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AB-2436 Death certificates: content. (2021-2022)

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Assembly Bill No. 2436

CHAPTER 966

An act to amend Section 102875 of the Health and Safety Code, relating to vital records.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2436, Bauer-Kahan. Death certificates: content.

Existing law specifies the content of a certificate of death, including the full name of the father, birthplace of the father, the full maiden name of the mother, and birthplace of the mother.

This bill would, instead, require the certificate of death to include the current first and middle names, birth last names, and the birthplaces of the parents, without reference to the parents' gendered relationship to the decedent. The bill would require the State Registrar to electronically capture information on the parents' relationship to the decedent and any additional last names used by the parents, which would not be transcribed onto the actual hard copy of the death certificate. The bill would require the State Registrar to implement the changes made by the bill no later than July 1, 2024.

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

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

SECTION 1. Section 102875 of the Health and Safety Code is amended to read:

102875. 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) (A) Personal data of the decedent including full name, sex, color or race, marital status, name of spouse, date of birth and age at death, birthplace, usual residence, occupation and industry or business, and whether the decedent was ever in the Armed Forces of the United States.

(B) A person completing the certificate shall record the decedent's sex to reflect the decedent's gender identity as female, male, or nonbinary. The decedent's gender identity shall be reported by the informant, unless the person completing the certificate is presented with a birth certificate, a driver's license, a social security record, a court order approving a name or gender change, a passport, an advanced health care directive, or proof of clinical treatment for gender transition, in which case the person completing the certificate shall record the decedent's sex as that which corresponds to the decedent's gender identity as indicated in that document. If none of these documents are presented and the person with the right, or a

majority of persons who have equal rights, to control the disposition of the remains pursuant to Section 7100 is in disagreement with the gender identity reported by the informant, the gender identity of the decedent recorded on the death certificate shall be as reported by that person or majority of persons.

(C) If a document specified in subparagraph (B) is not presented and a majority of persons who have equal rights to control the disposition of the remains pursuant to Section 7100 do not agree with the gender identity of the decedent as reported by the informant, any one of those persons may file a petition, in the superior court in the county in which the decedent resided at the time of the decedent's death, or in which the remains are located, naming as a party to the action those persons who otherwise have equal rights to control the disposition and seeking an order of the court determining, as appropriate, who among those parties shall determine the gender identity of the decedent.

(D) A person completing the death certificate in compliance with subparagraph (B) is not liable for any damages or costs arising from claims related to the sex of the decedent as entered on the certificate of death.

(E) A person completing the death certificate shall comply with the data and certification requirements described in Section 102800 by using the information available to the person prior to the deadlines for completion specified in that section.

(2) Date of death, including month, day, and year.

(3) Place of death.

(4) (A) Current first and middle names, birth last names, and the birthplaces of the parents, without reference to the parents' gendered relationship to the decedent.

(B) The State Registrar shall electronically capture the following information, which shall not be transcribed onto the actual hard copy of the death certificate:

(i) The parents' relationship to the decedent.

(ii) Any additional last names used by the parents, if any.

(C) The State Registrar shall implement the changes made by the act that added this subparagraph no later than July 1, 2024.

(5) Informant.

(6) Disposition of body information, including signature and license number of embalmer, if the body is 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 law, 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 law, 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 law, 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 a year prior to the death, if known, as determined by observation, autopsy, or review of the medical record. The electronic death registration system shall capture additional information regarding the pregnancy status of the decedent consistent with the data elements on the U.S. Standard Certificate of Death. 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.