to have died, but no bodies were recovered from the site of the incident.

(3) Numerous persons are known to have died, but the recovery and identification of the bodies of those persons is impracticable or impossible.

(b) The county coroner or medical examiner may make the determination that a condition described in subdivision (a) exists.

*(Added by Statutes 2002, Chapter 717.) (AB 1872)*

**103455. Verification; Contents.** The petition shall be verified and shall contain all the facts necessary to enable the court to determine the fact of and the time and place of the birth, death, or marriage upon the proofs adduced in behalf of the petitioner at the hearing.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

## HEALTH AND SAFETY CODE

**103460. Time and Place of Birth Unknown; Contents of Petition; Verification of Known Facts.** If the time and place of birth are not known, the petition shall contain all of the facts known to the petitioner or otherwise available and a statement of the probable time and place of birth as accurately as the circumstances permit. The petition shall be verified as to the known facts only.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103465. Hearing; Continuance.** Upon the filing of the petition a hearing shall be fixed by the clerk and at the convenience of the court set at a time not less than five nor more than 10 days after the filing of the petition. The hearing may be held in chambers. The court, for good cause, may continue the hearing beyond the 10-day period.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103466. Hearing; Mass Fatalities.** Notwithstanding Section 103465, upon the filing of a petition for a determination of the fact of death in the event of a mass fatalities incident, the clerk shall set a hearing no later than 15 days from the date the petition was filed. The petitioner shall make a reasonable effort to provide notice of the hearing to the known heirs of the deceased up to the second degree of relationship. Failure to provide the notice specified in this section shall not invalidate the judicial proceedings regarding the determination of the fact of death.

*(Added by Statutes 2002, Chapter 717.) (AB 1872)*

**103470. Filing Fee; Hearings in Counties Having More Than One Superior Court Judge.** The fee for filing the petition shall be six dollars (\$6), plus the law library fee of the county. In counties having more than one superior court judge, the petition may be heard by any judge thereof hearing probate matters, or if a probate department has been designated for hearing probate matters, the clerk shall assign the matter to the probate department for hearing.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103475. Order of Court.** If, upon the hearing, the allegations of the petition are established to the satisfaction of the court, the court may make an order determining that the birth, death, or marriage did in fact occur at the time and place shown by the proofs adduced at the hearing.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103480. Time and Place of Birth Unknown; Evidence; Order of Court.** If the time and place of birth are not known, the court shall receive and consider evidence and testimony as may be available and from the facts adduced may, by order, fix the time and place that the court finds to be a probable time and place of birth of the person in relation to whom the petition has been filed, as the time and place of birth. The time and place so fixed shall thereafter for all purposes be the time and place of birth of the person.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103485. Form of Order; Effective Date; Presumption.** The order shall be made in the form and upon the blank prescribed and furnished by the State Registrar and shall become effective upon a filing of a certified copy with the State Registrar.

Every order determining the date of birth made pursuant to this chapter shall establish a presumption that the matter contained therein is a true and accurate statement of the time of birth. The presumption established by this section is a presumption affecting the burden of proof.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103490. Transmittal of Certified Copies.** (a) The State Registrar shall send certified copies of the court order delayed certificate to the local registrar and the county recorder within which area the event occurred and in whose offices copies of records of the year of occurrence of the event are on file, except that if the event occurred outside the State, a certified copy shall be sent only to the county recorder of the county in which the petitioner resides.

(b) In the event of a mass fatalities incident, the State Registrar, without delay, shall send certified copies of the court order delayed death certificate to the local registrar and the county recorder of the county in which the incident occurred and in whose offices copies of records of the year of occurrence of the incident are on file. The State Registrar, without delay, also shall send a certified copy of the court order delayed death certificate to the spouse or next of kin of the decedent, if there is no spouse, provided the spouse or next of kin's name and address information are included in the court order or on the application form submitted by the spouse, next of kin, coroner, or medical examiner. However, if the incident occurred outside the state, a certified copy shall be sent only to the county recorder of the county in which the decedent was domiciled at the date of death.

*(Amended by Statutes 2002, Chapter 717.) (AB 1872)*

### CHAPTER 13. RECORDING CERTIFICATION OF FOREIGN BIRTHS AND DEATHS

\* \* \*

**103500. Authority to Record.** A certification of birth or of birth data issued by an agency of the government of the United States to authenticate a birth of a child to a United States citizen outside of the United States may be recorded in the office of a county recorder in the last county of permanent residence of one or both parents of the child if the last permanent residence in the United States of one or both parents of the child was in California. A certification of death or death data issued by an agency of the government of the United States to authenticate the death of a United States citizen outside of the United States may be recorded in the office of the county recorder in the last county of permanent residence if the last permanent residence in the United States of the citizen was in California.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103505. Index.** A certification of birth outside of the United States, upon recordation by the county recorder, shall be indexed in the county recorder's birth index in the year of occurrence of the birth.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 14. CERTIFIED COPY AND VERIFICATION OF RECORDS

\* \* \*

**103525. Duty to Supply Certified Copy.** (a) The State Registrar, local registrar or county recorder shall, upon request and payment of the required fee, supply to any applicant a certified copy of the record of any birth, fetal death, death, marriage, or marriage dissolution registered with the official.

When the original forms of certificates of live birth furnished by the State Registrar contain a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in a certified copy of the record except as specifically authorized in Section 102430.

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(b) Notwithstanding subdivision (a) or any other provision of law, commencing July 1, 2003, the State Registrar, local registrar, or county recorder shall provide certified copies of birth and death records only as authorized under Section 103526 or 103526.5.

*(Amended by Statutes 2002, Chapter 914.) (SB 247)*

**103525.5. Additional Fee; Security Measures.** (a) Until January 1, 2006, in addition to the fees prescribed by Sections 103625 and 103626, an applicant for a certified copy of a birth or death record shall pay an additional fee of two dollars (\$2). Commencing January 1, 2006, this fee shall be reduced to one dollar (\$1).

(b) Until January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit one dollar and sixty-five cents (\$1.65) of the fee to the State Registrar by the 10th day of the month following the month in which the fee was received. Commencing January 1, 2006, each local registrar or county recorder collecting the fee pursuant to this section shall transmit sixty-five cents (\$.65) of the fee to the State Registrar by the 10th day of the month in which the fee was received. These funds, and fees collected by the State Registrar pursuant to this section, shall be used by the State Registrar, upon appropriation by the Legislature, to develop safety and security measures to protect against fraudulent use of birth and death records, including, but not limited to, computerizing records, redacting and removing signatures as required by law, and electronically distributing redacted records to local registrars and county recorders for their use in complying with Sections 103526 and 103526.5.

(c) Thirty-five cents (\$0.35) of the fee specified in subdivision (a) shall be retained by the public official charged with the collection of the fee to defray the costs of the additional security features required by Sections 103526 and 103526.5.

(d) The entire amount of the fee collected pursuant to subdivision (a) by the State Registrar shall be retained and used by the State Registrar, upon appropriation by the Legislature, for the purpose specified in subdivision (b). The entire amount of the fee collected by the local registrar or county recorder pursuant to subdivision (c) shall be retained and used by that official for the purpose specified in subdivision (c).

*(Added by Statutes 2002, Chapter 914.) (SB 247)*

**103526. Certified Copies; Informational Copies.** (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

## HEALTH AND SAFETY CODE

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, 2007, but only after the statewide database becomes operational and the full calendar year of the birth and death indices and images is entered into the statewide database and is available for the respective year of the birth or death certificate for which an informational copy is requested. The State Registrar shall provide written notification to local registrars and county recorders as soon as a year becomes available for issuance from the statewide database.

*(Amended by Statutes 2006, Chapter 74.) (AB 1807)*

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**103526.5. Certified Copies; Security Paper Requirements.** (a) Each certified copy of a birth or death record issued pursuant to Section 103525 shall include the date issued, the name of the issuing officer, the signature of the issuing officer, whether that is the State Registrar, local registrar, county recorder, or county clerk, or an authorized facsimile thereof, and the seal of the issuing office.

(b) (1) All certified copies of birth and death records issued pursuant to Section 103525 shall be printed on chemically sensitized security paper that measures 8 1/2 by 11 inches and that has the following features:

- (A) Intaglio print.
- (B) Latent image.
- (C) Fluorescent, consecutive numbering with matching bar code.
- (D) Microprint line.
- (E) Prismatic printing.
- (F) Watermark.
- (G) Void pantograph.
- (H) Fluorescent security threads.
- (I) Fluorescent fibers.
- (J) Any other security features deemed necessary by the State Registrar.

(2) In addition to the security features required by paragraph (1), commencing January 1, 2009, the security paper used for informational certified copies of birth and death records pursuant to subdivision (b) of Section 103526 shall also contain a statement in perforated type that states "INFORMATIONAL, NOT A VALID DOCUMENT TO ESTABLISH IDENTITY."

(c) The State Registrar, local registrars, county recorders, and county clerks shall take precautions to ensure that uniform and consistent standards are used statewide to safeguard the security paper described in subdivision (b), including, but not limited to, the following measures:

- (1) Security paper shall be maintained under secure conditions so as not to be accessible to the public.
- (2) A log shall be kept of all visitors allowed in the area where security paper is stored.
- (3) All spoilage shall be accounted for and subsequently destroyed by shredding on the premises.

*(Amended by Statutes 2006, Chapter 74.) (AB 1807)*

**103527. Vital Records Protection Advisory Committee.** (a) The State Registrar shall appoint a Vital Records Protection Advisory Committee to study and make recommendations to protect individual privacy, inhibit identity theft, and prevent fraud involving birth and death certificates while providing needed access to birth and death record information to those seeking it for legitimate purposes. The committee shall have the following duties:

(1) Review and make recommendations as to the adequacy of procedures to safeguard individual privacy and prevent fraud, while ensuring appropriate access to birth and death records.

(2) Make recommendations to the State Registrar as to items that should be redacted from informational certified copies of birth and death certificates issued pursuant to Section 103526.

(3) Make recommendations to the State Registrar regarding fraud prevention measures concerning vital records.

(b) The committee shall include representatives from private and governmental entities that use vital records as identity or legal documents, consumers, law enforcement officials, genealogists, and organizations that research vital records for legal or social purposes. The State Registrar shall make every effort to ensure that committee membership also represents the community at large.

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(c) (1) Except as provided in paragraph (2), membership on the committee shall be for a term of three years.

(2) Appointments shall be made on a staggered basis to allow for a change of one-third of the membership on an annual basis. One-third of the initial committee membership shall be appointed to one-year terms, and one-third of the initial committee membership shall be appointed to two-year terms.

*(Added by Statutes 2002, Chapter 914.) (SB 247)*

**103528. Automated System.** The department may create an automated system for the purposes of implementing Sections 103525, 103525.5, 103526, and 103526.5.

*(Added by Statutes 2002, Chapter 914.) (SB 247)*

**103530. Copies of Certain Amended Birth Records; Issuance Dependent Upon Information Furnished.** Certified copies of certificates of birth shall be issued only when the applicant for the certified copy is able to furnish information, exclusive of file numbers, adequate for identification and location of the amended record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103535. Issuance by Local Registrar or County Recorder; Filing.** Upon application of a parent, the local registrar or county recorder shall request a copy of a new birth certificate amended under Chapter 5 (commencing with Section 102625) from the State Registrar. When a request of this type is received, the State Registrar shall send a copy of the new certificate to the local registrar or county recorder who shall then issue certified copies from the document. The copy of the new certificate returned to the local registrar or county recorder under this procedure shall be filed in the same manner as the copies of other certificates representing births that occurred during the same time period.

*(Amended by Statutes 1996, Chapter 889.) (AB 2755)*

**103540. Certified Copy of Birth Record of Deceased Person.** Prior to issuing a certified copy of a birth record, the State Registrar, local registrar, or county recorder shall determine whether their respective birth records or index to the records have been revised pursuant to Section 102245 to indicate the death of the registrant whose birth record is requested. If the records or index have been so revised, the certified copy provided the applicant shall display the legend "DECEASED," which shall be indelibly printed or stamped, in boldface style not less than one-half inch in height, within near proximity to the space reserved for the registrant's name. The State Registrar shall adopt regulations to implement this section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103545. Persons Authorized to Make Certified Copies.** Certified copies of birth, fetal death, death, and marriage records may be made only by the State Registrar, by duly appointed and acting local registrars during their term of office, and by county recorders.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103550. Original or Certified Copy as Evidence.** Any birth, fetal death, death, or marriage record that was registered within a period of one year from the date of the event under the provisions of this part, or any copy of the record or part thereof, properly certified by the State Registrar, local registrar, or county recorder, is prima facie evidence in all courts and places of the facts stated therein.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103555. Short Form Certificate of Birth Registration.** A short form of certification of birth registration that shall contain only identification information may be issued by the State Registrar, by the county recorder, or by any local registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103560. Short Form Certificate of Death Registration.** A short form of certification of death registration, including only identification information and excluding the medical statement of the cause of death, may be issued by the State Registrar, county recorder, or any local registrar, upon forms prescribed and furnished by the State Registrar.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103565. Transcripts of Records; Obtention by United States Public Health Service; Payment.** The Office of the State Registrar, upon request, may furnish the United States Public Health Service with vital statistics relating to births, deaths, marriages, and marriage dissolutions for utilization in the national vital statistics program. Such vital statistics may be furnished on a contract reimbursement or other satisfactory basis that will insure that the reimbursement shall not be less than the cost to the state nor exceed the federal government's fair share of the cost of the statewide vital statistics registration and reporting system.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103570. Limited Certificate Stating Date of Birth.** A certification limited to a statement as to the date of birth of any child needed for admission to school or for the purpose of securing employment shall be issued without fee by the local registrar or county recorder upon request of any parents or guardian.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103575. Verification of Date and Place of Birth.** The state or local registrar or county recorder may, without fee verify a date and place of birth, when the applicant can present sufficient information to identify the birth record.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103580. Facsimile Signatures.** The State Registrar, local registrar or county recorder may use a printed, stamped or photographically reproduced facsimile signature in certifying to a record in his or her office provided the certification has the seal of his or her office affixed thereto.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103585. Domestic Relations Reports; Information Excluded From Certified Copies.** Certified copies or certification of abstract information required to be filed under authority of Chapter 10 (commencing with Section 103200) in the offices of the State Registrar and county clerks shall not include information relative to occupation, highest school grade completed, color or race, religious denomination, previous marriages ended by death, divorce or annulment, or children.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103590. Decorative Heirloom Birth Certificates.** (a) The State Registrar shall, upon request and payment of a fee, as provided in subdivision (c), supply to any applicant a decorative heirloom certificate, as described in subdivision (b), of any birth registered with that official.

When the original form of the certificate of a live birth furnished by the State Registrar contains a printed section at the bottom containing medical and social data or labeled "Confidential Information for Public Health Use Only," that section shall not be reproduced in the copy of the record. If the original form of the certificate of live birth has been sealed, the information on the sealed certificate shall not be included on the decorative heirloom certificate.



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(b) The decorative heirloom certificate issued under subdivision (a) shall be of a distinctive design as determined by the department and shall include the seal of the State of California and a facsimile of the State Registrar's signature, but shall include no elected official's signature. The certificate shall only contain identification information, as determined by the State Registrar.

(c) The fee required for the decorative heirloom birth certificate issued pursuant to this section shall be thirty-two dollars (\$32) until December 31, 1988, at which time the fee shall be reduced to thirty dollars (\$30). Until December 31, 1988, not less than ten dollars (\$10) of the fee shall be allocated to the State Children's Trust Fund established in Section 18969 of the Welfare and Institutions Code. After December 31, 1988, not less than fifteen dollars (\$15) of the fee shall be allocated to the State Children's Trust Fund. The remainder of the fee shall be utilized to reimburse the State Department of Health Services and the State Registrar, in part, for the administrative costs of developing, preparing, and providing the decorative heirloom certificate.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 15. FEES OF STATE AND LOCAL REGISTRARS

#### Article 1. General Provisions

\* \* \*

**103600. Accounting.** The State Registrar and local registrars shall keep a true and correct account of all fees received by them.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103605. Health Statistics Special Fund; Deposits.** The money collected by the State Registrar shall be deposited with the Treasurer for credit to the Health Statistics Special Fund, except for the Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, the fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, and the fees collected pursuant to Section 103645, all of which shall be deposited in the General Fund.

This section shall become operative on July 1, 1995.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103610. Deposits by Local Registrar.** The money collected by the local registrar shall be paid by him or her into the county or city treasury.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103615. Registration of Births and Deaths or Permits for Disposition of Human Remains; Limitation.** Notwithstanding any other provision of law, no fees other than those provided for in this part shall be charged for the registration of births and deaths or for the issuance of any permits for disposition of human remains.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

#### Article 2. Fee for Certified Copy or Search of Records

\* \* \*

**103625. Certified Copies.** (a) A fee of three dollars (\$3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b)(1) A fee of three dollars (\$3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars (\$7) shall be paid by any other applicant

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for a certified copy of a birth certificate. Four dollars (\$4) of any seven dollar (\$7) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars (\$3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage record that has been filed with the county recorder or county clerk. Three dollars (\$3) of any six-dollar (\$6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars (\$3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars (\$6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to subdivision (a) to (d), inclusive, shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) In addition to the fees prescribed pursuant to subdivisions (a) to (d), inclusive, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of three dollars (\$3), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(g) The local public official charged with the collection of the additional fee established pursuant to subdivision (f) may create a local vital and health statistics trust fund. The fees collected by local public officials pursuant to subdivision (f) shall be distributed as follows:

(1) Forty-five percent of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(2) The remainder of the fee collected pursuant to subdivision (f) shall be deposited into the collecting agency's vital and health statistics trust fund, except that in any jurisdiction in which a local vital and health statistics fund, except that in any jurisdiction in which a local and vital health statistics fund has not been established, the entire amount of the fee collected pursuant to subdivision (f) shall be transmitted to the State Registrar.

(3) Moneys transmitted to the State Registrar pursuant to this subdivision shall be deposited in accordance with Section 102247.

(h) Moneys in each local vital and health statistics trust fund shall be available to the local official charged with the collection of fees pursuant to subdivision (f) for the applicable jurisdiction for the purpose of defraying the administrative costs of collecting and reporting with respect to those fees and for other costs as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(i) Funds collected pursuant to subdivision (f) shall not be used to supplant funding in existence on January 1, 2002, that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to subdivision (f) be used to enhance

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service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children and maternal health problems, and to analyze the health status of the general population.

(j) Each county shall annually submit a report to the State Registrar by March 1 containing information on the amount of revenues collected pursuant to subdivision (f) in the previous calendar year and on how the revenues were expended and for what purpose.

(k) Each local registrar, county recorder, or county clerk collecting the fee pursuant to subdivision (f) shall transmit 45 percent of the fee for each certified copy to which subdivision (f) applies to the State Registrar by the 10th day of the month following the month in which the fee was received.

(l) The additional three dollars (\$3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

(m) In providing for the expiration of the surcharge on birth certificate fees on June 30, 1999, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

*(Amended by Statutes 2002, Chapter 784) (SB 1316)*

**103626. Contra Costa Board of Supervisors; Domestic Violence; Fee Increase for Certified Copies of Marriage Certificates; Birth Certificates; Fetal Death Records, and Death Records; Additional Fees.** (a) The Contra Costa County Board of Supervisors, upon making findings and declarations supporting the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of four dollars (\$4).

(b) Effective July 1 of each year, the Contra Costa County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar. The fees shall be disposed of pursuant to the provisions of Section 18308 of the Welfare and Institutions Code.

(c) In addition to the fees prescribed by subdivisions (a) and (b) of this section, any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Contra Costa County shall pay an additional fee to the local registrar, county recorder, or county clerk as established by the Contra Costa County Board of Supervisors.

*(Amended by Statutes 2006, Chapter 635.) (SB 968)*

**103627. Alameda County Board of Supervisors; Domestic Violence; Fee Increase for Certified Copies of Marriage Certificates, Birth Certificates, Fetal Death Records, and Death Records; Additional Fees.** (a) The Alameda County Board of Supervisors, upon making findings and declarations supporting the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Alameda County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest half-dollar (\$0.50). The fees shall be disposed of pursuant to the provisions of Section 18309 of the Welfare and Institutions Code.

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(c) In addition to the fees prescribed by subdivisions (a) and (b), any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Alameda County shall pay an additional fee to the local registrar, county recorder, or county clerk as established by the Alameda County Board of Supervisors.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

*(Amended by Statutes 2004, operative January 1, 2005, Chapter 830.) (AB 2010)*

**103628. Solano County Board of Supervisors; Domestic Violence; Fee Increase for Certified Copies of Marriage Certificates, Birth Certificates, Fetal Death Records, and Death Records; Additional Fees.** (a) The Solano County Board of Supervisors, upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, may authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of two dollars (\$2).

(b) Effective July 1 of each year, the Solano County Board of Supervisors may authorize an increase in these fees by an amount equal to the increase in the Consumer Price Index for the San Francisco metropolitan area for the preceding calendar year, rounded to the nearest one-half dollar (\$0.50). The fees shall be allocated pursuant to Section 18309.5 of the Welfare and Institutions Code.

(c) In addition to the fees prescribed by subdivisions (a) and (b), any applicant for a certified copy of a birth certificate, a fetal death record, or death record in Solano County shall pay an additional fee to the local registrar, county recorder, or county clerk as established by the Solano County Board of Supervisors.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

*(Amended by Statutes 2004, operative January 1, 2005, Chapter 830.) (AB 2010)*

**103630. Retention of Fee for Insufficient Information.** If the information supplied by the applicant is not sufficient to enable the State Registrar to supply the certified copy of any record for which application is made and the applicant, after written request by the State Registrar, does not furnish the necessary information within 30 days of the date of the request, the State Registrar shall retain the fee.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103635. Repayment of Overpayment.** Overpayment of the required fee received in the office of the State Registrar shall be retained, except any overpayment shall be refunded upon written request of the applicant within one year or when overpayment is in excess of two dollars (\$2).

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103641. Revenues Collected Pursuant to Health and Safety Code Section 103640; Report.** The State Registrar shall annually prepare a summary report of all statewide activities related to revenues collected by the State Registrar pursuant to Section 103625. The report shall include, but not be limited to, the following:

(a) A report that combines the information that counties are required to submit pursuant to subdivision (f) of Section 103625.

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(b) Information regarding revenues collected by the State Registrar pursuant to subdivision (f) of Section 103625 for the previous calendar year, including, but not limited to, the manner in which, and purpose for which, the revenues were expended.

*(Amended by Statutes 2001, urgency clause, Chapter 171.) (AB 430)*

**103650. Search of Files and Records.** The fee for any search of the files and records performed by the custodian of the records for a specific record when no certified copy is made shall be paid in advance by the applicant. The fee shall be the same as the fee required in Section 103625.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103655. Free Access of Newspapermen to Vital Statistics Records.** No fee shall be charged any publisher or editor of, or reporter employed by, a newspaper of general circulation or a news service to inspect, in the course and scope of his or her position or employment, any certificate of live birth, fetal death, or marriage, or any other certificate required by this part to be filed in the Office of the State Registrar or the office of any local registrar or county recorder, or any index of the certificates.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103660. Public Entities; Limitation on Fees.** No fee shall be charged by the State Registrar or local registrar of births and deaths for services rendered to any public entity, except for issuance of a permit for disposition of human remains or for making a copy of a record.

As used in this section, "public entity" includes the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Article 3. Other Fees

\* \* \*

**103675. Permit for Disposition of Human Remains.** Except as otherwise provided in Section 103065, the fee for issuance of a permit for disposition of human remains is two dollars (\$2) payable to the local registrar of births and deaths by the applicant for the permit, when the permit is issued during regularly scheduled office hours of the local registrar of births and deaths.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103680. Fee; Peace Officers' Training Fund Fee.** (a) Effective January 1, 1991, an additional fee of three dollars (\$3) for issuance of a permit for disposition of human remains pursuant to Section 103675 shall be payable to the local registrar of births and deaths by the applicant for the permit. This amount shall be exempt from any adjustment made pursuant to Section 100430.

(b) Notwithstanding any other provision of law, the local registrar of births and deaths shall pay into the Peace Officers' Training Fund, by the 10th of the month following the end of each calendar quarter one dollar (\$1) of the fee collected pursuant to subdivision (a) for the training of peace officer members of county coroners' offices. The remaining funds collected pursuant to subdivision (a) shall be paid into the county treasury to be expended for indigent burial.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103685. Permit for Disposition of Human Remains; Additional Fee.** An additional fee of three dollars (\$3) shall be paid for the issuance of a permit for disposition, when the permit is required to be issued outside the regularly scheduled office hours of the local registrar of births and deaths.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103690. Payment of Collected Fees by Local Registrar to State Registrar.** Notwithstanding any other provision of law, the local registrar of births and deaths shall pay to the State Registrar by the 10th of the month following the end of each calendar quarter one-half of the fees collected under authority of Section 103675.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103692. Permit for Disposition of Human Remains, Additional Fee, Electronic Death Registration System.** (a) (1) Commencing January 1, 2003, in addition to the fees prescribed by Section 103065 and by Sections 103675 to 103685, inclusive, an applicant for a permit for the disposition of human remains shall pay a fee of six dollars (\$6) to the local registrar of births and deaths.

(2) The fee imposed by paragraph (1) shall remain in effect until January 1, 2005, and as of that date, shall be reduced to four dollars (\$4).

(3) The fee established by this subdivision shall be exempt from any adjustment made pursuant to Section 100430.

(b) Notwithstanding any other provision of law, the local registrar of births and deaths shall pay to the State Registrar, pursuant to Section 103690, the fees collected pursuant to subdivision (a).

(c) Funds collected pursuant to subdivision (a), upon appropriation by the Legislature, shall be used by the State Registrar to implement and maintain the electronic death registration system required by Section 102778.

*(Amended by Statutes 2002, Chapter 857.) (AB 2550)*

**103695. Delayed Birth Registration Application; Application for Court Order to Establish Record of Birth, Death, or Marriage.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant at the time of application for a delayed birth registration under Chapter 4 (commencing with Section 102525) or a court order to establish a record of birth, death, or marriage pursuant to Chapter 12 (commencing with Section 103450). Upon acceptance of the application the State Registrar shall retain the fee.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103700. Amendment of Record.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for an amendment or revision to a birth, death, or marriage record under provisions of Articles 1 (commencing with Section 103225), 4 (commencing with Section 103325), 5 (commencing with Section 103350) and 8 (commencing with Section 103446) of Chapter 11, except for those amendments that are filed within one year of the date of occurrence of the event.

*(Amended by Statutes 2000, Chapter 780.) (AB 2735)*

**103705. Amendment of Record Including Newly Amended Record Under Section 102670.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the preparation of an amended record that shall include a certified copy of the newly amended record under Section 102670.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103710. Establishment of Amended Record of Birth; Fee; Exception.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant or when applicable, by the county clerk for the establishment of an amended record of birth under Articles 1 (commencing with Section 102625), and 2 (commencing with Section 102725) of Chapter 5, except where the required fee has been paid or an exception to the fee is provided under Section 103730.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103715. Establishment of New Birth Certificate.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the establishment of a new record of birth under Article 3 (commencing with Section 102750) of Chapter 5.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103720. Amendment of Record; Court Ordered Change of Name.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for the establishment of an amended record of birth under Article 6 (commencing with Section 103400) of Chapter 11.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103725. New Records of Birth; Change of Sex.** A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant for establishment of a new record of birth under Article 7 (commencing with Section 103425) of Chapter 11.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103730. Petition for Adoption.** A fee of eleven dollars (\$11) for each individual being adopted shall be paid to the county clerk at the time of filing the petition in an adoption proceeding, except for agency adoptions in which the adoption fee is waived and a statement from the agency to this effect is filed with the petition, and that fee shall be paid monthly by the county clerk to the State Registrar of Vital Statistics for the services required by statute of that office.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 16. COMPENSATION OF APPOINTED LOCAL REGISTRARS OF BIRTHS AND DEATHS

\* \* \*

**103750. Quarterly Certification of Amounts Due Local Registrars.** For local registrars serving under authority of Section 102280 the State Registrar shall quarterly certify to the auditors of the several counties the number of births and deaths properly registered, with the names of the local registrars and the amounts due each at the rates fixed by this part.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103755. Payment on Warrant; Salaried Local Registrars.** All amounts shall be paid by the treasurer of the county in which the registration district is located, upon warrants drawn by the auditor; provided, that no fee shall be paid by the county to any local registrar who is also a city or county officer or employee and whose salary is by law the sole compensation for his or her services. *(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103760. Amount for Each Registration; Share of Sub-registrar.** Each local registrar entitled to compensation shall be paid the sum of fifty cents (\$0.50) for each birth certificate and each death certificate properly and completely made out and registered with him or her, and correctly recorded and promptly returned by him or her to the State Registrar and out of the fees he or she shall pay the sub-registrar the sum of thirty cents (\$0.30) in each case where the certificate is registered with the sub-registrar. *(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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**103765. Amount for Each Report of no Birth or Death Registration.** If no births or no deaths were registered during any week the local registrar is entitled to be paid the sum of fifty cents (\$0.50) for each report to that effect, but only if the report is made promptly as required by this part. *(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 17. PENALTIES

#### Article 1. Misdemeanors

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**103775. Failure to Furnish Information; Furnishing False Information.** (a) Every person, except a parent informant for a certificate of live birth and as provided in subdivision (b), who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information affecting any certificate or record required 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 is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud affecting a death certificate or record required by this part, 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. *(Amended by Statutes 2002, Chapter 819.) (SB 17)*

**103780. Alteration or Falsification of Certificate or Record.** (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. *(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*

**103785. Failure to Fill Out and Deliver Certificate.** 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.

*(Amended by Statutes 2006, operative January 1, 2008, Chapter 816.) (AB 1102)*



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**103790. Failure of Registrars to Perform Duty.** Every local registrar, deputy registrar, or sub-registrar, who fails, neglects, or refuses to perform his or her duty as required by this part and by the instructions and directions of the State Registrar thereunder, is guilty of a misdemeanor.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103795. Unlawful Use of Live Birth Certificate Marked to Indicate Mental, Physical or Social Problem.** Any person who uses any information from a certificate of live birth that is stamped with the notation authorized under subdivision (a) of Section 10056.5 is guilty of a misdemeanor.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### Article 2. Felony

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**103800. False Certificate or Affidavit Under Chapter 4; Civil Penalty; Action to Recover; Disposition of Sums Recovered.** Any person who willfully makes or files or causes to be made or filed a false certificate or affidavit under Chapter 4 (commencing with Section 102525) is guilty of a felony. The subject is also liable to the State of California for a civil penalty in the amount of five thousand dollars (\$5,000). The civil penalty may be recovered in an action filed by the Attorney General in any court of competent jurisdiction. A penalty so recovered shall be paid into the State Treasury to the credit of the General Fund.  
*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

## PART 2. POPULATION AND PUBLIC HEALTH SURVEILLANCE

### CHAPTER 1. BIRTH DEFECTS MONITORING PROGRAM

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**103825. Legislative Findings and Declaration.** The Legislature hereby finds and declares that birth defects, stillbirths, and miscarriages represent problems of public health importance about which too little is known; that these conditions lead to severe mental anguish on the part of parents and relatives and frequently to high medical care costs; and that a system to obtain more information about these conditions could result in development of preventive measures to decrease their incidence in the future. Therefore, it is the intent of the Legislature in enacting this section to accomplish all of the following:

(a) To maintain an ongoing program of birth defects monitoring statewide. "Birth defect" as used in this chapter means any medical problem of organ structure, function, or chemistry of possible genetic or prenatal origin.

(b) To provide information on the incidence, prevalence, and trends of birth defects, stillbirths, and miscarriages.

(c) To provide information to determine whether environmental hazards are associated with birth defects, stillbirths, and miscarriages.

(d) To provide information as to other possible causes of birth defects, stillbirths, and miscarriages.

(e) To develop prevention strategies for reducing the incidence of birth defects, stillbirths, and miscarriages.

(f) To conduct interview studies about the causes of birth defects.

## HEALTH AND SAFETY CODE

(g) To affirm the authority of the state department to contract with a qualified entity to operate the birth defects monitoring program statewide.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103830. System Establishment; Medical Records.** The director shall maintain a system for the collection of information, necessary to accomplish the purposes of this chapter. The director shall require health facilities, with 15 days' notice, to make available to authorized program staff the medical records of children suspected or diagnosed as having birth defects, including the medical records of their mothers. In addition, health facilities shall make available the medical records of mothers suspected or diagnosed with stillbirths or miscarriages and other records of persons who may serve as controls for interview studies about the causes of birth defects. If it is necessary to photocopy records made available under this section, copying expenses shall be paid by the state department.

"Health facilities" as used in this section means general acute care hospitals, and physician-owned or operated clinics, as defined in Section 1200, that regularly provide services for the diagnosis or treatment of birth defects, genetic counseling, or prenatal diagnostic services.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103835. System Coverage.** The birth defects monitoring program shall operate statewide. It is the intent of the Legislature that the adequacy of program resources shall be assessed annually, and that the annual assessment shall include a consideration of at least all of the following factors:

(a) The numbers of births in the state.

(b) The scope of program activities.

(c) Any urgent situation requiring extraordinary commitment of present or planned program staff or resources.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103840. Investigative Studies.** The director shall use the information collected pursuant to Section 103830 and information available from other reporting systems and health providers to conduct studies to investigate the causes of birth defects, stillbirths, and miscarriages and to determine and evaluate measures designed to prevent their occurrence.

The department's investigation of poor reproductive outcomes shall not be limited to geographic, temporal, or occupational associations, but may include investigation of past exposures.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103845. Advisory Committee; Membership.** The director shall appoint an advisory committee to advise on the implementation of this chapter. Each of the disciplines of epidemiology, hospital administration, biostatistics, maternal and child health and public health shall be represented on the committee.

At least one of the members shall be a representative of the manufacturing industry.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**103850. Confidentiality; Records; Research Reviewal and Approval; Civil Penalty.** (a) All information collected pursuant to this chapter shall be confidential and shall be used solely for the purposes provided in this chapter. Access to information shall be limited to authorized program staff, and persons with a valid scientific interest, who meet qualifications as determined by the director, who are engaged in demographic, epidemiological or other similar studies related to health, and who agree, in writing, to maintain confidentiality.

(b) The department shall maintain an accurate record of all persons who are given access to the confidential information. The record shall include: the name of the person authorizing access;

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name, title, address, and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the state department.

(c) All research proposed to be conducted by persons other than program staff, using confidential information in the system, shall first be reviewed and approved by the director and the State Committee for the Protection of Human Subjects. Satisfaction of the terms of the director's rules for data access shall be deemed to establish a valid scientific interest for purposes of subdivision (a), entitling the researcher to review records collected pursuant to Section 103830 and to contact case subjects and controls. Before confidential information is disclosed pursuant to this section to any other person, agency, or organization, the requesting entity shall demonstrate to the department that the entity has established the procedures and ability to maintain the confidentiality of the information.

(d) Notwithstanding any other provision of law, any disclosure authorized by this section shall include only the information necessary for the stated purpose of the requested disclosure, and shall be made only upon written agreement that the information will be kept confidential, used for the approved purpose, and not be further disclosed.

(e) The furnishing of confidential information to the department or its authorized representative in accordance with this section shall not expose any person, agency, or entity furnishing the information to liability, and shall not be considered a waiver of any privilege or a violation of a confidential relationship.

(f) Whenever program staff, pursuing program objectives, deems it necessary to contact case subjects and controls, program staff shall submit a protocol describing the research to the director and to the State Committee for the Protection of Human Subjects. Once a protocol is approved by that committee, program staff shall be deemed to have established a bona fide research purpose, and shall be entitled to complete the approved project and contact case subjects and controls without securing any additional approvals or waivers from any entity.

(g) Notwithstanding any other provision of law, no part of the confidential information shall be available for subpoena, nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall this information be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason. Nothing in this section shall prohibit the publishing by the department of reports and statistical compilations relating to birth defects, stillbirth, or miscarriage that do not in any way identify individual cases or individual sources of information.

(h) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to any confidential information maintained by the department. That person shall also be subject to a civil penalty of five hundred dollars (\$500). The penalty provided in this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the department or any person.

(i) Notwithstanding the restrictions in this section, an individual to whom the information pertains shall have access to his or her own information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

*(Amended by Statutes 2001, Chapter 444.) (SB 683)*

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### CHAPTER 2. KEN MADDY CALIFORNIA CANCER REGISTRY

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**103885. Statewide Cancer Reporting System; Designated Regional Registries; Reporting of Cases; Confidentiality of Information; Use of Federal Funds.** (a) The director shall establish a statewide system for the collection of information determining the incidence of cancer, using population-based tumor registries modeled after the Cancer Surveillance Program of Orange County. As of the effective date of this section the director shall begin phasing in the statewide cancer reporting system. By July 1, 1988, all county or regional registries shall be implemented or initiated. By July 1, 1990, the statewide cancer reporting system shall be fully operational. Within 60 days of the effective date of this section, the director shall submit an implementation and funding schedule to the Legislature.

(b) The department may designate any demographic parts of the state as regional cancer incidence reporting areas and may establish regional cancer registries, with the responsibility and authority to carry out the intent of this section in designated areas. Designated regional registries shall provide, on a timely basis, cancer incidence data as designated by the state department to the department. The department may contract with an agency, including, but not limited to, a health systems agency, single county health department, multi-county health department grouping, or nonprofit professional association, representing a designated cancer reporting region for the purposes of collecting and collating cancer incidence data.

(c) The director shall designate cancer as a disease required to be reported in the state or any demographic parts of the state in which cancer information is collected under this section. All cancers diagnosed or treated in the reporting area shall thereafter be reported to the representative of the department authorized to compile the cancer data, or any individual, agency, or organization designated to cooperate with that representative.

(d) (1) Any hospital or other facility providing therapy to cancer patients within an area designated as a cancer reporting area shall report each case of cancer to the department or the authorized representative of the department in a format prescribed by the department. If the hospital or other facility fails to report in a format prescribed by the department, the department's authorized representative may access the information from the hospital or the facility and report it in the appropriate format. In these cases, the hospital or other health facility shall reimburse the state department or the authorized representative for its cost to access and report the information.

(2) Any physician and surgeon, dentist, podiatrist, or other health care practitioner diagnosing or providing treatment for cancer patients shall report each cancer case to the department or the authorized representative of the department except for those cases directly referred to a treatment facility or those previously admitted to a treatment facility for diagnosis or treatment of that instance of cancer.

(e) Any hospital or other facility that is required to reimburse the department or its authorized representative for the cost to access and report the information pursuant to subdivision (d) shall provide payment to the department or its authorized representative within 60 days of the date this payment is demanded. In the event any hospital or other facility fails to make the payment to the department or its authorized representative within 60 days of the date the payment is demanded, the department or its authorized representative may, at its discretion, assess a late fee not to exceed 1 1/2 percent per month of the outstanding balance. Further, in the event that the department or its authorized representative takes a legal action to recover its costs and any associated fees, and the department or its authorized representative receives a judgment in its favor, the hospital or other facility shall also reimburse the department or its authorized representative for any additional costs it incurred to pursue the legal action. Late fees and payments made to the department by hospitals or other facilities pursuant to this subdivision shall be considered as reimbursements of the additional costs incurred by the department.

## HEALTH AND SAFETY CODE

(f) All physicians and surgeons, hospitals, outpatient clinics, nursing homes and all other facilities, individuals or agencies providing diagnostic or treatment services to patients with cancer shall grant to the department or the authorized representative access to all records that would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient. Willful failure to grant access to those records shall be punishable by a fine of up to five hundred dollars (\$500) each day access is refused. Any fines collected pursuant to this subdivision shall be deposited in the General Fund.

(g) (1) Except as otherwise provided in this section, all information collected pursuant to this section shall be confidential.

For purposes of this section, this information shall be referred to as "confidential information."

(2) The department and any regional cancer registry designated by the department shall use the information to determine the sources of malignant neoplasms and evaluate measures designed to eliminate, alleviate, or ameliorate their effect.

(3) Persons with a valid scientific interest who are engaged in demographic, epidemiological, or other similar studies related to health who meet qualifications as determined by the department, and who agree, in writing, to maintain confidentiality, may be authorized access to confidential information.

(4) The department and any regional cancer registry designated by the department may enter into agreements to furnish confidential information to other states' cancer registries, federal cancer control agencies, local health officers, or health researchers for the purposes of determining the sources of cancer and evaluating measures designed to eliminate, alleviate, or ameliorate their effect. Before confidential information is disclosed to those agencies, officers, researchers, or out-of-state registries, the requesting entity shall agree in writing to maintain the confidentiality of the information, and in the case of researchers, shall also do both of the following:

(A) Obtain approval of their committee for the protection of human subjects established in accordance with Part 46 (commencing with Section 46.101) of Title 45 of the Code of Federal Regulations.

(B) Provide documentation to the department that demonstrates to the department's satisfaction that the entity has established the procedures and ability to maintain the confidentiality of the information.

(5) Notwithstanding any other provision of law, any disclosure authorized by this section shall include only the information necessary for the stated purpose of the requested disclosure, used for the approved purpose, and not be further disclosed.

(6) The furnishing of confidential information to the department or its authorized representative in accordance with this section shall not expose any person, agency, or entity furnishing information to liability, and shall not be considered a waiver of any privilege or a violation of a confidential relationship.

(7) The department shall maintain an accurate record of all persons who are given access to confidential information. The record shall include: the name of the person authorizing access; name, title, address, and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the department.

(8) Notwithstanding any other provision of law, no part of the confidential information shall be available for subpoena, nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall this information be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

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(9) Nothing in this subdivision shall prohibit the publication by the department of reports and statistical compilations that do not in any way identify individual cases or individual sources of information.

(10) Notwithstanding the restrictions in this subdivision, the individual to whom the information pertains shall have access to his or her own information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

(h) For the purpose of this section, "cancer" means either of the following:

(1) All malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkins disease, and leukemia, but excluding basal cell and squamous cell carcinoma of the skin.

(2) All primary intracranial and central nervous system (CNS) tumors occurring in the following sites, irrespective of histologic type: brain, meninges, spinal cord, caudae equina, cranial nerves and other parts of the CNS, pituitary gland, pineal gland, and craniopharyngeal duct.

(i) Nothing in this section shall preempt the authority of facilities or individuals providing diagnostic or treatment services to patients with cancer to maintain their own facility-based cancer registries.

(j) It is the intent of the Legislature that the department, in establishing a system pursuant to this section, maximize the use of available federal funds.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

### CHAPTER 3. DISORDERS CHARACTERIZED BY LAPSES OF CONSCIOUSNESS

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**103900. Reports for Use of State Departments; Definitions.** (a) Every physician and surgeon shall report immediately to the local health officer in writing, the name, date of birth, and address of every patient at least 14 years of age or older whom the physician and surgeon has diagnosed as having a case of a disorder characterized by lapses of consciousness. However, if a physician and surgeon reasonably and in good faith believes that the reporting of a patient will serve the public interest, he or she may report a patient's condition even if it may not be required under the department's definition of disorders characterized by lapses of consciousness pursuant to subdivision (d).

(b) The local health officer shall report in writing to the Department of Motor Vehicles the name, age, and address, of every person reported to it as a case of a disorder characterized by lapses of consciousness.

(c) These reports shall be for the information of the Department of Motor Vehicles in enforcing the Vehicle Code, and shall be kept confidential and used solely for the purpose of determining the eligibility of any person to operate a motor vehicle on the highways of this state.

(d) The department, in cooperation with the Department of Motor Vehicles, shall define disorders characterized by lapses of consciousness based upon existing clinical standards for that definition for purposes of this section and shall include Alzheimer's disease and those related disorders that are severe enough to be likely to impair a person's ability to operate a motor vehicle in the definition. The department, in cooperation with the Department of Motor Vehicles, shall list those circumstances that shall not require reporting pursuant to subdivision (a) because the patient is unable to ever operate a motor vehicle or is otherwise unlikely to represent a danger that requires reporting. The department shall consult with professional medical organizations whose members have specific expertise in the diagnosis and treatment of those disorders in the development of the definition of what constitutes a disorder characterized by lapses of

## HEALTH AND SAFETY CODE

consciousness as well as definitions of functional severity to guide reporting so that diagnosed cases reported pursuant to this section are only those where there is reason to believe that the patients' conditions are likely to impair their ability to operate a motor vehicle. The department shall complete the definition on or before January 1, 1992.

(e) The Department of Motor Vehicles shall, in consultation with the professional medical organizations specified in subdivision (d), develop guidelines designed to enhance the monitoring of patients affected with disorders specified in this section in order to assist with the patients' compliance with restrictions imposed by the Department of Motor Vehicles on the patients' licenses to operate a motor vehicle. The guidelines shall be completed on or before January 1, 1992.

(f) A physician and surgeon who reports a patient diagnosed as a case of a disorder characterized by lapses of consciousness pursuant to this section shall not be civilly or criminally liable to any patient for making any report required or authorized by this section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

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### DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL

#### PART 1. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL

#### CHAPTER 2. FUNCTIONS AND DUTIES OF THE STATE DEPARTMENT OF HEALTH SERVICES

**120130. List of Reportable Diseases; Establishment and Contents; Regulations for Isolation or Quarantine; Isolation or Quarantine by Health Officer; Publication of List; Penalties.** (a) The department shall establish a list of reportable diseases and conditions and shall include the urgency of reporting each disease and condition. The list of reportable diseases and conditions may include both communicable and noncommunicable diseases. The list may include those diseases that are either known to be, or suspected of being, transmitted by milk or milk-based products. The list shall also include, but not be limited to, diphtheria, listeria, salmonella, shigella, streptococcal infection in food handlers or dairy workers, and typhoid. The list may be modified at any time by the department, after consultation with the California Conference of Local Health Officers. Modification of the list shall be exempt from the administrative regulation and rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be implemented without being adopted as a regulation, except that the revised list shall be filed with the Secretary of State and printed in the California Code of Regulations as required under subdivision (d). Those diseases listed as reportable shall be properly reported as required to the department by the health officer.

(b) The department may from time to time adopt and enforce regulations requiring strict or modified isolation, or quarantine, for any of the contagious, infectious, or communicable diseases, if in the opinion of the department the action is necessary for the protection of the public health.

(c) The health officer may require strict or modified isolation, or quarantine, for any case of contagious, infectious, or communicable disease, when this action is necessary for the protection of the public health.

(d) The list established pursuant to subdivision (a) and any subsequent modifications shall be published in Title 17 of the California Code of Regulations.

## HEALTH AND SAFETY CODE

(e) Notwithstanding any other provision of law, no civil or criminal penalty, fine, sanction, finding, or denial, suspension, or revocation of licensure for any person or facility may be imposed based upon a failure to provide the notification of a reportable disease or condition that is required under this section, unless the disease or condition that is required to be reported was printed in the California Code of Regulations at least six months prior to the date of the claimed failure to report.

*(Amended by Statutes 2004, operative January 1, 2005, Chapter 262.) (AB 1091)*

### DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT)

#### PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH

#### CHAPTER 3. CHILD HEALTH

#### Article 3. Sudden Infant Death Syndrome

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**123725. Sudden Infant Death Syndrome Advisory Council; Duration of Section.** (a) For purposes of this section, the following definitions shall apply:

(1) "SIDS" means sudden infant death syndrome.

(2) "SIDS Advisory Council" or "advisory council" means the Sudden Infant Death Syndrome Advisory Council established pursuant to subdivision (b).

(b) The department shall establish a Sudden Infant Death Syndrome Advisory Council. The advisory council shall consist of nine members who shall be chosen by the director in consultation with regional SIDS parent advisory councils. At least one-third of the members of the advisory council chosen by the director shall be representatives of SIDS parents' groups. The membership of the advisory council shall also include, but not be limited to, a coroner, a medical examiner, a public health nurse, a physician and surgeon with expertise in SIDS, and a representative from a police or fire department.

(c) The SIDS Advisory Council shall do all of the following:

(1) Provide guidance to the state department in the development of training, educational, and research programs regarding SIDS.

(2) Provide ongoing guidance to the Governor and the Legislature regarding the need for specific programs regarding SIDS for specific targeted groups of persons.

(3) In conjunction with the state department or a person with whom the state department contracts to provide SIDS education, convene a statewide conference annually to examine the progress in discovering the cause of SIDS, explore the progress of newly established programs and services related to SIDS, identify future needs for legislation and program development regarding SIDS, and make recommendations on the needs of programs regarding SIDS. Conference participants shall include professionals and service providers in the area of SIDS, family members of SIDS victims, and the staff of members of the Legislature and departments of the state.

(d) The members of the advisory council shall serve at the pleasure of the director. The members of the advisory council shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties of the advisory council.

(e) The requirements contained in this section shall be subject to the annual Budget Act and shall be operative only to the extent that funds are appropriated for the purposes of this section.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*



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**123730. Sudden Infant Death Syndrome; Report to Legislature.** The department shall keep each county health officer advised of the most current knowledge relating to the nature and causes of sudden infant death syndrome.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**123740. Definitions.** (a) For purposes of this section the following definitions shall apply:

(1) "Appropriately trained public health professional" means a public health nurse or a social worker who is knowledgeable about the incidence of sudden infant death syndrome and the care and support of persons who have experienced a death of this nature, and who has basic grief counseling skills.

(2) "Contact" is a face-to-face visit, a group visit, or a telephone call that provides one or more of the following services:

(A) An assessment of the family, child care provider, or both.

(B) Crisis intervention and counseling.

(C) A referral to a community service.

(D) A follow-up assessment of the family's, the child care provider's, or both family's and child care provider's progress.

(3) "Immediately" means within three working days of receiving notice from the coroner or other reporting agent of a death presumably caused by sudden infant death syndrome.

(4) "Local health officer" means a health officer for a city, county, or city and county.

(b) Upon being informed by the coroner pursuant to Section 102865 of any case in which sudden infant death syndrome is the presumed cause of death, the local health officer or his or her designated agent, who is an appropriately trained public health professional, after consultation with the infant's physician of record, when possible, shall immediately contact the person or persons who had custody and control of the infant, including foster parents, when applicable, for the purposes of providing to that person information, support, referral, and follow-up services relating to sudden infant death syndrome. If the infant was in child care, the local health officer or his or her designated agent who is an appropriately trained public health professional also shall immediately contact the child care provider.

(c) The local health officer shall perform the duties required by this section throughout the jurisdiction of that local health officer.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*

**123745. Duties Required by Section 123740; Monitoring.** The department shall monitor, or contract with a person to monitor, whether the county health officer or his or her designated agent is performing the duties required by Section 123740 and whether they are being performed within the timeframes specified in Section 123740.

*(Added by Statutes 1995, Chapter 415.) (SB 1360)*



## PENAL CODE

### Excerpts from THE PENAL CODE OF CALIFORNIA PRELIMINARY PROVISIONS

\* \* \*

**19. Punishment for Misdemeanor; Punishment not Otherwise Prescribed.** Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.  
*(Amended by Statutes 1983, Chapter 1092, urgency effective September 27, 1983, operative January 1, 1984.)*

#### PART 1. OF CRIMES AND PUNISHMENTS

##### TITLE 9. OF CRIMES AGAINST THE PERSON INVOLVING SEXUAL ASSUALT, AND CRIMES AGAINST PUBLIC DECENCY AND GOOD MORALS CHAPTER 2. ABANDONMENT AND NEGLECT OF CHILDREN

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**271.5 Safe-Surrender Sites; Parents or Other Individuals Surrendering Custody of Baby.** (a) No parent or other individual having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of Section 270, 270.5, 271, or 271a if he or she voluntarily surrenders physical custody of the child to personnel on duty at a safe-surrender site.

(b) For purposes of this section, "safe-surrender site" has the same meaning as defined in paragraph (1) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

(c) (1) For purposes of this section, "lawful custody" has the same meaning as defined in subdivision (j) of Section 1255.7 of the Health and Safety Code.

(2) For purposes of this section, "personnel" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 1255.7 of the Health and Safety Code.

*(Amended by Statutes of 2005, Chapter 625.) (SB 116)*

#### CHAPTER 12. OTHER INJURIES TO PERSONS

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**360. Solemnizing Marriages; License not First Presented; False Return; Failure to File License and Certificate; False Record.** Every person authorized to solemnize any marriage, who solemnizes a marriage without first being presented with the marriage license, as required by Section 421 of the Family Code; or who solemnizes a marriage pursuant to Part 4 (commencing with Section 500) of Division 3 of the Family Code without the authorization required by that part; or who willfully makes a false return of any marriage or pretended marriage to the recorder or clerk and every person who willfully makes a false record of any marriage return, is guilty of a misdemeanor.

*(Amended by Statutes 2001, Chapter 39.) (AB 1323)*

## PENAL CODE

### TITLE 13. OF CRIME AGAINST PROPERTY CHAPTER 8. FALSE PERSONATION AND CHEATS

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**529a. False Personation of Another in Private or Official Capacity; Bail or Surety; Verification; Publication or Acknowledgment of Instrument; Acts Imposing Liability or Conferring Benefit; Punishment.** Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a certificate of birth or certificate of baptism, knowing such document to be false or counterfeit and with the intent to deceive, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison. Every person who offers, displays, or has in his or her possession any false or counterfeit certificate of birth or certificate of baptism, or any genuine certificate of birth which describes a person then living or deceased, with intent to represent himself or herself as another or to conceal his or her true identity, is guilty of a crime, and upon conviction therefor, shall be punished by imprisonment in the county jail not to exceed one year.

*(Amended by Statutes 1987, Chapter 1477.)*

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**530.5. Personal Identifying Information; Punishment.** (a) Every person who willfully obtains personal identifying information, as defined in subdivision (b), of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, or medical information in the name of the other person without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished either by imprisonment in a county jail not to exceed one year, a fine not to exceed one thousand dollars (\$1,000), or both that imprisonment and fine, or by imprisonment in the state prison, a fine not to exceed ten thousand dollars (\$10,000), or both that imprisonment and fine.

(b) "Personal identifying information," as used in this section, means the name, address, telephone number, health insurance identification number, taxpayer identification number, school identification number, state or federal driver's license number, or identification number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, checking account number, PIN (personal identification number) or password, alien registration number, government passport number, date of birth, unique biometric data including fingerprint, facial scan identifiers, voice print, retina or iris image, or other unique physical representation, unique electronic data including identification number, address, or routing code, telecommunication identifying information or access device, information contained in a birth or death certificate, or credit card number of an individual person.

(c) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(d) Every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined in subdivision (b), of another person is guilty of a public offense, and upon conviction therefor, shall be punished by imprisonment in a county jail not to exceed one year, or a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

*(Amended by Statutes 2002, Chapter 254.) (SB 1254)*

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**530.8. Notification; Time Frame.** (a) If a person discovers that an application in his or her name for a loan, credit line or account, credit card, charge card, public utility service, or commercial mobile radio service has been filed with any person or entity by an unauthorized person, or that an account in his or her name has been opened with a bank, trust company, savings association, credit union, public utility, or commercial mobile radio service provider by an unauthorized person, then, upon presenting to the person or entity with which the application was filed or the account was opened a copy of a police report prepared pursuant to Section 530.6 and identifying information in the categories of information that the unauthorized person used to complete the application or to open the account, the person, or a law enforcement officer specified by the person, shall be entitled to receive information related to the application or account, including a copy of the unauthorized person's application or application information and a record of transactions or charges associated with the application or account. Upon request by the person in whose name the application was filed or in whose name the account was opened, the person or entity with which the application was filed shall inform him or her of the categories of identifying information that the unauthorized person used to complete the application or to open the account. The person or entity with which the application was filed or the account was opened shall provide copies of all forms and information required by this section, without charge, within 10 business days of receipt of the person's request and submission of the required copy of the police report and identifying information.

(b) Any request made pursuant to subdivision (a) to a person or entity subject to the provisions of Section 2891 of the Public Utilities Code shall be in writing and the requesting person shall be deemed to be the subscriber for purposes of that section.

(c) (1) Before a person or entity provides copies to a law enforcement officer pursuant to subdivision (a), the person or entity may require the requesting person to submit a signed and dated statement by which the requesting person does all of the following:

(A) Authorizes disclosure for a stated period.

(B) Specifies the name of the agency or department to which the disclosure is authorized.

(C) Identifies the types of records that the requesting person authorizes to be disclosed.

(2) The person or entity shall include in the statement to be signed by the requesting person a notice that the requesting person has the right at any time to revoke the authorization.

(d) As used in this section, "law enforcement officer" means a peace officer as defined by Section 830.1 of the Penal Code.

(e) As used in this section, "commercial mobile radio service" means "commercial mobile radio service" as defined in section 20.3 of Title 47 of the Code of Federal Regulations.

*(Amended by Statutes 2002, Chapter 254.) (SB 1254)*

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## TITLE 14. MALICIOUS MISCHIEF

**594.3. Crimes, Punishment.** (a) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted or a cemetery is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

(b) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted or a cemetery, which is shown

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to have been committed by reason of the race, color, religion, or national origin of another individual or group of individuals and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

*(Amended by Statutes 2000, Chapter 546.) (AB 2580)*

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### PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

#### TITLE 12.5. DNA

**14251. Missing Persons DNA Data Base.** (a) The "Missing Persons DNA Data Base" shall be funded by a two dollar (\$2) fee increase on death certificates issued by a local government agency or by the State of California. The issuing agencies may retain up to 5 percent of the funds from the fee increase for administrative costs. This fee increase shall remain in effect only until January 1, 2006, or when federal funding for operation of the database becomes available if it becomes available before that date.

(b) Funds shall be directed on a quarterly basis to the "Missing Persons DNA Data Base Fund," hereby established, to be administered by the department for establishing and maintaining laboratory infrastructure, DNA sample storage, DNA analysis, and labor costs for cases of missing persons and unidentified remains. Funds may also be distributed by the department to various counties for the purposes of pathology and exhumation as the department deems necessary. The department may also use those funds to publicize the data base for the purpose of contacting parents and relatives so that they may provide a DNA sample for training law enforcement officials about the data base and DNA sampling and for outreach.

(c) The department shall create an advisory committee, comprised of coroners and appropriate law enforcement officials, and interested stakeholders to prioritize the identification of the backlog of unidentified remains. The identification of the backlog may be outsourced to other laboratories at the department's discretion.

(d) (1) The death certificate fee increase shall begin and funds shall be directed to the Missing Persons DNA Data Base Fund beginning January 1, 2001. Funding for year one shall be used to develop the data base and laboratory infrastructure, and to establish Department of Justice protocols and personnel.

(2) The Department of Justice shall begin case analysis in 2002. The Department of Justice shall retain the authority to prioritize case analysis, giving priority to those cases involving children.

(3) If federal funding is made available, it shall be used to assist in the identification of the backlog of high-risk missing person cases and long-term unidentified remains.

(4) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

*(Added by Statutes 2000, Chapter 822.) (SB 1818)*



# WELFARE AND INSTITUTIONS CODE

## Excerpts from DIVISION 2. CHILDREN

### PART 1. DELINQUENTS AND WARDS OF THE JUVENILE COURT

#### CHAPTER 2. JUVENILE COURT LAW

##### Article 6. Dependent Children- Jurisdiction

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**300. Children Subject to Jurisdiction; Legislative Intent and Declarations; Guardian Defined.** 300. Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(a) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted nonaccidentally upon the child by the child's parent or guardian. For the purposes of this subdivision, a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history of repeated inflictions of injuries on the child or the child's siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm. For purposes of this subdivision, "serious physical harm" does not include reasonable and age-appropriate spanking to the buttocks where there is no evidence of serious physical injury.

(b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive



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behavior toward self or others, as a result of the conduct of the parent or guardian or who has no parent or guardian capable of providing appropriate care. No child shall be found to be a person described by this subdivision if the willful failure of the parent or guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.

(e) The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child. For the purposes of this subdivision, "severe physical abuse" means any of the following: any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food. A child may not be removed from the physical custody of his or her parent or guardian on the basis of a finding of severe physical abuse unless the social worker has made an allegation of severe physical abuse pursuant to Section 332.

(f) The child's parent or guardian caused the death of another child through abuse or neglect.

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (e) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

(h) The child has been freed for adoption by one or both parents for 12 months by either relinquishment or termination of parental rights or an adoption petition has not been granted.

(i) The child has been subjected to an act or acts of cruelty by the parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from an act or acts of cruelty when the parent or guardian knew or reasonably should have known that the child was in danger of being subjected to an act or acts of cruelty.

(j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.

It is the intent of the Legislature that nothing in this section disrupt the family unnecessarily or intrude inappropriately into family life, prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting. Further, nothing in this section is intended to limit the offering of voluntary services to those families in need of assistance but who do not come within the descriptions of this section. To the extent that savings accrue to the state from child welfare services funding obtained as a result of the enactment of the act that

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enacted this section, those savings shall be used to promote services which support family maintenance and family reunification plans, such as client transportation, out-of-home respite care, parenting training, and the provision of temporary or emergency in-home caretakers and persons teaching and demonstrating homemaking skills. The Legislature further declares that a physical disability, such as blindness or deafness, is no bar to the raising of happy and well-adjusted children and that a court's determination pursuant to this section shall center upon whether a parent's disability prevents him or her from exercising care and control. The Legislature further declares that a child whose parent has been adjudged a dependent child of the court pursuant to this section shall not be considered to be at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

As used in this section, "guardian" means the legal guardian of the child.  
*(Amended by Statutes 2005, Chapter 625) (SB 116)*

### Article 10. Dependent Children - Judgments and Orders

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**361.5 Child Welfare Services; Reunification of Family; Hearing; Findings of Court Incarcerated Parents; Adoption Assessments.** (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child. Child welfare services, when provided, shall be provided as follows:

(1) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall not exceed a period of 12 months from the date the child entered foster care, except as otherwise provided in paragraph (3).

(2) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall not exceed a period of six months from the date the child entered foster care.

(3) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under the age of three years on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services to some or all of the sibling group may be limited to a period of six months from the date the child entered foster care. For the purposes of this paragraph, "a sibling group" shall mean two or more children who are related to each other as full or half-siblings.

Regardless of the age of the child, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

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Notwithstanding paragraphs (1), (2), and (3), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Physical custody of the child by the parents or guardians during the applicable time period under paragraph (1), (2), or (3) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

In cases where the child was under the age of three years on the date of the initial removal from the physical custody of his or her parent or guardian or is a member of a sibling group as described in paragraph (3), the court shall inform the parent or guardian that the failure of the parent or guardian to participate regularly in any court-ordered treatment programs or to cooperate or avail himself or herself of services provided as part of the child welfare services case plan may result in a termination of efforts to reunify the family after six months. The court shall inform the parent or guardian of the factors used in subdivision (e) of Section 366.21 to determine whether to limit services to six months for some or all members of a sibling group as described in paragraph (3).

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

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(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half-sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half-sibling of the child, or between the child or a sibling or half-sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's, sibling's, or half-sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half-sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half-sibling in a closed space; or any other torturous act or omission that would be reasonably understood to cause serious emotional damage.

(7) That the parent is not receiving reunification services for a sibling or a half-sibling of the child pursuant to paragraph (3), (5), or (6).

(8) That the child was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside of this state that, if committed in this state, would constitute one of those offenses. This paragraph only applies to the parent who committed the offense or act.

(9) That the child has been found to be a child described in subdivision (g) of Section 300, that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code. For the purposes of this paragraph, "serious danger" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.

(10) That the court ordered termination of reunification services for any siblings or half-siblings of the child because the parent or guardian failed to reunify with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent or guardian pursuant to Section 361 and that parent or guardian is the same parent or guardian described in subdivision (a) and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half-sibling of that child from that parent or guardian.

(11) That the parental rights of a parent over any sibling or half-sibling of the child had been permanently severed, and this parent is the same parent described in subdivision (a), and that, according to the findings of the court, this parent has not subsequently made a reasonable effort

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to treat the problems that led to removal of the sibling or half-sibling of that child from the parent.

(12) That the parent or guardian of the child has been convicted of a violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.

(14) That the parent or guardian of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.

The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.

(15) That the parent or guardian has on one or more occasions willfully abducted the child or child's sibling or half-sibling from his or her placement and refused to disclose the child's or child's sibling's or half-sibling's whereabouts, refused to return physical custody of the child or child's sibling or half-sibling to his or her placement, or refused to return physical custody of the child or child's sibling or half-sibling to the social worker.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The social worker shall prepare a report that discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).

The court shall not order reunification for a parent or guardian described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

In addition, the court shall not order reunification in any situation described in paragraph (5) of subdivision (b) unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The social worker shall investigate the circumstances leading to the removal of the child and advise the court whether there are circumstances that indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the child may be considered in deciding that reunification services are likely to be successful,

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provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the child, the court shall order the social worker to provide family reunification services in accordance with this subdivision.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between the parent and child through collect telephone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the child pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(1) Current search efforts for an absent parent or parents.

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(2) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case basis, "extended family" for the purpose of this paragraph shall include, but not be limited to, the child's siblings, grandparents, aunts, and uncles.

(3) An evaluation of the child's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3. As used in this paragraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(5) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the child concerning placement and the adoption or guardianship, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(h) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child or the child's sibling or half-sibling.

(2) The circumstances under which the abuse or harm was inflicted on the child or the child's sibling or half-sibling.

(3) The severity of the emotional trauma suffered by the child or the child's sibling or half-sibling.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

*(Amended by Statutes of 2005, Chapter 625.) (SB 116)*

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### DIVISION 9. PUBLIC SOCIAL SERVICES

#### PART 3. AID AND MEDICAL ASSISTANCE

##### CHAPTER 7. BASIC HEALTH CARE

###### Article 1. General Provisions

**14005.24 Notice to Counties of Process for Voluntarily Surrendering Physical Custody of Child.** The department shall instruct counties, by means of an all county letter or similar instruction, as to the process that is to be used to ensure that each child, physical custody of whom has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code, shall be determined eligible for benefits under this chapter for, at a minimum, a period of time commencing on the date physical custody is surrendered and ending on the earliest of the following dates:

(a) The last day of the month following the month in which the child was voluntarily surrendered under Section 1255.7 of the Health and Safety Code.

(b) The date the child is reclaimed under Section 1255.7 of the Health and Safety Code.

(c) The date the child ceases to reside in California.

*(Amended by Statutes of 2005, Chapter 625.) (SB 116)*

#### PART 6. MISCELLANEOUS PROVISIONS

##### CHAPTER 5. THE DOMESTIC VIOLENCE SHELTER-BASED PROGRAMS ACT

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**18305. Additional Marriage License Fees; Use for County Program.** (a) At the time of issuance of a marriage license pursuant to Section 26840 of the Government Code, twenty-three dollars (\$23) of each fee paid shall be collected by the county clerk for deposit into the county domestic violence shelter-based programs special fund. The fees collected in this special fund shall be disbursed to approved domestic violence shelter-based programs on a yearly or more frequent basis commencing July 1, 1980. These funds shall be disbursed using a request for qualification (RFQ) process.

(b) The board of supervisors shall direct the county clerk to deposit twenty-three dollars (\$23) of each fee into the county domestic violence shelter-based programs special fund. The county domestic violence shelter-based programs special fund shall fund domestic violence shelter-based programs established pursuant to Section 18304. Four dollars (\$4) of each twenty-three dollars (\$23) deposited into the county domestic violence shelter-based programs special fund shall be used, to the extent feasible, to support or expand domestic violence shelter-based programs to target underserved areas and populations. No more than 8 percent of the funds shall be expended for the administrative costs associated with the collection and segregation of the additional marriage license fees, administration of the county domestic violence shelter-based programs special fund, monitoring of the domestic violence shelter-based programs, and meeting the other administrative requirements imposed by this chapter. Counties that do not participate in



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the establishing or funding of domestic violence shelter-based programs pursuant to this chapter shall be entitled to retain up to 4 percent of the funds for the administrative costs associated with the collection and segregation of the additional marriage license fees and the deposit of these fees in the county domestic violence shelter-based programs special fund.

*(Amended by Statutes 2006, Chapter 857.) (AB 2084)*

\* \* \*

**18308. Contra Costa Board of Supervisors; Depositing Fees Collected Pursuant to Government Code Section 26840.9 and Health and Safety Code Section 103626 Into Special Fund; Use of Proceeds.** The Contra Costa County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 103626 of the Health and Safety Code into a special fund. The county may retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Contra Costa County in order to increase the effectiveness of prevention, early intervention and prosecution of domestic and family violence.

*(Amended by Statutes 2006, Chapter 857 of AB 2084 and Chapter 968 of SB 968.)*

**18309. Alameda County Board of Supervisors; Depositing Fees Collected Pursuant to Government Code Section 26840.10 and Health and Safety Code Section 103627 Into Special Fund; Use of Proceeds.** (a) The Alameda County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 26840.10 of the Government Code and Section 103627 of the Health and Safety Code into a special fund. The county may retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Alameda County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

(b) The City Council of the City of Berkeley shall direct the local registrar to deposit fees collected pursuant to Section 103627 of the Health and Safety Code into a special fund. The city may retain up to 4 percent of the funds for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention and intervention efforts, including law enforcement, mental health, public health, substance abuse, victim advocacy, community education, and housing, in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

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(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

*(Amended by Statutes 2006, Chapter 857.) (AB 2084)*

**18309.5. Solano County Board of Supervisors; Depositing Fees Collected Pursuant to Government Code Section 26840.11 and Health and Safety Code Section 103628 Into Special Fund; Use of Proceeds.** (a) The Solano County Board of Supervisors shall direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to Section 26840.11 of the Government Code and Section 103628 of the Health and Safety Code into a special fund. The county may retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund. Proceeds from the fund shall be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Solano County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

*(Amended by Statutes 2006, Chapter 857.) (AB 2084)*

### CHAPTER 11. THE OFFICE OF CHILD ABUSE PREVENTION

#### Article 5. Children's Trust Fund

\* \* \*

**18968. Designation of Local Commission, Board or Council.** In any county where the board of supervisors does not designate a commission to carry out the purposes of this article, pursuant to Section 18965, except for a percentage of the receipts necessary for purposes of collection, the amount collected for the surcharge upon birth certificates pursuant to Section 103625 of the Health and Safety Code shall be transferred by the local registrar or county recorder to the Treasurer for deposit in the State Children's Trust Fund.

*(Added by Statutes 1982, Chapter 1399.)*

**18968.5. Establishment of County Children's Trust Fund.** Amounts collected for the surcharge upon birth certificates pursuant to Section 103625 of the Health and Safety Code that would have been transferred by the local registrar or county recorder to the Treasurer for deposit in the State Children's Trust Fund shall, instead, revert to the county children's trust fund when the board of supervisors designates a commission to carry out the purposes of this article, pursuant to Section 18965.

*(Amended by Statutes 1996, effective September 29, 1996, Chapter 1023.) (SB 1497)*

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**18969. Creation of State Children's Trust Fund; Purpose and Use of Funds.** (a) There is hereby created in the State Treasury a fund which shall be known as the State Children's Trust Fund. The fund shall consist of funds received from a county pursuant to Section 18968, funds collected by the state and transferred to the fund pursuant to subdivision (b) of Section 103625 of the Health and Safety Code and Article 2 (commencing with Section 18711) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, grants, gifts, or bequests made to the state from private sources to be used for innovative and distinctive child abuse and neglect prevention and intervention projects and money appropriated to the fund for this purpose by the Legislature. The State Registrar may retain a percentage of the fees collected pursuant to Section 10605 of the Health and Safety Code, not to exceed 10 percent, in order to defray the costs of collection.

(b) Money in the State Children's Trust Fund, upon appropriation by the Legislature, shall be allocated to the State Department of Social Services for the purpose of funding child abuse and neglect prevention and intervention programs. The department may not supplant any federal, state, or county funds with any funds made available through the State Children's Trust Fund.

(c) The department may establish positions as needed for the purpose of implementing and administering child abuse and neglect prevention and intervention programs that are funded by the State Children's Trust Fund. However, the department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

(d) No children's trust fund money shall be used to supplant state General Fund money for any purpose.

(e) It is the intent of the Legislature that the State Children's Trust Fund provide for all of the following:

(1) The development of a public-private partnership by encouraging consistent outreach to the private foundation and corporate community.

(2) Funds for large-scale dissemination of information that will promote public awareness regarding the nature and incidence of child abuse and the availability of services for intervention. These public awareness activities shall include, but not be limited to, the production of public service announcements, well designed posters, pamphlets, booklets, videos, and other media tools.

(3) Research and demonstration projects that explore the nature and incidence and the development of long-term solutions to the problem of child abuse.

(4) The development of a mechanism to provide ongoing public awareness through activities that will promote the charitable tax deduction for the trust fund and seek continued contributions. These activities may include convening a philanthropic roundtable, developing literature for use by the State Bar for dissemination, and whatever other activities are deemed necessary and appropriate to promote the trust fund.

*(Amended by Statutes 1996, effective September 29, 1996, Chapter 1023.) (SB 1497)*

**18970. Use of State Children's Trust Fund by Department.** (a) The department shall expend funds appropriated to it pursuant to Section 18969 for innovative local child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare. These projects shall be joined to formal evaluation components.

(b) These funds may also be used for evaluation, research, or dissemination of information concerning existing program models for the purpose of replication of successful models.

(c) The Office of Child Abuse Prevention and those local commissions designated by the county boards of supervisors shall collect and publish the following data relevant to the state and local children's trust funds:

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(1) Descriptions of the types of programs and services funded by local and state children's trust funds and the target populations benefiting from these programs.

(2) The amount in each portion of the state and local trust fund as of June 30 each year, beginning June 30, 1987, as well as the amount disbursed in the preceding fiscal year.

(e) (1) Funds shall be expended from the moneys appropriated to the State Children's Trust Fund pursuant to Section 18969 of this code and Section 103590 of the Health and Safety Code to enable the Office of Child Abuse Prevention to annually collect and publish the data specified in subdivision (c).

(2) Funds may be expended from local children's trust funds established pursuant to Section 18966 to enable those local commissions designated by the county boards of supervisors in accordance with Section 18966 to annually collect and publish the data specified in subdivision (c).

*(Amended by Statutes 1996, effective September 29, 1996, Chapter 1023.) (SB 1497)*

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