Delayed Birth, Marriage, and Death Certificates

Births, marriages, and deaths are recorded by the Office of Vital Statistics, and evidenced by an official certificate. Occasionally, these certificates are not submitted properly, or are destroyed or unavailable. If so, any "beneficially interested" party can register it by using the appropriate Court Order Delayed Certificate. (California Health and Safety Code (H&S) §§103450-103490.

Related Information

The Office of Vital Statistics has information on the process:

- Birth certificates
 (https://www.cdph.ca.gov/Programs/CHSI/Pages/Amendir a-California-Birth-Record.aspx)
- Death/Fetal Death certificates
 (https://www.cdph.ca.gov/Programs/CHSI/Pages/Amendir a-California-Death-or-Fetal-Death-Record.aspx)
- Marriage certificates
 (https://www.cdph.ca.gov/Programs/CHSI/Pages/Amendira-California-Marriage-Record.aspx)

(http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=102.&chapter=12.&part=1.&lawCode=HSC)

The party must first file a court *Petition* to establish the fact of birth, marriage, or death, then submit either *Order Establishing Fact of Birth* (Form VS-108), *Order Establishing Fact of Marriage* (Form VS-122), or *Order Establishing Fact of Death* (Form VS-109) to the California Office of Vital Statistics.

This step-by-step guide details how to get a Court Order Delayed Certificate of birth, marriage or death in California. The forms and steps are almost identical, so this step-by-step guide addresses all three situations.

Important Note

This guide does not cover adding or changing names and information on birth, death, or marriage certificates. It does not cover situations where no marriage certificate was ever issued, only where the certificate was never filed at the time of the event.

For information on adding or changing names on a certificate, visit the Department of Public Health's <u>Vital Records web page (https://www.cdph.ca.gov/Programs/CHSI/Pages/Vital-Records.aspx)</u> and scroll down to "Correcting or Amending Vital Records."

Simpler Birth Certificate Option: If you have two documents verifying the date and place of birth and at least one parent's name, and/or affidavits from the doctor, one parent, or both parents, you might not have to go to court. Form VS-85, Delayed Registration of Birth,

(https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/Delayed_Registration_of_Birth_Pamphlet_ADA.pdf) might be all you need.



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Forms

Birth

Petition to Establish Fact, Time, and Place of Birth (BMD-001) (https://www.courts.ca.gov/documents/bmd001.pdf)

Declaration in Support of Petition to Establish Fact, Time, and Place of Birth (BMD-001A) (https://www.courts.ca.gov/documents/bmd001a.pdf)

Court Order Delayed Registration of Birth (Form VS-108) (https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS108.pdf)

Marriage

Petition to Establish Fact, Time, and Place of Marriage (BMD-002) (https://www.courts.ca.gov/documents/bmd002.pdf)

Declaration in Support of Petition to Establish Fact, Time, and Place of Marriage (BMD-002A) (https://www.courts.ca.gov/documents/bmd002a.pdf)

Court Ordered Delayed Certificate of Marriage (Form VS-122) (https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS122.pdf)

Death

Petition to Establish Fact, Date, and Place of Death (BMD-003) (https://www.courts.ca.gov/documents/bmd003.pdf)

Declaration in Support of Petition to Establish Fact, Date, and Place of Death (BMD-003A) (https://www.courts.ca.gov/documents/bmd003a.pdf)

Order Establishing Fact of Death (Form VS-109) (https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS109.pdf)

Additional Forms (Optional)

Additional Page (MC-020) (https://www.courts.ca.gov/documents/mc020.pdf)



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Declaration (MC-030) (https://www.courts.ca.gov/documents/mc030.pdf)

Overview

- Fill out Order Establishing Fact of Birth (Form VS-108), Order Establishing Fact of Marriage (Form VS-122), or Order Establishing Fact of Death (Form VS-109), as appropriate.
- Gather documents and affidavits to prove the date and place of the birth, marriage, or death.
- File the appropriate *Petition* and *Declaration* in court along with the filing fee.
- Attend a court hearing, where you will present the court with a completed Form VS-108, VS-122, or VS-109 and your documents and affidavits.
- Mail a certified copy of the signed Order (the top half of VS-108, VS-122, or VS-109) and the new
 certificate (the bottom half of the VS form) to the California Office of Vital Records. The form will be
 processed in approximately three months.

Step-by-Step Instructions

1. Fill out the Vital Statistics form

Fill out the appropriate form from the California Department of Public Health:

- Court Order Delayed Registration of Birth (Form VS-108)
 (http://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS108.pdf)
- Court Ordered Delayed Certificate of Marriage (Form VS-122)
 (http://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS122.pdf)
- Order Establishing Fact of Death (Form VS-109)
 (http://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS109.pdf)

You can download the fillable form from the above links or pick up the form from the County Recorder's Office. You must type or write in black ink, with no eraser marks or corrections.

The Department of Public Health offers detailed packets on completing these <u>forms</u> (https://www.cdph.ca.gov/Programs/CHSI/Pages/Delayed-or-Court-Order-Delayed-Vital-Events.aspx).

2. Gather evidence to prove the event

Gather evidence that proves the date and place of the birth, marriage, or death. Ask marriage witnesses, physicians, or others with personal knowledge of the event to sign *Declarations* under penalty of perjury, using the Judicial Council form for <u>Declaration in Support of Petition to Establish Fact, Time, and Place of Birth (BMD-001A (http://www.courts.ca.gov/documents/bmd001a.pdf)), <u>Marriage (BMD-002A) (http://www.courts.ca.gov/documents/bmd002a.pdf)</u>, or <u>Death (BMD-003A) (http://www.courts.ca.gov/documents/bmd003a.pdf)</u></u>



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Types of evidence that may be useful include:

- A copy of the marriage license, or of the birth, marriage, or death certificate, if available.
- Declarations under penalty of perjury from witnesses, physicians, officiants (clergy or judge), and relatives or close family friends about the date and place of the event. Attach as many as you need. They can be typed or written on the standard form <u>Declaration (MC-030)</u>
 (http://www.courts.ca.gov/documents/mc030.pdf). Additional pages can be typed or written using <u>Additional Page (MC-020)</u>. (http://www.courts.ca.gov/documents/mc020.pdf)
- Evidence of entry in family bible, other family books or charts, or the like.
- Evidence of statement in church record concerning christening, marriage, or interment.
- For birth: request an age search from the <u>United States Census Bureau Age Search Service</u> (http://www.census.gov/topics/population/genealogy/agesearch.html).

3. Complete the necessary forms

The Judicial Council and Vital Records forms needed for these petitions are linked at the top of this page. Download the blank forms from these links or from the websites of the California Courts (http://www.courts.ca.gov/) and the California Department of Public Health. (https://www.cdph.ca.gov/Programs/CHSI/Pages/Delayed-or-Court-Order-Delayed-Vital-Events.aspx)

The *Petition* must include:

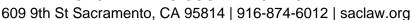
- The place and date of the birth, marriage, or death.
- How you will benefit from establishing the fact of the birth, marriage, or death.
- A statement signed by you under penalty of perjury to verify all of the information in your *Petition*.
- Declarations confirming the place and date of the birth, marriage, or death or a copy of the birth, marriage, or death certificate, if you have one.

Sample filled-in forms for the *Petition* and *Declaration* to establish marriage are attached to the end of this guide; the forms for establishing birth and death are almost identical.

4. File your documents

File the original and two copies of your *Petition to Establish Fact, Time, and Place* of birth, marriage, or death, as appropriate. (Keep a copy for yourself, as well.)

The *Petition* must be filed in the Superior Court in either the county of residence of the person whose birth, marriage, or death is being established, or in the county where the birth, marriage, or death took place. In Sacramento County, file it in the Probate Department at the Family Relations Courthouse, 3341 Power Inn Road, Sacramento, CA 95826.





There will be a filing fee for the *Petition*. As of January 2024, the fee is \$225. Current fees can be found on the <u>Sacramento County Court Fee Schedule (http://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf)</u>. If you are low income or receive government benefits, you may qualify for a fee waiver. See our Fee Waiver guide for more information: Fee Waivers (https://www.saclaw.org/resource_library/fee-waiver/).

When you file the *Petition*, the clerk will write a hearing date and time on your *Petition*. It will usually be between five and ten days after you file the *Petition*.

5. Attend the hearing

Attend the court hearing. **Bring the filled-out VS-108, VS-122, or VS-109,** along with any documents you have that support the date and place of the birth, marriage, or death. When the judge calls your case, walk to the counsel table and give the clerk your completed *Order* and documents. If satisfied, the judge will sign the *Order*.

Do you need to notify anyone of the hearing?

If you plan to use this order in another case, such as a probate or family law case, **research your situation or hire a lawyer** to determine if other parties need to be notified. The judge in the other case might not let you use the order if the parties didn't receive notice in time to object.

After the hearing, take the signed *Order* to the Probate Department and file it. While you are there, you should **purchase at least one extra, certified copy** of your *Order*.

6. Mail your court-approved forms to California Office of Vital Records

Mail in:

- 1. a certified copy of the *Order* (the top half of *VS-108*, *VS-122*, or *VS-109*);
- 2. the new certificate (the bottom half of VS-108, VS-122, or VS-109); and
- 3. a \$26 check or money order payable to CDPH Vital Records to:

California Office of Vital Records M.S. 5103 P.O. Box 997410 Sacramento, CA 95899-7410

For additional copies, add \$29 for a Birth Certificate, \$24 for a Death Certificate, or \$17 for a Marriage Certificate.

You can expect an acknowledgement postcard in about six to ten weeks. The entire processing time is about three months.

For Help

The Department of Public Health offers detailed packets on completing this process at <u>Delayed or Court Order Delayed Vital Events (https://www.cdph.ca.gov/Programs/CHSI/Pages/Delayed-or-Court-Order-Delayed-Vital-Events.aspx)</u>

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This information is not legal advice. Your case may need additional or different actions.



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. If you have questions after reading the applicable packet, call the Department of Public Health at (916) 557-6078 and leave your name, telephone number, and question. After the three-month processing time, you can call the Department of Public Health at (916) 445-2684 to check on your request.

For More Information

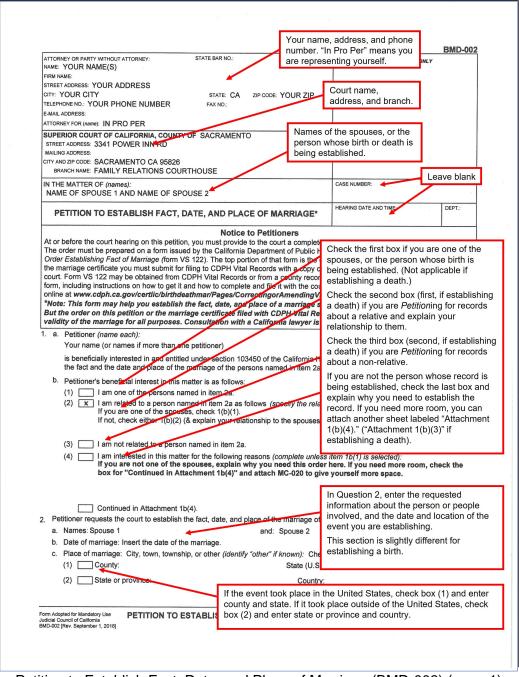
California Forms of Pleading and Practice, KFC 1010 .A65 C3 (Ready Reference)

- "Marriage," Chap. 359, Sections 114, 270-271
- "Birth and Death," Chap. 99.

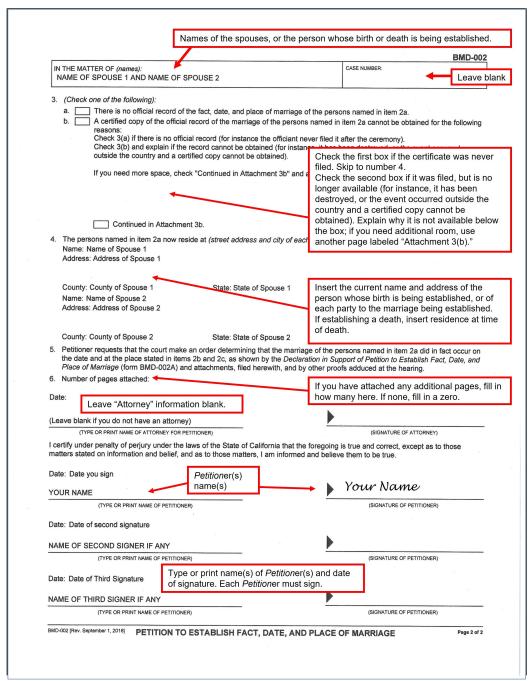
Electronic Access: On the Law Library's computers, using Lexis Advance.



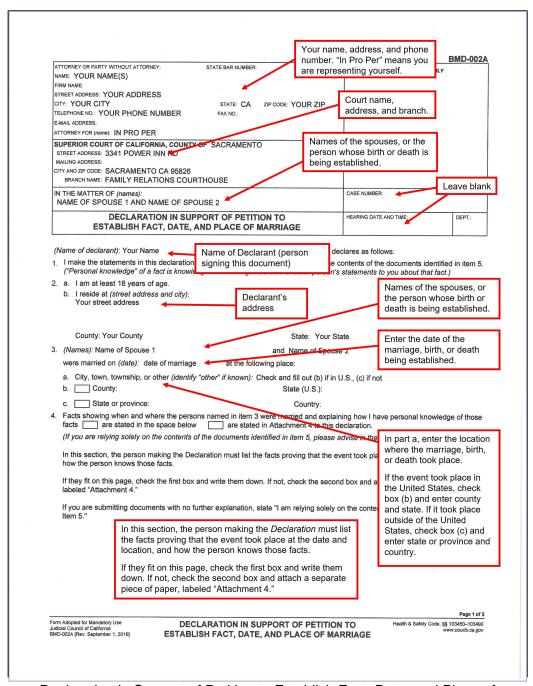
Samples



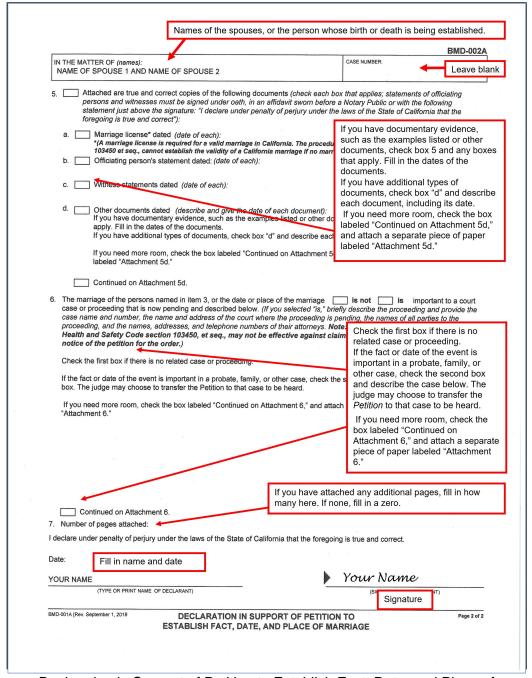
Petition to Establish Fact, Date, and Place of Marriage (BMD-002) (page 1)



Petition to Establish Fact, Date, and Place of Marriage (BMD-002) (page 2)



Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage (BMD-002A) (page 1)



Declaration in Support of Petition to Establish Fact, Date, and Place of More Samples Marriage (BMD-002A) (page 2)

In addition, the California Department of Public Heath offers

Sample filled-out VS-122 (Court Order Delayed Certificate of Marriage)
 (https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS122Sample.pdf)



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- Sample filled-out VS-108 (Court Ordered Delayed Registration of Birth https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS108Sample.pdf)
- Sample filled-out VS-109 (Court Ordered Delayed Registration of Death (https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS109Sample.pdf)