

2016 New Law Workbook

A SUMMARY OF LEGISLATION AFFECTING COUNTY CLERKS



2016 New Law Workbook

Presented by

**California Association of Clerks and
Election Officials**

Legislative Committee

Sacramento, California

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2016 Chaptered Bill Analysis

Bill Number:	AB 1546
Chapter Number:	255
Author:	Olsen
Topic:	Vital records
Impact:	Important
Summary:	<p>Additionally authorizes the local registrar to release birth and death record indices to the county recorder within its jurisdiction for purposes of the preparation or maintenance of the indices of the county recorder.</p> <p>Extends application of specified access restrictions applicable to confidential portions of certificates of live birth to confidential birth record indices.</p> <p>Authorizes the State Registrar to suspend the use of any security feature if necessary to enable the State Registrar, local registrar, county recorder, or county clerk to supply an applicant with a certified copy of a birth, death, or marriage record.</p> <p>Authorizes the State Department of Public Health to implement this provision through all-county letters or similar instructions, as specified.</p> <p>Requires the State Registrar to submit a report to the Legislature, on or before January 1, 2018, that contains the findings of that study and legislative recommendations pertaining to those findings.</p>
Effect:	Amends Sections 102230 and 103526.5 of, and adds Section 103526.6 to, the Health and Safety Code, relating to vital records.
Actions Required:	None
Presenter:	David Valenzuela, Ventura County
Notes:	Bill contains an urgency clause to take effect immediately.

2016 Chaptered Bill Analysis

Bill Number: AB 2128

Chapter Number: 130

Author: Achadjian

Topic: Marriage

Impact: Important

Summary: Existing law allows a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or war, and unable to appear for the licensure and solemnization of the marriage, to 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 duly signed by the party stationed overseas and acknowledged before a notary or witnessed by two officers of the United States Armed Forces.

This bill provides that the *completion of the power of attorney is the sole determinant* as to whether the County Clerk and State Registrar will accept the power of attorney.

Effect: Amends Section 420 of the Family Code, relating to marriage.

Actions Required: Inform staff

Presenter: Donna Allred, Sacramento County

Notes: Stipulating that completion of the power of attorney (POA) is the sole determinant as to whether the County Clerk or State Registrar will accept the POA makes the process purely clerical and removes discretion as to eligibility based on whether the location qualifies as an area of "conflict or war."

2016 Chaptered Bill Analysis

Bill Number: AB 2211

Chapter Number: 102

Author: Linder

Topic: Registered process servers

Impact: Information Only

Summary: Existing law:

- Establishes a process for the enforcement of money judgments, and authorizes a registered process server to levy under a writ of attachment or writ of execution on specified types of property.
- Requires the registered process server, before levying under the writ, to deposit a copy of the writ with the levying officer and pay a specified fee.
- Permits a registered process server to serve an earnings withholding order on an employer and requires that the process server deposit specified documents with the levying officer and pay a specified fee.

This bill provides that the registered process server is authorized to have the required documents and fee delivered to the levying officer by someone other than the process server himself or herself.

Effect: Amends Sections 488.080, 699.080, and 706.108 of the Code of Civil Procedure, relating to civil procedure.

Actions Required: None

Presenter: Lisa Anderson, Riverside County

2016 Chaptered Bill Analysis

Bill Number: AB 2217

Chapter Number: 133

Author: Hadley

Topic: Notary public: service fees

Impact: **Information Only**

Summary: Allows a notary public to charge an additional \$5 for the following services:

- Each signature taken for an acknowledgment or proof, or a deed, or other instrument, to include the seal and the writing of the certificate;
- Administering an oath or affirmation to one person and executing the jurat, including the seal;
- Certifying a copy of a power of attorney under Section 4307 of the Probate Code; and
- Entering data provided by a client on immigration forms provided by a federal or state agency if the notary public is qualified and bonded as an immigration consultant.

Allows, in connection with the taking of any deposition, a notary public to charge a fee up to \$30 (instead of \$20), and in addition, to charge \$7 (instead of \$5) for administering the oath to the witness and for the certificate to the deposition.

Makes other nonsubstantive conforming changes.

Effect: Amends Sections 8211 and 8223 of the Government Code, relating to notary public.

Actions Required: None

Presenter: Lisa Anderson, Riverside County

2016 Chaptered Bill Analysis

Bill Number: AB 2296

Chapter Number: 144

Author: Low

Topic: Digital signatures

Impact: Minor

Summary: Clarifies the types of electronic signatures that are permissible for public agencies, specifically:

- Provides that a "digital signature," as defined, is considered a type of "electronic signature" under the Uniform Electronic Transactions Act (UETA).
- Clarifies that use of a digital signature is discretionary.
- Clarifies that regulations adopted by the Secretary of State to implement Section 16.5 of the Government Code apply only to the use of a "digital signature" under that statute and not to an "electronic signature" under the UETA.
- States various legislative findings.

Effect: Amends Section 1633.2 of the Civil Code, and amends Section 16.5 of the Government Code, relating to state government.

Actions Required: None

Presenter: Lisa Anderson, Riverside County

Notes: Public agencies may elect to transact business using a digital signature but are not compelled to do so.

2016 Chaptered Bill Analysis

Bill Number: **AB 2566**

Chapter Number: 762

Author: Nazarian

Topic: Notaries public: acceptance of identification

Impact: **Information Only**

Summary: Allows a notary public to reasonably rely on a valid consular identification document issued by a consulate of the applicant's country of citizenship, or a valid passport from the applicant's country of citizenship (regardless of whether the valid passport has a U.S. Citizenship and Immigration Services of the Department of Homeland Security stamp or not) to establish the identity of the person seeking the acknowledgment of the notary public.

Effect: Amends Section 1185 of the Civil Code, relating to property.

Actions Required: None

Presenter: Joani Finwall, San Bernardino County

Notes: Incorporates amendments enacted by SB 997 to add an ID card issued by a federally recognized tribal government to the list of documents acceptable for identification purposes.

2016 Chaptered Bill Analysis

Bill Number:	AB 2636
Chapter Number:	527
Author:	Linder
Topic:	Certified copies of marriage, birth, and death certificates: electronic application
Impact:	Information Only
Summary:	Under existing law, a certified copy of a birth, death, marriage, or military service record may only be issued to an authorized person, as defined, who submits a written, faxed, or digitized image request accompanied by a notarized statement sworn under penalty of perjury that the applicant is an authorized person. This bill authorizes the official to accept an electronic acknowledgment verifying the identity of the applicant using a multilayered remote identity proofing process.
Effect:	Amends, repeals, and adds Section 103526 of, and adds and repeals Section 103527.5 of, the Health and Safety Code, relating to vital records. Imposes a state-mandated local program.
Actions Required:	Any city or county that fulfills electronic requests without a notarized statement of identity must report to the Attorney General and the Legislature on or before January 1, 2019, regarding the number and types of requests and the availability of consumer protection mechanisms, as specified.
Presenter:	Elizabeth Gutierrez, Contra Costa County

2016 Chaptered Bill Analysis

Bill Number: AB 2761

Chapter Number: 528

Author: Low

Topic: Marriage: solemnization

Impact: Important

Summary: 1. Expands who may solemnize marriages in California to include:

- A former member of the Legislature or constitutional officer of this state or a former member of Congress from this state; and
- A person that holds or formerly held a city or county elected office.

2. Eliminates the requirement that before a county supervisor, mayor, or city clerk may solemnize a marriage, he or she must first obtain from the county clerk and review all available instructions for marriage solemnization.

3. Requires that anyone authorized to solemnize a marriage be at least 18 years old.

4. Prohibits a judge, elected official, or city clerk from accepting compensation for solemnizing a marriage while in office.

5. Prohibits officials listed in Section 400(b) from solemnizing marriages if they have been removed from office due to committing an offense or convicted of an offense involving moral turpitude, dishonesty or fraud.

Effect: Amends Section 400 of, and repeals Section 400.1 of, the Family Code, relating to marriage.

Actions Required:

- Update websites, training materials, and handouts listing parties authorized to solemnize marriages.
- Inform staff.

Presenter: Joani Finwall, San Bernardino County

2016 Chaptered Bill Analysis

Bill Number:	AB 2828
Chapter Number:	337
Author:	Chau
Topic:	Personal information: privacy: breach
Impact:	Minor
Summary:	<p>Requires any agency, person, or business that owns or licenses computerized data that includes personal information to disclose a breach of the security of the system to any California resident whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential that was, or is reasonably believed to have been, acquired by an unauthorized person and the agency, person, or business that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or useable.</p> <p>Defines “encryption key” and “security credential” to mean the confidential key or process designed to render the data useable, readable, and decipherable.</p>
Effect:	Amends Sections 1798.29 and 1798.82 of the Civil Code, relating to personal information.
Actions Required:	In the event of a breach of encrypted personal information along with the encryption key or security credential, an agency must issue a security breach notification in the manner prescribed in Section 1798.29 of the Civil Code.
Presenter:	Lisa Anderson, Riverside County

2016 Chaptered Bill Analysis

Bill Number:	AB 2882
Chapter Number:	474
Author:	Committee on Judiciary
Topic:	Judiciary omnibus: family law
Impact:	Important
Summary:	<p>Authorizes a person to adopt as a last name a combination (<i>instead of hyphenated combination</i>) of last names, or of current middle name and current last name of the person or spouse, or of current middle name and the last name given at birth of the person or spouse.</p> <p>Prohibits a duplicate marriage license from being issued later than one year after the date of marriage (<i>instead of one year after issuance of the original license</i>).</p> <p>Requires the license to be returned by the person solemnizing the marriage to the county recorder within one year of the date of marriage (<i>instead of one year of issuance of the original license</i>).</p> <p>Deletes an obsolete provision and makes other non-substantive changes.</p>
Effect:	Amends Sections 302, 304, 306.5, 308, 360, 500, 2103, 4014, 4052.5, 8714, 17212, 17306, 17400, 17434, 17450, 17460, 17506, 17508, 17522.5, 17523.5, 17525, 17528, 17710, and 17801 of, adds Section 17504.1 to, to add Article 4 (commencing with Section 17390) to Chapter 1 of Division 17 of, and repeals Sections 17458 and 17802 of, the Family Code, adds Section 69619.5 to the Government Code, and amends Section 361 of, repeals Sections 11475.2, 11475.3, and 11476.2 of, repeals Chapter 4 (commencing with Section 10080) of Part 1 of, and repeals Chapter 6 (commencing with Section 16575) of Part 4 of, Division 9 of, the Welfare and Institutions Code, relating to family law.

- Actions Required:**
- Update websites, training materials, and handouts.
 - Inform staff.

Presenter: Wardell House, Santa Clara County

2016 Chaptered Bill Analysis

Bill Number:	SB 441
Chapter Number:	477
Author:	Wolk
Topic:	California Public Records Act: exemptions
Impact:	Information Only
Summary:	<p>The California Public Records Act requires that public records be open to inspection at all times during the office hours of a public agency, defined as any state or local agency, and that every person has a right to inspect any public record, except as specifically provided. The act further requires that a reasonably segregable portion of a public record be available for inspection by any person requesting the public record after deletion of the portions that are exempted by law.</p> <p>This bill exempts from disclosure any identification number, alphanumeric character, or other unique identifying code used by a public agency, as defined, to identify a vendor or contractor, or an affiliate of a vendor or contractor, unless the identification number, alphanumeric character, or other unique identifying code is used in a public bidding or an audit involving the public agency.</p>
Effect:	Adds Section 6254.33 to the Government Code, relating to public records.
Actions Required:	None
Presenter:	Lisa Anderson, Riverside County

2016 Chaptered Bill Analysis

Bill Number:	SB 710
Chapter Number:	224
Author:	Galgiani
Topic:	Real estate licensees: fictitious business names: team names.
Impact:	Information Only
Summary:	Corrects an inadvertent drafting error in SB 146 (Chapter 129, Statutes of 2015) that required the listing of a company name and responsible broker's license number on all "team" advertising, <i>when the intent of that legislation was to require one or the other.</i> Redefines "responsible broker's identity" as <i>the name</i> under which the responsible broker is currently licensed by the bureau and conducts business in general or is a substantial division of the real estate firm, <i>or both the name and the associated license identification number.</i>
Effect:	Amends Section 10159.7 of the Business and Professions Code, relating to real estate licensees.
Actions Required:	None
Presenter:	Sheila Harmon, Ventura County
Notes:	Bill contains an urgency clause to take effect immediately.

2016 Chaptered Bill Analysis

Bill Number:	SB 875
Chapter Number:	211
Author:	Gaines
Topic:	Solemnization of marriage: county sheriff
Impact:	Information Only
Summary:	Would additionally have authorized a county sheriff, while that person holds office, to solemnize a marriage. Would have deleted the requirement that county supervisors, city clerks, and elected mayors obtain and review all available instructions for marriage solemnization before first solemnizing a marriage. Would also have made conforming changes.
Effect:	None. This bill was chaptered out by AB 2761.*
Actions Required:	None
Presenter:	Portia Sanders, Los Angeles County
Notes:	*This bill incorporated additional changes to Section 400 of the Family Code proposed by this bill and AB 2761 that would have become operative <u>only if</u> both bills were enacted and became effective on or before January 1, 2017, <u>and</u> SB 875 were enacted after (given a higher chapter number than) AB 2761.

2016 Chaptered Bill Analysis

Bill Number:	SB 974
Chapter Number:	366
Author:	Committee on Governance and Finance
Topic:	Local government: omnibus
Impact:	Important
Summary:	<p>Amends Section 8770 of the Business and Professions Code, to authorize the county recorder to store records of survey in <i>any manner that will ensure the maps are kept together</i> (<i>instead of requiring the records to be securely fastened into a book</i>).</p> <p>Amends Section 6107 of the Government Code to provide that a certified copy of a military discharge record may be made available to a <i>state or city (in addition to county) office</i> that provides veterans' benefits services upon written request of that office.</p> <p>Amends Section 8213 of the Government Code to require a person appointed to be a notary public whose oath of office is taken before the county clerk, to <i>present an identification document, as provided, to the county clerk as satisfactory evidence of identity</i>.</p> <p>Amends Sections 8205 et seq. and Section 8311 of the Government Code to authorize the use of <i>other means of physical delivery that provides a receipt</i> (<i>in addition to certified mail</i>) for specified communications between the Secretary of State and notaries public, as well as any communication or notice required by law to be mailed by registered mail to or by the state.</p> <p>Amends Sections 19201-19202 of the Revenue and Taxation Code to require that a certificate of tax liability be filed with and the judgment entered by the <i>Clerk of the Court</i> (<i>instead of the County Clerk</i>).</p>
Effect:	Amends Section 8770 of the Business and Professions Code; amends Sections 6107, 8205, 8206, 8213, 8213.5, 8311, 15606.1, 40805, 53087.7, 53601, 65091, 65302, and 67661 of the Government Code; amends Sections 5471, 5473, 5474, 5474.8, and 13822 of the Health and Safety

Code; amends Section 22161 of the Public Contract Code; amends Sections 11005, 11005.3, 19201, and 19202 of the Revenue and Taxation Code; amends Sections 2105, 36601, 36606, 36610, 36625, and 36670 of the Streets and Highways Code; and amends Section 7.6 of, and repeals Sections 7.3 and 8 of, the Kern County Water Agency Act (Chapter 1003 of the Statutes of 1961), relating to local government.

Imposes a state-mandated local program.

Actions Required: Follow your County guidelines.

Presenter: David Valenzuela, Ventura County

2016 Chaptered Bill Analysis

Bill Number: **SB 997**

Chapter Number: 491

Author: Lara

Topic: Notaries public

Impact: **Important**

Summary: Adds an ***ID card issued by a federally recognized tribal government*** to the list of documents acceptable for identification purposes.

Effect: Amends Section 1185 of the Civil Code, relating to notaries public.

Actions Required: None

Presenter: Donna Allred, Sacramento County

2016 Chaptered Bill Analysis

Bill Number:	SB 1005
Chapter Number:	50
Author:	Jackson
Topic:	Marriage
Impact:	Information Only
Summary:	Under existing law, 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.
The bill:	<ul style="list-style-type: none">• Replaces references to a “husband” or “wife” with references to a “spouse.”• Defines “spouse” as including a “registered domestic partner.”• Makes other conforming and related changes.

Effect: Amends Section 17537.1 of, and adds Section 14.2 to, the Business and Professions Code; amends Sections 14, 50, .3, 51.11, 682, 682.1, 683, 1099, 1569, and 3390 of the Civil Code; amends Sections 17, 116.540, 371, 703.140, and 704.930 of the Code of Civil Procedure; amends Section 1201 of the Commercial Code; amends Sections 158, 704, 5612, 7612, 12482, 25102, and 25206 of, and adds Section 12.2 to, the Corporations Code; amends Sections 21100, 24803, and 68062 of, and adds Section 73.2 to, the Education Code; adds Section 356.5 to the Elections Code; amends Sections 917 and 980 of, and adds Section 215 to, the Evidence Code; adds Section 143 to the Family Code; amends Sections 14860, 18220, 18523, and 22327 of, and adds Section 11.2 to, the Financial Code; amends Section 8552.3 of, and adds Section 9.2 to, the Fish and Game Code; adds Section 36 to the Food and Agricultural Code; amends Sections 9359.9, 9374, 21571, 21572, and 21573 of, and adds

Section 12.2 to, the Government Code; adds Section 12.2 to the Harbors and Navigation Code; amends Sections 1373.5, 18080, 25299.54, and 32501 of, and adds Section 12.2 to, the Health and Safety Code; amends Sections 10112, 10121.5, 10320, 10493, and 10494.6 of, and adds Section 12.2 to, the Insurance Code; amends Section 3503 of, and adds Section 12.2 to, the Labor Code; adds Section 19 to the Military and Veterans Code; amends Sections 7, 152.3, 197, 270e, 273.5, 281, 282, 284, 534, 4002, and 13700 of the Penal Code; amends Sections 59, 78, 100, 101, 103, 2407, 5040, 5042, 5203, 6122, 6227, 6240, 13500, and 13600 of, and adds Section 72 to, the Probate Code; adds Section 11005 to the Public Contract Code; adds Section 12.2 to the Public Resources Code; adds Section 12.2 to the Public Utilities Code; amends Sections 17021, 17039, 17045, 17053.5, 17054, 17077, 17555, 18501, 18522, 18530, 18531.5, 18532, 19006, 19035, 19107, 19110, 19701.5, and 20542 of, and adds Section 12.2 to, the Revenue and Taxation Code; amends Section 2804 of, and adds Section 12.2 to, the Streets and Highways Code; amends Section 13003 of, and adds Section 11.2 to, the Unemployment Insurance Code; adds Section 12.2 to the Vehicle Code; adds Section 12.2 to the Water Code; and amends Sections 742.16, 7275, 12003, 14140, and 18291 of, and adds Section 12.2 to, the Welfare and Institutions Code, relating to marriage.

Actions Required: None

Presenter: Wardell House, Santa Clara County



Just a quick reminder...

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CEQA Environmental Document Filing Fees Annual Fee Adjustments for 2017

California Department of Fish and Wildlife (CDFW) imposes and collects a filing fee to defray the costs of managing and protecting California's vast fish and wildlife resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs.

CDFW is required to adjust the fees annually (Section 713 of the Fish and Game Code). The annual fee adjustments are based on changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the U.S. Department of Commerce. Annual filing fee adjustments are posted on CDFW's website prior to November 1 of the year before they become effective.

Visit <https://www.wildlife.ca.gov/Conservation/CEQA/Fees> for details.

CEQA Document	Fees Effective January 1, 2016	Fees Effective January 1, 2017
Negative Declaration (ND)	\$2,210.25	\$2,216.25
Mitigated Negative Declaration (MND)	\$2,210.25	\$2,216.25
Environmental Impact Report (EIR)	\$3,070.00	\$3,078.25
County Clerk Processing Fee*	\$50.00	\$50.00

*Additional county fees may apply.