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HEALTH AND SAFETY CODE - HSC

DIVISION 102. VITAL RECORDS AND HEALTH STATISTICS [102100 - 103925] (*Division 102 added by Stats. 1995, Ch. 415, Sec. 4.)*

PART 1. VITAL RECORDS [102100 - 103800] (*Part 1 added by Stats. 1995, Ch. 415, Sec. 4.)*

CHAPTER 12. Court Proceedings to Establish Record of Birth, Death or Marriage [103450 - 103490] (*Chapter 12 added by Stats. 1995, Ch. 415, Sec. 4.)*

103450. (a) A verified petition may be filed by any beneficially interested person with the clerk of the superior court in and for (1) the county in which the birth, death, or marriage is alleged to have occurred, (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 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 Stats. 2002, Ch. 717, Sec. 1. Effective January 1, 2003.*)

103451. (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 Stats. 2002, Ch. 717, Sec. 2. Effective January 1, 2003.*)

103455. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.*)

103460. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.*)

103465. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.)

103466. 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 Stats. 2002, Ch. 717, Sec. 3. Effective January 1, 2003.)

103470. The fee for filing the petition is two hundred five dollars (\$205). This fee shall be distributed as provided in Section 68085.4 of the Government Code. The petition may be heard by any judge hearing probate matters, or if a probate department has been designated for hearing probate matters, the matter shall be assigned to the probate department for hearing.

(Amended by Stats. 2009, 4th Ex. Sess., Ch. 22, Sec. 28. Effective July 28, 2009.)

103475. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.)

103480. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.)

103485. 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 Stats. 1995, Ch. 415, Sec. 4. Effective January 1, 1996.)

103490. (a) The State Registrar shall send certified copies of the court order delayed certificate to the local registrar and the county recorder within the area in which the event occurred and in whose offices copies of records of the year of occurrence of the event are on file. However, 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 Stats. 2002, Ch. 717, Sec. 4. Effective January 1, 2003.)