



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-741 Change of gender and sex identifier. (2019-2020)

SHARE THIS:  

Date Published: 09/02/2020 09:00 PM

ENROLLED SEPTEMBER 02, 2020
PASSED IN SENATE AUGUST 31, 2020
PASSED IN ASSEMBLY AUGUST 31, 2020
AMENDED IN ASSEMBLY AUGUST 24, 2020
AMENDED IN ASSEMBLY JULY 27, 2020
AMENDED IN SENATE APRIL 30, 2019
AMENDED IN SENATE MARCH 27, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

NO. 741

Introduced by Senator Galgiani

February 22, 2019

An act to amend Sections 1276 and 1277 of the Code of Civil Procedure, and to amend Sections 103400, 103425, and 103426 of, to amend the heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of, to add Section 103431 to, and to repeal and add Sections 103430, 103435, and 103440 of, the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, Galgiani. Change of gender and sex identifier.

(1) Existing law authorizes a person to file a petition with the superior court seeking a judgment recognizing their change of gender to female, male, or nonbinary, including a person who is under 18 years of age. The judgment may include an order for a new birth certificate, and the new birth certificate is required to include the change of gender and any name change specified in the court order. Existing law also authorizes a procedure for a person born in this state to obtain a new birth certificate directly from the State Registrar to reflect their change of gender to female, male, or nonbinary without a court order. Existing law prohibits a new birth certificate issued under these provisions from indicating that it is not the original birth certificate and requires a local registrar or the county recorder to either forward the original birth certificate to the State Registrar or seal a cover over the birth certificate, as specified.

This bill would recast these provisions relating to new birth certificates to provide for a change in gender and sex identifier and to specify that a person who was issued a birth certificate by this state, rather than a person born in this state, may obtain a new birth certificate.

This bill would authorize a person to file a petition with the superior court for a court order to issue a new marriage license and certificate, confidential marriage license and certificate, or birth certificate for their minor or adult child to reflect the person's change in gender and sex identifier to female, male, or nonbinary. The bill also would authorize a person who does not reside within this state to file a petition with the superior court for a change in name or a change of gender and sex identifier to female, male, or nonbinary if the person lives in a jurisdiction that does not provide these changes by court order and the person is also seeking to change their birth certificate, marriage license and certificate, confidential marriage license and certificate, or the birth certificate of their legal child that was issued by this state. The bill would provide a process for parties who are also identified on these vital records to be given notice and an opportunity respond to the petition, as specified.

The bill would authorize a person to obtain a new marriage license and certificate, confidential marriage license and certificate, or birth certificate for their minor or adult child directly from the State Registrar or county clerk, as applicable, to reflect the person's change of gender and sex identifier to female, male, or nonbinary without a court order, if the person submits specific supporting documentation. The bill would require the supporting documentation to include, as applicable, a stipulation by the adult child to change their birth certificate and a stipulation by the spouse who is not requesting a change on their marriage license and certificate or confidential marriage license and certificate. The bill would authorize supporting documentation to include an affidavit, attested under penalty of perjury, that the changes are to conform to the person's gender identity and not for any fraudulent purpose. By expanding the crime of perjury in this manner, this bill would impose a state-mandated local program.

The bill would require a new marriage license and certificate, confidential marriage license and certificate, or birth certificate issued under these provisions to supplant the previous vital record and would specifically direct how a county clerk should seal these original vital records. By creating new duties of a county clerk relating to sealing a marriage license and certificate or a confidential marriage license and certificate under these provisions, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1276 of the Code of Civil Procedure is amended to read:

1276. (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 (e) or (g), either (1) by petition signed by the person or, if the person is under 18 years of age, by one of the person's parents, by any guardian of the person or as specified in subdivision (e), or, if both parents are deceased 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, the person's present name, the name proposed, and the reason for the change of name.

(b) In a proceeding for a change of name commenced by the filing of a petition, if the person whose name is to be changed is under 18 years of age, the petition 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.

(c) In a proceeding for a change of name commenced by the filing of a petition, 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.

(d) In a proceeding for a change of name commenced by the filing of a petition, if the person whose name is proposed to be changed is 12 years of age or older, has been relinquished to an adoption agency by the person's 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.

(e) All petitions for the change of the name of a minor submitted by a guardian appointed by the juvenile court or the probate court, or by a court-appointed dependency attorney appointed as guardian ad litem shall be made pursuant to rules adopted under Section 326.5 of the Welfare and Institutions Code. All petitions for the change of name of a nonminor dependent may be made in the juvenile court.

(f) 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 the child's parents.

(g) (1) An application for change of name may be made to a superior court for a person whose name is proposed to be changed and who does not reside within the State of California if the person whose name is proposed to be changed resides in a jurisdiction that does not provide name changes by court order and the person is seeking to change their name on at least one of the following documents:

(A) A birth certificate that was issued within this state to the person whose name is proposed to be changed.

(B) A birth certificate that was issued within this state to the legal child of the person whose name is proposed to be changed.

(C) A marriage license and certificate or a confidential marriage license and certificate that was issued within this state to the person whose name is proposed to be changed.

(2) For the purposes of this subdivision, the superior court in the county where the birth under subparagraph (A) or (B) occurred or marriage under subparagraph (C) was entered shall be a proper venue for the proceeding. The name change shall be adjudicated in accordance with California law.

SEC. 2. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), or Section 1277.5, 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. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.

(2) (A) 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 a newspaper of general circulation is not 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.

(B) If the person seeking the name change does not live in the county where the petition is filed, pursuant to subdivision (g) of Section 1276, the copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation published in the county of the person's residence. If a newspaper of general circulation is not published in the county of the person's residence, a copy of the order to show cause shall be posted by the clerk of the court in the county of the person's residence or a similarly situated local official in three of the most public places in the county of the person's residence, for a like period. If the place where the person seeking the name change lives does not have counties, publication shall be made according to the requirements of this paragraph in the local subdivision or territory of the person's residence. Proof shall be made to the satisfaction of the court of this publication or posting at the time of the hearing of the application.

(3) 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.

(4) If 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 before 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. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active 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, and that the name the petitioner is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) To avoid sexual assault, as defined in Section 1036.2 of the Evidence Code.

(D) To avoid human trafficking, as defined in Section 236.1 of the Penal Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(A) There exists an overriding interest that overcomes the right of public access to the record.

(B) The overriding interest supports sealing the record.

(C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(D) The proposed order to seal the records is narrowly tailored.

(E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness Relocation and Assistance Program established by Title 7.5 (commencing with Section 14020) 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) If an 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 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) If a guardian files a petition to change the name of the guardian's 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 before the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days before 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, 415.10, or 415.40.

(f) This section shall become operative on September 1, 2018.

SEC. 3. Section 103400 of the Health and Safety Code is amended to read:

103400. Whenever a person who has a birth certificate issued by this state has that person's name changed by order of a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court 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.

SEC. 4. The heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code is amended to read:

Article 7. Revision of Birth and Marriage Records to Reflect Change of Gender and Sex Identifier

SEC. 5. Section 103425 of the Health and Safety Code is amended to read:

103425. (a) A person may file a petition with the superior court in any county seeking a judgment recognizing the change of gender and sex identifier to female, male, or nonbinary.

(b) If requested, the judgment shall include an order that a new birth certificate be prepared for the person reflecting the change of gender and sex identifier and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court.

(c) Subject to the requirements of Section 103430, if requested, the judgment shall include an order that a new marriage license and certificate or confidential marriage license and certificate be prepared for the person reflecting the change to the designation of the person as bride, groom, or having neither box checked on the marriage license and certificate or confidential marriage license and certificate and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court.

(d) Subject to the requirements of Section 103430, if requested, the judgment shall include an order that a new birth certificate be prepared for the person's child or children reflecting the change to the designation of the person as mother, father, or parent and any change of name of the petitioner accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United states, or foreign court.

(e) A petition seeking a judgment recognizing the change of gender and sex identifier to female, male, or nonbinary may be made to a superior court within this state, even if the person whose gender and sex identifier is proposed to be changed does not reside within the State of California if both of the following apply:

(1) The person whose gender and sex identifier is proposed to be changed resides in a jurisdiction that does not provide judgments recognizing the change of gender and sex identifier to female, male, or nonbinary to conform to the petitioner's gender identity by court order.

(2) The person is seeking to change the designation to reflect their gender on at least one of the following documents:

(A) A birth certificate that was issued within this state to the person whose gender and sex identifier is proposed to be changed.

(B) A birth certificate that was issued within this state to the legal child of the person whose gender and sex identifier is proposed to be changed.

(C) A marriage license and certificate or confidential marriage license and certificate that was issued within this state to the person whose gender and sex identifier is proposed to be changed.

SEC. 6. Section 103426 of the Health and Safety Code is amended to read:

103426. (a) The State Registrar shall issue a new birth certificate reflecting a change of gender and sex identifier to female, male, or nonbinary without a court order for any person who has a birth certificate issued by this state who submits directly to the State Registrar an application to change the gender and sex identifier on the birth certificate and an affidavit attesting under penalty of perjury that the request for a change of gender and sex identifier to female, male, or nonbinary is to conform the person's legal

gender and sex identifier to the person's gender identity and is not made for any fraudulent purpose. Upon receipt of the documentation and the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate reflecting the gender and sex identifier stated in the application and any change in name, if accompanied by a court order for a change of name.

(b) (1) The State Registrar shall issue a new birth certificate for the minor child or children who have a birth certificate issued by this state without a further court order when a parent submits directly to the State Registrar all of the following:

(A) An application for a new birth certificate for their minor child or children reflecting the change of the designation of the petitioner as mother, father, or parent, and if applicable, any change of name of the parent.

(B) A copy of at least one of the following documents:

(i) The court-ordered change of gender.

(ii) The parent's new birth certificate reflecting a change of gender and sex identifier.

(iii) A government-issued identity document reflecting the parent's change of gender and sex identifier.

(iv) An affidavit attesting under penalty of perjury that the request for a change of the designation of the petitioner as mother, father, or parent is to conform to the person's gender identity and is not made for any fraudulent purpose.

(C) The fee prescribed by Section 103725.

(D) If applicable, a copy of the court-ordered change of name.

(2) The new birth certificate shall reflect the change of the designation of the parent whose gender and sex identifier has been changed as mother, father, or parent, and if applicable, any change of name that the parent has legally obtained.

(c) (1) The State Registrar shall issue a new birth certificate for an adult child who has a birth certificate issued by this state without a further court order when the parent submits directly to the State Registrar all of the following:

(A) An application for a new birth certificate for their adult child reflecting the change of the designation of the petitioner as mother, father, or parent, and if applicable, any change of name of the parent.

(B) A copy of at least one of the following documents:

(i) The court-ordered change of gender.

(ii) The parent's new birth certificate reflecting a change of gender and sex identifier.

(iii) A government-issued identity document reflecting the parent's change of gender and sex identifier.

(iv) An affidavit attesting under penalty of perjury that the request for a change of the designation of the petitioner as mother, father, or parent is to conform to the person's gender identity and is not made for any fraudulent purpose.

(C) A notarized letter from the adult child stipulating to the change to the adult child's birth certificate.

(D) The fee prescribed by Section 103725.

(E) If applicable, a copy of the court-ordered change of name.

(2) The notarized letter from the adult child shall be accepted if it contains substantially the following language: "I, (adult child's full name), stipulate to an issuance of a new birth certificate for me that reflects my parent's legal gender and name."

(3) The new birth certificate shall reflect the change of the designation of the parent whose gender and sex identifier has been changed as mother, father, or parent, and if applicable, any change of name that the parent has legally obtained.

(d) (1) The county clerk shall issue a new marriage license and certificate or confidential marriage license and certificate for any person who has a marriage license and certificate or confidential marriage license and certificate that was issued from their county without a further court order when the person submits directly to the State Registrar all of the following, which the State Registrar shall send as a notice to the county clerk:

(A) An application from the spouse who has legally changed their gender and sex identifier for a new marriage license and certificate or confidential marriage license and certificate reflecting the change to the designation of the person as bride, groom, or having neither box checked on the marriage license and certificate or confidential marriage license and certificate, and if applicable, any change of name of the spouse.

(B) A copy of at least one of the following documents:

(i) The court-ordered change of gender.

(ii) The spouse's new birth certificate reflecting a change of gender and sex identifier.

(iii) A government-issued identity document reflecting the spouse's change of gender and sex identifier.

(iv) An affidavit attesting under penalty of perjury that the request for a change of the designation of the petitioner as bride, groom, or having neither box checked on the marriage license and certificate is to conform to the person's gender identity and is not made for any fraudulent purpose.

(C) A notarized letter from the spouse who is not requesting the new marriage license and certificate or confidential marriage license and certificate stipulating to the change in the marriage license and certificate or confidential marriage license and certificate.

(D) The fee prescribed by Section 26840 of the Government Code.

(E) If applicable, a copy of the court-ordered change of name.

(2) The notarized letter from the spouse who is not requesting the new marriage license and certificate or confidential marriage license and certificate shall be accepted if it contains substantially the following language: "I, (spouse's full name), stipulate to an issuance of a new marriage license and certificate or confidential marriage license and certificate for me that reflects my spouse's legal gender and sex identifier and name."

(3) The new marriage license and certificate or confidential marriage license and certificate shall reflect the change to the designation of the person as bride, groom, or having neither box checked on the marriage license and certificate or confidential marriage license and certificate, and if applicable, any change of name that the spouse has legally obtained.

(4) For purposes of this section, a court-ordered change of gender or name shall include a change of gender or name accomplished by an order of a court of this state, another state, the District of Columbia, any territory of the United States, or any foreign court.

SEC. 7. Section 103430 of the Health and Safety Code is repealed.

SEC. 8. Section 103430 is added to the Health and Safety Code, to read:

103430. (a) A petition for a court order to recognize a change in the petitioner's gender and sex identifier as female, male, or nonbinary and to direct the issuance of new administrative documents to reflect those changes shall be accompanied by an affidavit from the petitioner and a certified copy of the court order changing the petitioner's name, if applicable. The petitioner's affidavit shall be accepted as conclusive proof of gender change if it contains substantially the following language: "I, (petitioner's full name), hereby attest under penalty of perjury that the request for a change in gender to (female, male, or nonbinary) is to conform my legal gender to my gender identity and is not for any fraudulent purpose."

(b) (1) If the person whose gender is to be changed is under 18 years of age, the petition shall be signed either (A) by at least one of the minor's parents, any guardian of the minor, or a person specified in subdivision (c); or (B) if both parents are deceased and there is no guardian of the minor, by either a near relative or friend of the minor. The affidavit pursuant to subdivision (a) may be signed by the minor.

(2) If the person whose gender is to be changed requests in their petition the issuance of a new marriage license and certificate or confidential marriage license and certificate pursuant to subdivision (d) of Section 103425, the petition shall be signed by the spouse who shares the marriage license and certificate or confidential marriage license and certificate that would be changed by granting the petition if the spouse is living and capable of signing the petition.

(3) If the person whose gender is to be changed requests in their petition the issuance of a new birth certificate for their adult child pursuant to subdivision (e) of Section 103425, the petition shall be signed by the child whose birth certificate would be changed by granting the petition if the child is 18 years of age or older. A petition that requests a new birth certificate for an adult child pursuant to subdivision (e) of Section 103425 that does not include the signature of the adult child shall not be granted with respect to the new birth certificate for that child if the child is living and capable of providing a signature.

(4) If the person whose gender is to be changed requests in their petition the issuance of a new birth certificate for their minor child pursuant to subdivision (e) of Section 103425, the petition need not include the signature of the petitioner's child if the child is under 18 years of age.

(c) (1) All petitions to recognize a change of the gender of a minor signed by a guardian appointed by the juvenile court or the probate court, or by a court-appointed dependency attorney appointed as guardian ad litem pursuant to rules adopted under Section 326.5 of the Welfare and Institutions Code, shall be made in the appointing court. All petitions to recognize a change of the gender of a nonminor dependent may be made in the juvenile court.

(2) For a petition filed under paragraph (1), if either or both parents are deceased or cannot be located, the guardian or guardian ad litem shall cause, not less than 30 days before the hearing, a notice of the time and place of the hearing or a copy of the order to show cause to be served on the child's grandparents, if living and if known to the petitioner, pursuant to Section 413.10, 414.10, 415.10, or 415.40 of the Code of Civil Procedure.

(d) (1) 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 the child's parents.

(2) Before granting a petition in accordance with this subdivision, 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 the parents.

(e) (1) If a petition pursuant to this section does not include a signature required by paragraph (1) of subdivision (b), then upon receipt of the petition, the court shall thereupon make an order directing the person or persons whose required signatures are not on the petition to show cause why the petition for a court order to recognize a change in the minor's gender and sex identifier to female, male, or nonbinary should not be granted by filing a written objection, which includes any reasons for the objection, within six weeks of the making of the order, and shall state that if no objection showing good cause to oppose the gender recognition is timely filed, the court shall, without hearing, enter the order that the gender and sex identifier recognition is granted.

(2) If a petition pursuant to this section does not include any signature required by paragraph (2) of subdivision (b), then upon receipt of the petition, the court shall thereupon make an order reciting the filing of the petition, the proposed changes to the petitioner's marriage license and certificate or confidential marriage license and certificate, and the name of the person by whom it is filed. The order shall direct the spouse of the petitioner who appears on the marriage license and certificate or confidential marriage license and certificate to make known any objection to the changes requested on the marriage license and certificate or confidential marriage license and certificate by filing a written objection, which includes any reasons why the requested changes would be fraudulent, within six weeks of the making of the order, and shall state that if no objection showing good cause to oppose the changes to the marriage license and certificate or confidential marriage license and certificate is timely filed, the court shall, without hearing, enter the order that the gender and sex identifier recognition is granted.

(f) The petition and the order to show cause made in accordance with subdivision (e) shall be served on the required person or persons who did not sign the petition, pursuant to Section 413.10, 414.10, 415.10, or 415.40 of the Code of Civil Procedure, within 30 days from the date on which the order is made by the court. If service cannot reasonably be accomplished pursuant to Section 415.10 or 415.40 of the Code of Civil Procedure, the court may order that service be accomplished in a manner that the court determines is reasonably calculated to give actual notice to the person who did not sign the petition.

(g) If no service is required on any party pursuant this section, the court shall grant the petition without a hearing if no written objection is timely filed within six weeks of the filing of the petition.

(h) The court shall grant the petition without a hearing, unless a timely objection showing good cause is filed. If an objection showing good cause is timely filed, the court may set a hearing at a time designated by the court. Objections based solely on concerns over the petitioner's actual gender identity or gender assigned at birth shall not constitute good cause.

(1) If a timely objection showing good cause is filed by anyone other than a parent who objects to changes to their minor child's birth certificate, at the hearing, the court may examine under oath the petitioner and any other person having knowledge of the facts relevant to the petition. At the conclusion of the hearing, the court shall grant the petition if the court determines that the petition is not made for any fraudulent purpose.

(2) If the objection was timely filed by a parent who objects to changes to their minor child's birth certificate, after holding a hearing on the matter, the court may deny the petition if the court finds that the change of gender and sex identifier is not in the best interest of the minor. At the hearing, the court may examine under oath the minor and any other person having knowledge of the facts relevant to the petition.

SEC. 9. Section 103431 is added to the Health and Safety Code, to read:

103431. (a) (1) If a judgment pursuant to Section 103430 includes an order for a new birth certificate for the petitioner and if the petitioner has a birth certificate issued by this state, a certified copy of the judgment of the court ordering the new birth certificate, shall, within 30 days from the date of the judgment, be filed by the petitioner 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 petitioner.

(2) The new birth certificate shall reflect the gender of the petitioner, as specified in the judgment of the court, and shall reflect any change of name, as specified in the 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 petitioner.

(b) (1) If a judgment pursuant to Section 103430 includes an order for a new marriage license and certificate or new confidential marriage license and certificate and the original marriage license and certificate or original confidential license and certificate was issued within this state, a certified copy of the judgment of the court ordering the new marriage license and certificate or new confidential marriage license and certificate shall, within 30 days from the date of the judgment, be filed by the petitioner with the State Registrar, along with the fee established by the county clerk, not to exceed the fee for any other marriage license and certificate or confidential marriage license and certificate issued by the county clerk and not to exceed the reasonable cost to provide the marriage license and certificate or confidential marriage license and certificate. The State Registrar shall send a notice to the county clerk in which the original marriage license and certificate or original confidential marriage license and certificate was issued along with the fee. Upon receipt thereof, the county clerk shall issue a new marriage license and certificate or confidential marriage license and certificate for the petitioner.

(2) If a new marriage license and certificate or confidential marriage license and certificate is requested under subdivision (d) of Section 103425, the new marriage license and certificate or new confidential marriage license and certificate shall reflect any change in the designation of the person as bride, groom, or having neither box checked as requested, and shall reflect any change of name, as specified in the court order, as prescribed by Section 103425. If the "New Names" section of the original marriage license and certificate or original confidential marriage license and certificate that refers to the person whose gender and sex identifier was changed pursuant to Section 103430 does not match any change of name, as specified in the court order, then the "New Names" section for that person shall be left blank on the new marriage license and certificate or new confidential marriage license and certificate of marriage. A new marriage license and certificate or new confidential marriage license and certificate issued pursuant to this article shall not entitle the parties to the marriage to change their names using the procedures in Section 306.5 of the Family Code at the time of the issuance of the new marriage license and certificate or confidential marriage license and certificate. Notwithstanding Sections 103235 and 103255, no reference shall be made in the new marriage license and certificate or new confidential marriage license and certificate, nor shall its form in any way indicate, that it is not the original marriage license and certificate or original confidential marriage license and certificate of the petitioner.

(c) (1) If a judgment pursuant to Section 103430 includes an order for a new birth certificate for the petitioner's child and if the petitioner's child has a birth certificate issued by this state, a certified copy of the judgment of the court ordering the new birth certificate, shall, within 30 days from the date of the judgment, be filed by the petitioner 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 petitioner's child.

(2) If a new birth certificate is requested under subdivision (e) of Section 103425, the new birth certificate for the petitioner's child shall reflect the change of the designation of the petitioner as mother, father, or parent and, if applicable, any change of name of the petitioner, as specified in the court order and 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 petitioner's child.

SEC. 10. Section 103435 of the Health and Safety Code is repealed.

SEC. 11. Section 103435 is added to the Health and Safety Code, to read:

103435. (a) In lieu of separate proceedings, a single petition may be filed with the superior court to change the petitioner's name and recognize the change to the petitioner's gender and sex identifier and, if requested, to order the issuance of a new birth certificate, marriage license and certificate, confidential marriage license and certificate, or birth certificate of the petitioner's child. With respect to a single petition, the court shall comply with both of the following:

(1) The procedure set forth in Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure; however, the order to show cause shall not include the petition to recognize the change of gender and sex identifier.

(2) The procedure set forth in Section 103430 if there is a request for a new marriage license and certificate, confidential marriage license and certificate, or for a new birth certificate for any child of the petitioner.

(b) (1) A certified copy of the judgment of the court issued pursuant to this section shall, within 30 days, be filed by the petitioner with the Secretary of State.

(2) A certified copy of the judgment of the court issued pursuant to this section shall, within 30 days, be filed by the petitioner with the State Registrar, if any of the following conditions are met:

(A) The judgment includes an order for a new birth certificate and the petitioner has a birth certificate issued by this state.

(B) The judgment includes an order for a new marriage license and certificate or new confidential marriage license and certificate and the original marriage license and certificate or original confidential license and certificate was issued within this state.

(C) The judgment includes an order for a new birth certificate for the petitioner's child and the petitioner's child has a birth certificate issued by this state.

(c) Upon receipt of a certified copy of a judgment of the court issued pursuant to this section, the State Registrar shall establish a new birth certificate as provided in this article.

(d) Upon receipt of a certified copy of a judgment of the court issued pursuant to this section, the State Registrar shall direct the county clerk to issue a new marriage license and certificate or confidential marriage license and certificate as provided in this article.

SEC. 12. Section 103440 of the Health and Safety Code is repealed.

SEC. 13. Section 103440 is added to the Health and Safety Code, to read:

103440. (a) The new birth certificate, marriage license and certificate, or confidential marriage license and certificate established pursuant to this article shall supplant any birth certificate, marriage license and certificate, or confidential marriage license and certificate previously registered for the registrant and shall be the only birth certificate, marriage license and certificate, or confidential marriage license and certificate open to public inspection. The application and supporting affidavit filed pursuant to subdivision (a) of Section 103426 and the applications, supporting affidavits, and stipulations filed pursuant to subdivisions (b) and (c) of Section 103426 shall be filed with the original record of birth, which shall remain as a part of the records of the State Registrar. The applications, supporting affidavits, and stipulations filed pursuant to subdivision (d) of Section 103426 for a marriage license and certificate shall be filed with the original record of marriage, which shall remain as a part of the records of the State Registrar. The applications, supporting affidavits, and stipulations filed pursuant to subdivision (d) of Section 103426 for a confidential marriage license and certificate shall be transmitted by the State Registrar to the county clerk, for filing, in the county in which the original confidential marriage license and certificate was filed. All records and information specified in this article, other than the newly issued birth certificate or marriage license and certificate, shall be available only upon written request of the registrant or an order of a court of record. Nothing in this section shall change the confidentiality of or access to a confidential marriage certificate.

(b) 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 the local registrar or the county recorder to do so. If it is impractical for the local registrar or the county recorder to forward the copy to the State Registrar, the local registrar or the county recorder 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 the 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.

(c) After the county clerk issues the new marriage license and certificate pursuant to subdivision (d) of Section 103426, the county clerk shall transmit the new marriage license and certificate to the county recorder. The State Registrar shall direct the county recorder to effectually seal a cover over the original marriage certificate in a manner as not to deface or destroy the copy and to file the new license and certificate in its place. Thereafter the information contained in the record shall be available only upon written request of the registrant or an order of a court of record.

(d) When a new confidential marriage license and certificate is ordered under this article, the State Registrar shall direct the county clerk to effectually seal a cover over the original certificate in a manner as not to deface or destroy the copy, to issue a new confidential marriage license and certificate, and to file the new confidential marriage license and certificate in its place. 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.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

