

DELAYED BIRTH, MARRIAGE, AND DEATH CERTIFICATES

Registering Vital Records after the Fact

This Guide includes instructions and sample forms. The Guide and related forms may be downloaded from: saclaw.org/delayed-cert

BACKGROUND

Births, marriages, and deaths are recorded by the Office of Vital Statistics, and evidenced by an official certificate. Occasionally, these certificates are not submitted promptly, 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.](#)) 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, visit the Department of Public Health's website at bit.ly/2JcK3lg.

Overview

1. 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.
2. Gather documents and affidavits to prove the date and place of the birth, marriage, or death.
3. File the appropriate *Petition* and *Declaration* in court along with the filing fee.
4. 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.
5. 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.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

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STEP-BY-STEP INSTRUCTIONS

Step 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)
www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS108.pdf
- *Court Ordered Delayed Certificate of Marriage* (Form VS-122)
www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/VS122.pdf
- *Order Establishing Fact of Death* (Form VS-109)
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 forms at <https://www.cdph.ca.gov/Programs/CHSI/Pages/Correcting-or-Amending-Vital-Records.aspx>.

Step 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 [Declaration in Support of Petition to Establish Fact, Time, and Place of Birth \(BMD-001A\)](#), [Marriage \(BMD-002A\)](#), or [Death \(BMD-003A\)](#).

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, 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 [Declaration \(MC-030\)](#). Additional pages can be typed or written using [Additional Page \(MC-020\)](#).
- 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 [United States Census Bureau Age Search Service](#).

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Step 3: Complete the necessary forms

The Judicial Council forms used in these procedures are:

Delayed Certificate of Death

- [Petition to Establish Fact, Date, and Place of Death](#) (Judicial Council Form BMD-003)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Death](#) (Judicial Council Form BMD-003A)

Delayed Certificate of Birth

- [Petition to Establish Fact, Date, and Place of Birth](#) (Judicial Council Form BMD-001)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Birth](#) (Judicial Council Form BMD-001A)

Delayed Certificate of Marriage

- [Petition to Establish Fact, Date, and Place of Marriage](#) (Judicial Council Form BMD-002)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage](#) (Judicial Council Form BMD-002A)

Download the blank forms from these links or from www.courts.ca.gov.

. 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.

Step 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.

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.

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There will be a filing fee for the *Petition*. As of July 2020, the fee is \$225. Current fees can be found on the [Sacramento County Court Fee Schedule](#). 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 \(saclaw.org/fee-waiver-guide\)](#).

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*.

Step 5: Attend the hearing

Attend the court hearing. **Bring the filled-out *Order* (the first half of 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*.

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*.

Step 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 \$20 check or money order to:

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

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 <https://www.cdph.ca.gov/Programs/CHSI/Pages/Correcting-or-Amending-Vital-Records.aspx>. 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.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING
OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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ATTACHMENTS: FORMS AND INSTRUCTIONS

Judicial Council forms

Delayed Certificate of Birth

- [Petition to Establish Fact, Date, and Place of Birth](#) (Judicial Council Form BMD-001)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Birth](#) (Judicial Council Form BMD-001A)

Delayed Certificate of Marriage

- [Petition to Establish Fact, Date, and Place of Marriage](#) (Judicial Council Form BMD-002)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage](#) (Judicial Council Form BMD-002A)

Delayed Certificate of Death

- [Petition to Establish Fact, Date, and Place of Death](#) (Judicial Council Form BMD-003)
- [Declaration in Support of Petition to Establish Fact, Date, and Place of Death](#) (Judicial Council Form BMD-003A)

You may also need:

- [Declaration \(MC-030\)](#).
- [Additional Page \(MC-020\)](#)

Download the blank forms from these links or www.courts.ca.gov.

Sample filled-in forms with instructions are available at the end of this Guide.

Bring to hearing:

The appropriate form from the California Department of Public Health:

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

You can download the fillable form from the above links, pick up the form from the County Recorder's Office, or order it from the California Department of Public Health (916-445-2684) or online at www.cdph.ca.gov/Programs/PSB/Pages/BirthDeathMarriageCertificates.aspx. 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 forms at Correcting or Amending Vital Records (<https://www.cdph.ca.gov/Programs/CHSI/Pages/Correcting-or-Amending-Vital-Records.aspx>).

BMD-002

ATTORNEY OR PARTY WITHOUT ATTORNEY: **STATE BAR** FOR COURT USE ONLY

NAME: YOUR NAME(S) Your name, address, and phone number. "In Pro Per" means you are representing yourself.

FIRM NAME:

STREET ADDRESS: YOUR ADDRESS

CITY: YOUR CITY STATE: CA ZIP CODE: YOUR ZIP

TELEPHONE NO.: YOUR PHONE NUMBER FAX NO.:

E-MAIL ADDRESS:

ATTORNEY FOR (name): IN PRO PER Court name, address, and branch.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

STREET ADDRESS: 3341 POWER INN RD Names of the spouses, or the person whose birth or death is being established.

MAILING ADDRESS:

CITY AND ZIP CODE: SACRAMENTO CA 95826

BRANCH NAME: FAMILY RELATIONS COU

IN THE MATTER OF (names): Leave blank

NAME OF SPOUSE 1 AND NAME OF SPOUSE 2

PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE* Leave blank

HEARING DATE AND TIME:

Notice to Petitioners

At or before the court hearing on this petition, you must provide to the court a completed (filed) *Order Establishing Fact of Marriage* (form VS 122). The top portion of that form is the court order and the marriage certificate you must submit for filing to CDPH Vital Records with a copy of the signed court. Form VS 122 may be obtained from CDPH Vital Records or from a county recorder or hearing officer. For more information, visit www.cdph.ca.gov/certific/birthdeathmar/Pages/CorrectingAmendingVitalRecords.aspx.

***Note: This form may help you establish the fact, date, and place of a marriage so you can file for a marriage certificate. But the order on this petition or the marriage certificate filed with CDPH Vital Records will not establish the validity of the marriage for all purposes. Consultation with a California lawyer is recommended.**

Check the first box if you are one of the spouses, or the person whose birth or death is being established. (Not applicable if establishing a death.)

Check the second box (first, if establishing a death) if you are *Petitioning* for records about a relative, and explain your relationship to them.

Check the third box (second, if establishing a death) if you are *Petitioning* for records about a non-relative.

If you are not the person whose record is being established, check the last box and explain why you need to establish the record. If you need more room, you can attach another sheet labeled "Attachment 1(b)(4)." ("Attachment 1(b)(3)" if establishing a death).

In Question 2, enter the requested information about the person or people involved, and the date and location of the event you are establishing.

This section is slightly different for establishing a birth.

1. a. **Petitioner (name each):**
Your name (or names if more than one petitioner) Your name, address, and phone number. "In Pro Per" means you are representing yourself.
is beneficially interested in and entitled under section 103450 of the California Health and Welfare Code to the fact and the date and place of the marriage of the persons named in item 2a.
- b. **Petitioner's beneficial interest in this matter is as follows:**
 - (1) I am one of the persons named in item 2a.
 - (2) I am related to a person named in item 2a as follows (specify the relationship). If you are one of the spouses, check 1(b)(1). If not, check either 1(b)(2) (& explain your relationship to the spouses) or 1(b)(3). Court name, address, and branch.
 - (3) I am not related to a person named in item 2a.
 - (4) I am interested in this matter for the following reasons (complete unless item 1(b)(4) is selected). Names of the spouses, or the person whose birth or death is being established.
If you are not one of the spouses, explain why you need this order here. Enter the requested information about the person or people involved, and the date and location of the event you are establishing. This section is slightly different for establishing a birth.

2. **Petitioner requests the court to establish the fact, date, and place of the marriage of:**
 - a. Names: Spouse 1 _____ and: Spouse 2 _____
 - b. Date of marriage: Insert the date of the marriage.
 - c. Place of marriage: City, town, township, or other (identify "other" if known): Check and fill out (1) if in U.S., (2) if not
 - (1) County: _____ State (U.S.): _____
 - (2) State or province: _____ Country: _____

If the event took place in the United States, check box (1) and enter county and state. If it took place outside of the United States, check box (2) and enter state or province and country.

Names of the spouses, or the person whose birth or death is being established.

IN THE MATTER OF (names): NAME OF SPOUSE 1 AND NAME OF SPOUSE 2	BMD-002 CASE NUMBER: Leave blank
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3. (Check one of the following):

- a. There is no official record of the fact, date, and place of marriage of the persons named in item 2a.
- b. A certified copy of the official record of the marriage of the persons named in item 2a cannot be obtained for the following reasons:
Check 3(a) if there is no official record (for instance the officiant never filed the record).
Check 3(b) and explain if the record cannot be obtained (for instance, the record occurred outside the country and a certified copy cannot be obtained).

If you need more space, check "Continued in Attachment 3b" and

Continued in Attachment 3b.

Check the first box if the certificate was never filed. Skip to number 4.

Check the second box if it was filed, but is no longer available (for instance, it has been destroyed, or the event occurred outside the country and a certified copy cannot be obtained). Explain why it is not available below the box; if you need additional room, use another page labeled "Attachment 3(b)."

4. The persons named in item 2a now reside at (street address and city of each)

Name: Name of Spouse 1
Address: Address of Spouse 1

County: County of Spouse 1

State: State of Spouse 1

Name: Name of Spouse 2
Address: Address of Spouse 2

County: County of Spouse 2

State: State of Spouse 2

Insert the current name and address of the person whose birth is being established, or of each party to the marriage being established.

If establishing a death, insert residence at time of death.

5. Petitioner requests that the court make an order determining that the marriage of the persons named in item 2a did in fact occur on the date and at the place stated in items 2b and 2c, as shown by the Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage (form BMD-002) at the hearing.

6. Number of pages attached:

If you have attached any additional pages, fill in how many here. If none, fill in a zero.

Date:

Leave "Attorney" information blank.

(Leave blank if you do not have an attorney)

(TYPE OR PRINT NAME OF ATTORNEY FOR PETITIONER)

(SIGNATURE OF ATTORNEY)

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except as to those matters stated on information and belief. If, based on that information and belief, I am informed and believe them to be true.

Date: Date you sign

Petitioner(s)
name(s)

YOUR NAME

(TYPE OR PRINT NAME OF PETITIONER)

▶ Gary Groom

(SIGNATURE OF PETITIONER)

Date: Date of second signature

NAME OF SECOND SIGNER IF ANY

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____
(SIGNATURE OF PETITIONER)

Date: Date of Third Signature

NAME OF THIRD SIGNER IF ANY

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____
(SIGNATURE OF PETITIONER)

Type or print name(s) of Petitioner(s) and date of signature. Each Petitioner must sign.

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BMD-002A

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: Your name, address, and phone number. "In Pro Per" means you are representing yourself.

NAME: YOUR NAME(S)
 FIRM NAME:
 STREET ADDRESS: YOUR ADDRESS
 CITY: YOUR CITY STATE: CA ZIP CODE: YOUR ZIP
 TELEPHONE NO.: YOUR PHONE NUMBER FAX NO.:
 E-MAIL ADDRESS:
 ATTORNEY FOR (name): IN PRO PER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
 STREET ADDRESS: 3341 POWER INN RD
 MAILING ADDRESS:
 CITY AND ZIP CODE: SACRAMENTO CA 95826
 BRANCH NAME: FAMILY RELATIONS COURTHOUSE Court name, address, and branch.

IN THE MATTER OF (names):
 NAME OF SPOUSE 1 AND NAME OF SPOUSE 2 Names of the spouses, or the person whose birth or death is being established.

DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE, BIRTH, OR DEATH

DATE AND TIME: DEPT:

Leave blank

Leave blank

(Name of declarant): Your Name Name of Declarant (person signing this document) declares as follows:

1. I make the statements in this declaration on my own knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is known to the declarant or from the person's statements to you about that fact.)

2. a. I am at least 18 years of age.
 b. I reside at (street address and city):
 Your street address Declarant's address

County: Your County State: Your State Names of the spouses, or the person whose birth or death is being established.

3. (Names): Name of Spouse 1 and Name of Spouse 2
 were married on (date): date of marriage at the following place:
 a. City, town, township, or other (identify "other" if known): Check and fill out (b) if in U.S., (c) if not in U.S.
 b. County: State (U.S.): Enter the date of the marriage, birth, or death being established.
 c. State or province: Country:

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

In this section, the person making the Declaration must list the facts proving that the event took place at the date and location, and how the person knows those facts.

If they fit on this page, check the first box and write them down. If not, check the second box and attach a separate piece of paper, labeled "Attachment 4."

If you are submitting documents with no further explanation, state "I am relying solely on the contents of the documents identified in Item 5."

In this section, the person making the Declaration must list the facts proving that the event took place at the date and location, and how the person knows those facts.

If they fit on this page, check the first box and write them down. If not, check the second box and attach a separate piece of paper, labeled "Attachment 4."

In part a, enter the location where the marriage, birth, or death took place.

If the event took place in the United States, check box (b) and enter county and state. If it took place outside of the United States, check box (c) and enter state or province and country.

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Names of the spouses, or the person whose birth or death is being established.

02A

IN THE MATTER OF (names): NAME OF SPOUSE 1 AND NAME OF SPOUSE 2	CASE NUMBER:
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Leave blank

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):

- a. Marriage license* dated (date of each):
*(A marriage license is required for a valid marriage in California. The procedure in California Code of Civil Procedure section 103450 et seq., cannot establish the validity of a California marriage if no marriage license is obtained.)
- b. Officiating person's statement dated: (date of each):
- c. Witness statements dated (date of each):
- d. Other documents dated (describe and give the date of each document):
If you have documentary evidence, such as the examples listed or other documents, check the boxes that apply. Fill in the dates of the documents.
If you have additional types of documents, check box "d" and describe each document.
If you need more room, check the box labeled "Continued on Attachment 5d."

If you have documentary evidence, such as the examples listed or other documents, check box 5 and any boxes that apply. Fill in the dates of the documents.

If you have additional types of documents, check box "d" and describe each document, including its date.

If you need more room, check the box labeled "Continued on Attachment 5d," and attach a separate piece of paper labeled "Attachment 5d."

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

Check the first box if there is no related case or proceeding.

If the fact or date of the event is important in a probate, family, or other case, check the second box. The judge may choose to transfer the Petition to that case to be heard.

If you need more room, check the box labeled "Continued on Attachment 6," and attach a separate piece of paper labeled "Attachment 6."

Check the first box if there is no related case or proceeding.

If the fact or date of the event is important in a probate, family, or other case, check the second box and describe the case below. The judge may choose to transfer the Petition to that case to be heard.

If you need more room, check the box labeled "Continued on Attachment 6," and attach a separate piece of paper labeled "Attachment 6."

Continued on Attachment 6.

7. Number of pages attached:

If you have attached any additional pages, fill in how many here. If none, fill in a zero.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

YOUR NAME

Fill in name and date

Gary Groom

(SIGNATURE OF DECLARANT)

Signature