



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 24, 2012

Title	Agenda Item Type
Vital Statistics Records: Delayed Certificates of Death, Birth, and Marriage	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms MC-360 and MC-360A; adopt forms MC-361, MC-361A, MC-362, and MC-362A	July 1, 2012
Recommended by	Date of Report
Probate and Mental Health Advisory Committee	December 12, 2011
Hon. Mitchell L. Beckloff, Chair	Contact
	Douglas C. Miller, (818) 558-4178, douglas.miller@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee recommends revising and converting from optional to mandatory the existing Judicial Council forms for a court determination of death leading to the creation of a delayed record of the event, and adopting new forms for court determinations of births and marriages. Revisions to the existing forms for a court determination of death will reflect changes in the agency of state government responsible for entry of delayed certificates of death. Adoption of new forms for court determinations of births and marriages will provide greater uniformity in these proceedings throughout the state and assist the large number of self-represented persons who seek this relief.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective July 1, 2012:

1. Revise and rename *Petition to Establish Record of Death* (form MC-360) and *Declaration in Support of Petition to Establish Record of Death* (form MC-360A) and convert these forms from optional to mandatory;
2. Adopt *Petition to Establish Fact, Time, and Place of Birth* (form MC-361) and *Declaration in Support of Petition to Establish Fact, Time, and Place of Birth* (form MC-361A) as mandatory forms; and
3. Adopt *Petition to Establish Fact, Date, and Place of Marriage* (form MC-362) and *Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage* (form MC-362A) as mandatory forms.

The proposed forms are attached at pages 10–21.

Previous Council Action

In October 2003, effective January 1, 2004, the Judicial Council approved the *Petition to Establish Record of Death* (form MC-360) and the *Declaration in Support of Petition to Establish Record of Death* (form MC-360A) as optional forms. These forms have not been revised since their approval.

Rationale for Recommendation

Health and Safety Code sections 103450–103490¹ authorize a court procedure to establish the fact, time, and place of a death, birth, or marriage for the purpose of creating a delayed official record of the event when no record was previously made or can be obtained. This procedure is commenced by filing a petition in the superior court leading to an order establishing the event, followed by delivery of a certificate based on the court order for recordation by the California Department of Public Health Vital Records (CDPH Vital Records).

Forms MC-360 and MC-360A

The two forms approved by the council in 2003 do not include a court order or a death certificate. These documents exist as forms prepared by CDPH Vital Records in a forms and information package designated as VS 109, which is available from that office or from county recorders or health departments. The court order and the certificate must be prepared on the forms prepared by CDPH Vital Records.

Events since 2003 require changes in the court forms approved by the council. In 2007, the vital statistics function of the former California Department of Health Services was transferred to the California Department of Public Health.² The Notice text box on page 1 of existing form MC-360 identifies the former department. More important, after this reorganization, the Internet

¹ Unless otherwise stated, all code references are to the Health and Safety Code.

² See §§ 131005(b), 131050(b), and 131051(c)(7).

address (URL) shown in the text box for the Office of Vital Records³ was changed, leaving the form with an inaccurate URL.

The advisory committee proposes revised forms MC-360 and MC-360A, including changing their names, respectively, to *Petition to Establish Fact, Time, and Place of Death* and *Declaration in Support of Petition to Establish Fact, Time, and Place of Death*. The new names more accurately reflect the function of the court petition and the court order, which establish the fact, time, and place of the event. The certificate filed with CDPH Vital Records, not the petition or the court order, establishes the record.

Caption boxes would also be added below the case number box at the top of page 1 of each form for a hearing date and time, and a court department. Some courts routinely set these matters for regular calendared hearings in conformity with the usual practice in probate proceedings even though no notice to third parties is required by the statute and section 103465 permits the hearing to be in chambers.

The following additional changes in form MC-360 are proposed:

- The Notice text box on page 1 of the form, retitled “Notice to Petitioners,” would be revised to identify the correct department and provide the current URL for CDPH Vital Records and to provide a more thorough explanation of the role that office plays in this proceeding. The text box would also be increased in size and more space added between the lines of text to make the instructions easier to read.
- The form would be increased from one to two sides of a single piece of paper.

The increase to two sides is made necessary by the enlarged text box, but the change also would permit more space for responses to items in the body of the form. The additional space should enable more complete responses to these items to be made without having to resort to additional attachment pages, thereby reducing the overall length of future filings.

- The form would provide for multiple petitioners, including signature lines for three petitioners.
- Item 1b, concerning the beneficial interest of petitioners, would be modified to identify petitioners who are and are not related to the person whose record of death is to be established.
- The possible place of death in item 2 would be expanded to include states of the United States other than California and locations in other countries.

Section 103450(a) provides for venue in the California county where the death, birth, or marriage is alleged to have occurred, or where the person whose birth or marriage is involved resides or

³ The former Office of Vital Records is now the California Department of Public Health Vital Records.

where the decedent was domiciled on the date of his or her death. Sections 103490(a) and (b) refer to deaths, births, or marriages that occurred outside California and provide for a different distribution of certificates for those events than is required for deaths, births, and marriage that took place in California. The latter provisions indicate that the procedure authorized by sections 103450–103490 was not intended to be limited to California births, deaths, or marriages, and that section 103450(a) is more than a venue provision. That section also establishes the necessary connections to California that permit the courts of this state to act. Those connections are (1) a California-situs event, or (2) the participant’s California residence (or domicile at death) when the petition is filed. So long as the participant resides, or was domiciled at death, in this state, a California court has jurisdiction over the matter regardless of where the death, birth, or marriage occurred.⁴

The following additional changes to the supporting declaration (form MC-360A) are proposed:

- The form would be increased from one to two sides of a single piece of paper to increase the space available to respond to items 4, 5, and 6 of the form without attachment pages.
- Item 6 of the form would be modified by eliminating the initial check box and replacing it with an affirmative statement that the requested death record either is or is not important to a pending court matter. Space for information about the collateral matter would also be provided, together with an invitation to state additional information on an attachment.

The initial check box and the lack of space for a response in the current form suggest that disclosure of collateral litigation is optional. This suggestion was not intended. These changes should eliminate responses that disregard item 6.

- The reference to “pending litigation” would be changed to “pending court case or proceeding.”

This change should increase disclosure of pending probate proceedings and other court matters that are often uncontested and thus possibly not considered “litigation” by unrepresented petitioners.

- A cautionary note would be added to the italicized instructions immediately following item 6, as follows:

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.

⁴ This interpretation of sections 103450 and 103490 was confirmed by a senior representative of CDPH Vital Records, who advised staff to this advisory committee that her office routinely records delayed certificates of deaths, births, and marriages under this procedure that are shown to have taken place outside California and outside the United States.

This note should encourage greater disclosure of collateral matters, and alert petitioners and courts to the possible limits of the ex parte proceeding when such matters are pending.

Item 6 asks whether there is pending litigation to which the requested establishment of a death event is important. This item was included in form MC-360A when it was approved by the council in 2003 and would be retained because the proceedings authorized by sections 103450–103490, including the petition to establish a death event, is ex parte; no notice to anyone is required by the statute. There is authority for the proposition that a court in collateral litigation where the fact, date, or place of an event established under these code sections is important may entirely disregard as without evidentiary weight an order establishing the event of which the other parties in the litigation were not given notice and an opportunity to be heard. See *Schmidt v. Retirement Board* (1995) 37 Cal.App.4th 1204 at pages 1210–1216, construing former Health and Safety Code section 10550, substantially identical to present section 103450.

Section 103475 provides that if the allegations of the petition are established to the court’s satisfaction at the hearing, the court *may* make an order determining that the death occurred on the date and at the place shown by the proof offered at the hearing. The court is not required to do so. In a case where related litigation involving parties not before the court may be impacted by an order entered under this procedure or the certificate recorded because of the order, the court may decline to make the order, consolidate the proceeding with the other litigation, or exercise its discretion to require notice and an opportunity for the other parties to that litigation to be heard before making its decision.

Change forms from optional to mandatory The advisory committee recommends that forms MC-360 and MC-360A be converted from optional to mandatory forms. These forms were proposed as optional in 2003 only because forms for birth and marriage records were not proposed at that time. Mandatory Judicial Council forms to establish the fact, place, and time of all three events would replace a common scenario in which the existing council forms concerning a death are either not supplemented by local forms for births and marriages or are supplemented by such forms that are, to some extent but with considerable variation, modeled after the council forms. A set of mandatory statewide court forms for all three events would provide greater uniformity throughout the state in the showing required to support orders establishing them. In addition, a full set of mandatory forms for the court portion of the procedure provided in sections 103450–103490 could be addressed in the detailed instructions for this procedure provided by CDPH Vital Records in its form packages, and tied to the distribution of those packages by that office.

The Invitation to Comment on this proposal asked for comments on whether the existing forms should remain optional or become mandatory forms, and whether the proposed new forms should be adopted as mandatory forms. Five of ten total commentators responded to these questions. Four of the five recommended that the revised forms be converted to mandatory forms and the new forms be adopted as mandatory forms.

Forms MC-361, MC-361A, MC-362, and MC-362A

The committee has been asked by judicial officers, representatives of court-connected self-help centers, and advocates for unrepresented litigants to develop and propose Judicial Council forms to establish delayed records of births and marriages. In response to these requests, the committee proposes the following forms as mandatory forms:

Forms MC-361 and MC-361A. The proposed new forms to establish a birth would be named *Petition to Establish Fact, Time, and Place of Birth* (form MC-361) and *Declaration in Support of Petition to Establish Fact, Time, and Place of Birth* (form MC-361A). The structure of these forms is the same as the revised forms for death events, forms MC-360 and MC-360A, except as necessary to reflect differences between death and birth records. These differences are as follows:

- The forms package for the court order and certificate from CDPH Vital Records is form VS-108 (see Notice to Petitioners text box, form MC-361, page 1);
- The person whose birth is involved may be a petitioner (see item 1b(1) on page 1 of form MC-361);
- The documents to be attached in support of the declaration in item 5 on page 2 of form MC-361A are different from the documents identified in item 5 of form MC-360A.
- An instruction is added at the beginning of item 5 on page 2 of form MC-361A concerning statements of witnesses (item 5c) that are to be attached to the completed form when it is filed. The statements are to be statements sworn to before a notary (affidavits) or declarations under penalty of perjury.

Forms MC-362 and MC-362A. The proposed new forms to establish a marriage event would be named *Petition to Establish Fact, Date, and Place of Marriage* (form MC-362) and *Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage* (form MC-362A). These forms are substantially identical to the forms to establish birth records except as noted below.

- The reference to the date rather than to the time of this event reflects the fact that the precise time of day a marriage occurred, whether at the conclusion of the marriage ceremony or when the marriage certificate is signed later is not precise, unlike the time of day when a birth or a death occurred. Moreover, although the fact and possibly the date of a marriage are important, the time of day it was completed is less so.⁵
- The forms package for the court order and certificate from CDPH Vital Records is form VS-122 (see Notice to Petitioners text box, form MC-362, page 1);
- Petitioners may include one or both of the parties to the marriage (see item 1b(1) on page 1 of form MC-362);

⁵ Item 2b of the petition, form MC-362; and item 3 of the supporting declaration, form MC-362A, request only the date of the marriage, not the time of day it was completed.

- Both parties to the marriage must be identified in item 2 and their current residence addresses provided in item 4 of form MC-362;
- The documents and witness statements to be attached to the supporting declaration and identified in item 5 of form MC-362A are appropriate to a marriage event, not a birth;
- The required provision of a marriage license in item 5 of form MC-362A presents a limitation on the use of this remedy to establish the fact of a marriage that is alleged to have taken place in California. That limitation is expressed in a note following item 5a on page 2 of the form, reading as follows:

(A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)

- An additional cautionary note emphasizing the uncertainty of reliance on a court order and a delayed certificate of marriage against claims that the marriage thus established is not valid has also been added to the Notice to Petitioner text box on page 1 of form MC-362. The note reads as follows:

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

The cautionary notes quoted above are supported by *Estate of De Passe* (2002) 97 Cal.App.4th 92. In that case, an interest in a large decedent's estate was at stake in a dispute between the decedent's executor, on behalf of charitable beneficiaries under her will, and a person who claimed an interest in the estate as the decedent's spouse. The claimant and the decedent had participated in a California marriage ceremony the day before her death, without having obtained a marriage license. Within six months after the ceremony and the decedent's death, the claimant filed—separately from the then-pending estate proceeding and without giving notice to any parties to that proceeding—an ex parte petition for an order establishing a marriage record under Health and Safety Code section 103450. The court signed the form order to establish the marriage. Shortly thereafter, the claimant filed a spousal property petition in which he claimed half of the estate as the decedent's spouse. Claimant argued that his and the decedent's failure to obtain a marriage license was cured by the court order and marriage certificate issued under section 103450.

The Court of Appeal first held that a marriage license was required for a valid marriage in this state. (See 97 Cal.App.4th at 102-103.) The court then concluded that the section 103450 procedure could not cure this defect. The court said, at 97 Cal.App.4th 105:

Proceedings to establish a record of marriage [under § 103450] differ from actions to establish the validity of marriage in two ways. First, the purpose of the

proceeding is to establish a record of the marriage, not its validity.
(§ 103450.) . . .

An ex parte order establishing the fact of marriage pursuant to section 103450 “is merely a statistical record acknowledging the late registration of marriage. It is not presumptive or conclusive proof of the fact of the marriage and has no evidentiary weight whatsoever.” (*Schmidt v. Retirement Board* . . . 37 Cal.App.4th at pp. 1210, 1215-1216 [interpreting former Health & Saf. Code, § 10550, the predecessor statute, which is virtually identical to § 103450].) “[T]he purpose of obtaining the order is to obtain a certificate to replace one which was never registered or to obtain a certified copy of the registration when the original records were lost or destroyed.” (*Schmidt*, at p. 1212.) Thus the procedure is designed to cure a failure to register the marriage, not the failure to obtain a license. [Claimant’s] reliance on the section 103450 procedure to cure the lack of a license is therefore misplaced.

Committee members who are judicial officers reported their experience in having to deny a number of petitions to establish California marriages under this procedure because no marriage license had been issued. These notes should alert courts to this issue and help potential petitioners, their advisors, and the courts, avoid the costs and wasted time and effort in the pursuit of a remedy that is unavailable under settled law.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for comment as part of the spring 2011 invitation-to-comment cycle. Ten individuals or organizations submitted comments. All commentators approved the proposal, seven without recommending modifications. Three commentators recommended changes. The most extensive and detailed suggestions came from the Superior Court of Los Angeles County. Its recommendations were almost entirely adopted by the advisory committee. Additional recommendations from the Superior Court of Riverside County have also been adopted.

Another recommendation from the Riverside court was not adopted. The court requested that a warning be added to the three supporting declarations (forms MC-360A, MC-361A, and MC-362A) that failure to disclose collateral court proceedings in response to item 6 is grounds for rejection of the petition. The committee declined to follow that recommendation because it is unsupported in the law. But in response to this request, the committee did add the note quoted at pages 4 and 5 above, advising that a court order establishing an event under Health and Safety Code section 103450 may not be conclusive against claims of persons not given notice of the petition for the order. This note should encourage more disclosure of collateral proceedings because it advises that failure to do so might jeopardize a major goal of the proceeding.

If no action is taken concerning existing forms MC-360 and MC-360A, these forms will continue to refer the public interested in the procedure to establish a delayed record of a death event to an obsolete URL for a unit in a governmental agency that no longer exists. If new statewide forms

to create delayed records of births and marriages are not adopted, the current situation will continue. That consists of a combination of the existing Judicial Council forms for death events with local forms with varying requirements for birth and marriage events (or in some courts, no forms at all for these events).

Implementation Requirements, Costs, and Operational Impacts

This proposal will incur production and distribution costs associated with the revision of any existing Judicial Council form and the adoption of new forms. To the extent that the proposed new forms replace local forms, however, costs to courts that produce those forms should be reduced. Improvements in the design, layout, and instructions to potential users of these forms should reduce the number of inappropriate filings and the severity of drafting errors or incomplete filings that cause delays or filing rejections. The overall costs incurred by courts in addressing these proceedings should be reduced.

These forms present an unusual combination of Judicial Council and local court forms combined with instructions and mandatory forms prepared and distributed by an agency in the executive branch. The existence of a complete set of Judicial Council mandatory forms for all three events covered by the statute should improve coordination of the court portion of this procedure with the operations of CDPH Vital Records

Relevant Strategic Plan Goals and Operational Plan Objectives

This proposal would support Goal III.B, Modernization of Management and Administration— Trial and Appellate Case Management, specifically operational plan objective III.B.5.a, because the revised and new forms would improve court practices and procedures in the proceedings to establish delayed records of deaths, births, and marriages governed by Health and Safety Code sections 103450–103490.

Attachments

1. Revised form MC-360, at pages 10–11
2. Revised form MC-360A, at pages 12–13
3. New form MC-361, at pages 14–15
4. New form MC-361A, at pages 16–17
5. New form MC-362, at pages 18–19
6. New form MC-362A, at pages 20-21
7. Chart of comments, at pages 22–30

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(Name):</i>	CASE NUMBER:
PETITION TO ESTABLISH FACT, TIME, AND PLACE OF DEATH	HEARING DATE AND TIME: _____ DEPT.: _____
Notice to Petitioners At or before the court hearing on this petition, you must provide to the court a completed (filled-in) order for the judicial officer to sign. The order must be prepared on a form issued by the California Department of Public Health Vital Records (CDPH Vital Records), the <i>Order Establishing Fact of Death</i> (form VS 109). The top portion of that form is the court order. The bottom portion of that form is the death certificate you must submit for filing to CDPH Vital Records with a copy of the signed order certified by the clerk of the court. Form VS 109 may be obtained from CDPH Vital Records or from a county recorder or health department. Information about the form, including instructions on how to get it and how to complete and file it with the court and with CDPH Vital Records, is available online at www.cdph.ca.gov/certlic/birthdeathmar/Pages/CorrectingorAmendingVitalRecords.aspx .	

1. a. Petitioner *(name each):*

is beneficially interested in and entitled under section 103450 of the California Health and Safety Code to an order establishing the fact and the time and place of the death of the person named in item 2a.

b. Petitioner's beneficial interest in this matter is as follows:

(1) I am related to the person named in item 2a as follows *(specify the relationships of all petitioners to that person):*

(2) I am not related to the person named in item 2a.

(3) I am interested in this matter for the following reasons *(complete in all cases):*

Continued in Attachment 1b(3).

2. Petitioner requests the court to establish the fact, time, and place of the death of the person named in item 2a.

a. Name:

b. Time of death *(date and time of day):* _____ a.m. p.m.

c. Place of death: City, town, township, or other *(identify "other" if known):*

(1) County: _____ State (U.S.): _____

(2) State or province: _____ Country: _____

IN THE MATTER OF (Name): _____	CASE NUMBER:
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3. (Check one of the following):

- a. There is no official record of the fact, time, and place of the death of the person named in item 2a.
- b. A certified copy of the official record of the death of the person named in item 2a cannot be obtained for the following reasons:

Continued in Attachment 3b.

4. The person named in item 2a resided at the time of death at (street address and city):

County:

State:

5. Petitioner requests that the court make an order determining that the death of the person named in item 2a did in fact occur on the time and at the place stated in items 2b and 2c, as shown by the *Declaration in Support of Petition to Establish Fact, Time, and Place of Death* (form MC-360A) and attachments, filed herewith, and by other proofs adduced at the hearing.

6. Number of pages attached: _____

Date:

(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, and as to those matters, I am informed and believe them to be true.

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. <i>(Optional):</i></p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(Name):</i>	CASE NUMBER:
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, TIME, AND PLACE OF DEATH	HEARING DATE AND TIME: DEPT.:

(Name of declarant): _____ declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
 ("Personal knowledge" of a fact is knowledge that is **not** gained from another 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):*

County: _____ State: _____

3. *(Name of deceased person):* _____ died at

approximately *(time):* a.m. p.m. on *(date):* _____ at the following place:

- a. City, town, township, or other *(identify "other" if known):*
- b. County: _____ State (U.S.): _____
- c. State or province: _____ Country: _____

4. Facts showing how, when, and where the person named in item 3 died 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 THE MATTER OF (Name): _____	CASE NUMBER: _____
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5. Attached are true and correct copies of the following documents (*check each box that applies*):
- a. Police report dated (*date of each*):
- b. Coroner's report dated (*date*):
- c. Private physician's report dated (*date of each*):
- d. Other documents dated (*describe and give the date of each document*):

Continued on Attachment 5d.

6. The death of the person named in item 3, or the date, time, or place of death **is not** **is** important to a court case or proceeding that is 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.*)

Continued on Attachment 6.

7. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(Name):</i>	CASE NUMBER:
PETITION TO ESTABLISH FACT, TIME, AND PLACE OF BIRTH	HEARING DATE AND TIME: _____ DEPT.: _____
Notice to Petitioners At or before the court hearing on this petition, you must provide to the court a completed (filled-in) order for the judicial officer to sign. The order must be prepared on a form issued by the California Department of Public Health Vital Records (CDPH Vital Records), the <i>Order Establishing Fact of Birth</i> (form VS 108). The top portion of that form is the court order. The bottom portion of that form is the birth certificate you must submit for filing to CDPH Vital Records with a copy of the signed order certified by the clerk of the court. Form VS 108 may be obtained from CDPH Vital Records or from a county recorder or health department. Information about the form, including instructions on how to get it and how to complete and file it with the court and with CDPH Vital Records, is available online at www.cdph.ca.gov/certlic/birthdeathmar/Pages/CorrectingorAmendingVitalRecords.aspx .	

1. a. Petitioner *(name each):*

is beneficially interested in and entitled under section 103450 of the California Health and Safety Code to an order establishing the fact and the time and place of the birth of the person named in item 2a.

b. Petitioner's beneficial interest in this matter is as follows:

- (1) I am the person named in item 2a.
- (2) I am related to the person named in item 2a as follows *(specify the relationships of all petitioners to that person):*

- (3) I am not related to the person named in item 2a.
- (4) I am interested in this matter for the following reasons *(complete unless item 1b(1) is selected):*

Continued in Attachment 1b(4).

2. Petitioner requests the court to establish the fact, time, and place of the birth of the person named in item 2a.

a. Name:

b. Father's Name:

Mother's Name:

c. Time of birth *(date and time of day):*

a.m. p.m.

d. Place of birth: City, town, township, or other *(identify "other" if known):*

(1) County:

State (U.S.):

(2) State or province:

Country:

IN THE MATTER OF (Name): _____	CASE NUMBER:
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3. (Check one of the following):

- a. There is no official record of the fact, time, and place of the birth of the person named in item 2a.
- b. A certified copy of the official record of the birth of the person named in item 2a cannot be obtained for the following reasons:

Continued in Attachment 3b.

4. The person named in item 2a now resides at (street address and city):

County:

State:

5. Petitioner requests that the court make an order determining that the birth of the person named in item 2a did in fact occur at the time and at the place stated in items 2c and 2d, as shown by the *Declaration in Support of Petition to Establish Fact, Time, and Place of Birth* (form MC-361A) and attachments, filed herewith, and by other proofs adduced at the hearing.

6. Number of pages attached: _____

Date:

(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, and as to those matters, I am informed and believe them to be true.

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

▶ _____

(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(Name):</i>	CASE NUMBER:
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, TIME, AND PLACE OF BIRTH	HEARING DATE AND TIME: _____ DEPT.: _____

(Name of declarant): _____ declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
("Personal knowledge" of a fact is knowledge that is not gained from another 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):* _____

County: _____ State: _____

3. *(Name):* _____ was born at
 approximately *(time of birth):* a. m. p. m. on *(date):* _____ at the following place:

- a. City, town, township, or other *(identify "other" if known):* _____
- b. County: _____ State (U.S.): _____
- c. State or province: _____ Country: _____

4. Facts showing when and where the person named in item 3 was born 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 THE MATTER OF (Name):	CASE NUMBER:
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5. Attached are true and correct copies of the following documents (check each box that applies; statements of 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. Hospital records dated (date of each):
 - b. Physician's report dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document; "Other documents" could include school or college records, vaccination certificates and other medical records, employment records, documents showing sources of support other than employment, family correspondence, diaries, photographs, and other similar family records):

Continued on Attachment 5d.

6. The birth of the person named in item 3, or the date, time, or place of birth 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.**)

Continued on Attachment 6.

7. Number of pages attached: _____

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

Date:

_____ (TYPE OR PRINT NAME OF DECLARANT)		_____ (SIGNATURE OF DECLARANT)
--	--	-----------------------------------

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. (Optional):</p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	<p><i>FOR COURT USE ONLY</i></p> <p>Draft</p> <p>Not Approved by the Judicial Council</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
IN THE MATTER OF <i>(Names):</i>	CASE NUMBER:
<p>PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE *</p>	HEARING DATE AND TIME: DEPT.:

Notice to Petitioners

At or before the court hearing on this petition, you must provide to the court a completed (filled-in) order for the judicial officer to sign. The order must be prepared on a form issued by the California Department of Public Health Vital Records (CDPH Vital Records), the *Order Establishing Fact of Marriage* (form VS 122). The top portion of that form is the court order. The bottom portion of that form is the marriage certificate you must submit for filing to CDPH Vital Records with a copy of the signed order certified by the clerk of the court. Form VS 122 may be obtained from CDPH Vital Records or from a county recorder or health department. Information about the form, including instructions on how to get it and how to complete and file it with the court and with CDPH Vital Records, is available online at www.cdph.ca.gov/certlic/birthdeathmar/Pages/CorrectingorAmendingVitalRecords.aspx.

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

1. a. Petitioner *(name each):*

is beneficially interested in and entitled under section 103450 of the California Health and Safety Code to an order establishing 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 relationships of all petitioners to that person):*

(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 1b(1) is selected):*

Continued in Attachment 1b(4).

2. Petitioner requests the court to establish the fact, date, and place of the marriage of:

a. Names: and:

b. Date of marriage:

c. Place of marriage: City, town, township, or other *(identify "other" if known):*

(1) County: State (U.S.):

(2) State or province: Country:

IN THE MATTER OF (Names):	CASE NUMBER:
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3. (Check one of the following):

- a. There is no official record of the fact, date, and place of the 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:

Continued in Attachment 3b.

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

County: State:
(Name):

County: State:

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 MC-362A) and attachments, filed herewith, and by other proofs adduced at the hearing.

6. Number of pages attached: _____

Date:

(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, and as to those matters, I am informed and believe them to be true.

Date:

(TYPE OR PRINT NAME OF PETITIONER) ▶ _____
(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER) ▶ _____
(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER) ▶ _____
(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 10%; margin-left: 0;"/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. <i>(Optional):</i></p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	FOR COURT USE ONLY Draft Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
IN THE MATTER OF <i>(Names):</i>	CASE NUMBER:
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE	HEARING DATE AND TIME: DEPT.:

(Name of declarant): _____ declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
*("Personal knowledge" of a fact is knowledge **not** gained from another 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):*

County:

State:

3. *(Names)*

and

were married on *(date):*

at the following place:

- a. City, town, township, or other *(identify "other" if known):*

b. County:

State (U.S.):

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 THE MATTER OF (Names): _____	CASE NUMBER:
--	----------------------

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 described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was 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):

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.**)

Continued on Attachment 6.

7. Number of pages attached: _____

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

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

SPR11-58**Delayed Certificates of Death, Birth, and Marriage** (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Patti Morua-Widdows Oxnard	A	The forms should be mandatory for consistency.	The advisory committee has decided to propose conversion of the existing forms (MC-360 and MC-360A) from optional to mandatory, and adoption of the new forms (MC-361, MC-361A, MC-362, and MC-362A) as mandatory forms.
2.	Executive Committee of the Trusts and Estates Section, State Bar of California (TEXCOM) by Barry K. Matulich and Saul Bercovitch San Francisco	A	The Executive Committee of the Trusts & Estates Section of the State Bar agrees with the proposed changes.	No response necessary.
3.	Orange County Bar Association by John Hueston, President Newport Beach	A	No specific comments made.	No response necessary.
4.	Superior Court of Los Angeles County Los Angeles	AM	<p>Comments concerning proposal SPR11-58:</p> <p>1. Comments: concerning all of the proposed pleadings:</p> <p style="padding-left: 40px;">A. Hearing date and time and department should be added to the captions of the proposed pleadings. Not all courts consider Petitions to Establish Fact, Time, and Place of Death, Birth and Marriage ex parte. Some courts set the petitions for hearing, as allowed under Health and Safety Code section 103465.</p> <p style="padding-left: 40px;">B. The petitions should allow for filing by multiple petitioners. For example, Petitions could provide: "Petitioner (name each)."</p>	<p>A. The committee supports this recommendation. The revised form petitions and declarations feature captions for the date, time, and assigned court department for a hearing, just beneath the case number caption.</p> <p>B. The committee supports this recommendation. The petitions (forms MC-360, MC-361, and MC-362) have been changed to ask</p>

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Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>C. Paragraph 6 of the Declarations in Support of the Petitions should not be limited to pending litigation. Information concerning all court proceedings that could be impacted by an order entered under this procedure should be provided. Types of non-litigated proceedings are uncontested probate proceedings, including those filed in decedent’s estates, trusts, etc.</p> <p>2. Comments: concerning Petitions and Declarations Re Petition to Establish Fact, Time and Place of Death, proposed forms MC-360 and MC-360A:</p> <p>A. Because many pro per litigants are filers and may not understand how to describe their beneficial interests, the language in paragraph 1 subsection b. of the Petition to Establish Fact, Time and Place of Death (form MC-360) could be simplified. Subparagraph b. could provide: “ ___ I am related to the decedent as follows: _____ (specify the relationships of all petitioners to the decedent) ___ I am not related to the decedent, however, I am interested in obtaining an order Establishing Fact, Time and Place of Death because: _____ _____”</p>	<p>for the names of all petitioners and to provide for signatures of up to three petitioners.</p> <p>C. This recommendation has been adopted by the committee. The term “litigation” has been replaced with “court case or proceeding” in all three supporting declarations (forms MC-360A, MC-361A, and MC-362A).</p> <p>A. The committee partially supports this recommendation. It has revised form MC-360 to call for a statement that the petitioner is or is not related to the person whose death is to be established, but the form continues to require a further statement of interest. A biological or family relationship may be important but not sufficient to show a beneficial interest. The form has also been modified to call for the statement of interest in item 1b(3) to begin in the space provided in the form in all cases, with an option given to conclude the statement in an attachment. That format is also employed in item 3b for the statement of reasons why the record cannot be obtained.</p>

SPR11-58

Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>3. Comments: concerning Petition and Declaration Re Petition to Establish Fact, Time, and Place of Birth, proposed forms MC-361 and MC-361A:</p> <p>A. Because many pro per litigants are filers and may not understand how to describe their beneficial interests, the language in paragraph 1 subsection b. of the Petition to Establish Fact, Time, and Place of Birth (proposed form MC-361) could be simplified. For example, subparagraph b. could provide:</p> <p>“ ___ I am the person for whose benefit the fact of birth is to be established. ___ I am the parent of the person for whose benefit the fact of birth is to be established.”</p> <p>B. Re the Declaration in Support of Petition to Establish Fact, Time, and Place of Birth (proposed form MC-361A):</p> <p>The following should be added to paragraph 5:</p> <p>1. Complete history of employment verification for any and all jobs, including dates, names of employers, addresses and telephones, paycheck</p>	<p>A. The committee partially supports this recommendation. Item 1b of form MC-361 has been modified to provide four options. The first applies if the petitioner is the person whose birth record is involved. The second is for relatives of that person. The third is for petitioners who are unrelated to that person. As in form MC-360, a further statement of interest is required for relatives and non-relatives. But no further statement of interest would be necessary for petitioners who are the person whose birth record is to be established. The form has also been modified to call for the statement of interest in item 1b(4) to begin in the space provided in the form in all cases, with an option given to conclude the statement in an attachment. That format is also employed in item 3b for the statement of reasons why the record cannot be obtained.</p> <p>The committee has revised item 5 of form MC-361A by deleting ambulance reports and including instructions in the “Other documents” item (item 5d) as follows: (“<i>Other documents</i>” could include <i>school or college records, vaccination certificates</i></p>

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Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>stubs.</p> <p>2. If not employed, evidence of how one has been supported</p> <p>3. Current and past medical information:</p> <p>a. Doctors' names</p> <p>b. Clinics attended</p> <p>c. Vaccination records</p> <p>4. Comments: concerning Petitions and Declaration re Petition to Establish Fact, Time and Place of Marriage, proposed form MC-362 and MC-362A:</p> <p style="padding-left: 40px;">A. Regarding paragraph 1 subsection b. of the Petition to Establish Fact, Time and Place of Marriage, proposed JC form MC-362: Because pro per litigants are filers and may not understand how to describe their beneficial interests, the language in paragraph 1 subsection b. of Petition to Establish Fact, Time and Place of Marriage, (proposed JC form #MC-362), could be simplified. For example, subsection b. could provide: ___ I am the spouse seeking to establish the fact of my marriage. ___ I am not the spouse for whose benefit the fact of marriage may</p>	<p><i>and other medical records, employment records, documents showing sources of support other than employment, family correspondence, diaries, photographs, and other similar family records)</i></p> <p style="padding-left: 40px;">A. The committee partially supports this recommendation. Item 1b of form MC-362 has been modified to provide four options. The first applies if the petitioner is one of the persons whose marriage record is involved. The second is for relatives of one of those persons. The third is for petitioners who are unrelated to either of those persons. As in forms MC-360 and MC-361, a further statement of interest is required for relatives and non-relatives. But no further statement of interest is necessary for a petitioner who is one of the persons whose marriage record is to be established. The form has also been modified to call for the statement of interest in</p>

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Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>be established, however, I am interested in obtaining an order Establishing Fact, Time and Place of Death because:</p> <hr/> <p>B. Regarding paragraph 5 of the Declaration in Support of Petition to Establish Fact, Time and Place of Marriage (proposed JC form #MC-362A):</p> <p>1. Subsections b. and c., re statements of person officiating and the witnesses, should not be included in this section. Separate declarations should be filed by these individuals in support of the Petition.</p> <p>Specific Comments: The proposed forms should be proposed for adoption as mandatory forms.</p>	<p>item 1b(4) to begin in the space provided in the form in all cases, with an option given to conclude the statement in an attachment. That format is also employed in item 3b for the statement of reasons why the record cannot be obtained.</p> <p>Item 5 of form MC-362A calls only for the dates of statements of persons officiating at and witnesses to the marriage ceremony, and statements to be stated in the form. The opening sentence of item 5 calls for these statements to be attached. However, the following instruction has been added to item 5: "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'."</p> <p>A similar instruction has been added to item 5 of form MC-361A. Form MC-360A does not call for the statements of witnesses, so this instruction has not been added to that form.</p> <p>The advisory committee has decided to propose conversion of the existing forms (MC-360 and MC-360A) from optional to mandatory, and</p>

SPR11-58

Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
				adoption of the new forms (MC-361, MC-361A, MC-362, and MC-362A) as mandatory forms.
5.	Superior Court of Monterey County by Minnie Monarque, Director, Civil & Family Law Division Monterey	A	Agree with proposed changes. Recommend mandatory use.	The advisory committee has decided to propose conversion of the existing forms (MC-360 and MC-360A) from optional to mandatory, and adoption of the new forms (MC-361, MC-361A, MC-362, and MC-362A) as mandatory forms.
6.	Superior Court of Riverside County Staff, by Michael Cappelli, General Counsel	AM	Item 6 of each of the Declarations (MC-360A, MC-361A and MC-362A) should contain a further sentence to the effect that failure to disclose pending litigation shall be grounds for the order’s being set aside and vacated. Add “□□□ am □ pm” at item 2c of the MC-361 (birth Petition), item 2b of the MC-362 (marriage Petition), item 3 of the MC-361A (birth Declaration), and Item 3 of the MC-362A (marriage Declaration). Correct the mismatch of information between the MC-361 and the MC-361A: the MC-361	The committee does not support this recommendation because there is no authority under law for the statement. However, a footnote to item 6 in all three supporting declarations (forms MC-360A, MC-361A, and MC-362A) has been added to advise that the fact, time (date in a marriage), or place of an event established by a court order under Health & Saf. Code, § 10340, et seq., may not be conclusively established against claims of persons not given notice of the petition for the order. This warning should encourage greater disclosure of pending court proceedings. The committee supports the requested changes for the petitions to establish birth and death records and their supporting declarations. But the time of day of a marriage is not important and cannot be determined with precision. The marriage forms (MC-362 and MC-362A) have been changed to refer to and inquire about only the date and place of the marriage. The city or town in the space for the place of death, birth, and marriage has been added to the

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Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>should contain city-of information at 2d, the MC-361A should contain gender information, father's-name information and mother's name information at 3, and 2 of the MC-361 and 3 of the MC-361A should show the information in the same sequence and format.</p> <p>Correct the mismatch of information between the MC-362 and the MC-362A: the MC-362 should contain city-of information, and 2 of the MC-362 and 3 of the MC-362A should show the information in the same sequence and format.</p> <p>All 6 forms should be adopted for mandatory use rather than approved for optional use.</p>	<p>petitions, to conform to the information requested in the supporting declarations. But the gender of the person born has been deleted from form MC-361. The statute provides only for the creation of a time-delayed record of the time and place of the birth, not a record of the gender of the person born.</p> <p>See previous paragraph.</p> <p>The advisory committee supports this recommendation. It has decided to propose conversion of the existing forms (MC-360 and MC-360A) from optional to mandatory, and adoption of the new forms (MC-361, MC-361A, MC-362, and MC-362A) as mandatory forms.</p>
7.	Superior Court of Sacramento County Sacramento	AM	<p>Forms should be optional.</p> <p>[Notice to Petitioners in the text box at the top of page 1 of forms MC-360, MC-361, and MC-362]:</p> <p>1. This is the first time a paragraph or sentence is indented. Suggest these paragraphs be</p>	<p>The advisory committee supports the many comments that favor mandatory form status for the new and revised forms.</p> <p>1. The committee supports retention of the indented paragraphs in the Notice to Petitioners</p>

SPR11-58

Delayed Certificates of Death, Birth, and Marriage (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>justified to the left</p> <p>2. Move the name of the form to the beginning of the sentence. Example: “The order must be prepared on a form <i>Order Establishing Fact of Death</i> (form VS 109) issued by . . .”</p> <p>[Text of supporting declarations, forms MC-360A, 361A, and MC-362A]</p> <p>1. ¶1: Delete “I make” from the beginning of item 1, which would begin the item with “The statements . . .”</p> <p>2. ¶1: rewrite the sentence concerning personal knowledge of a fact in the parentheses in item 1. Suggest: “Personal knowledge” of a fact is not something someone else told you.</p>	<p>text boxes in these forms, as an enhancement to the ease of reading the text.</p> <p>2. The committee believes that the current text provides greater clarity, particularly for unrepresented petitioners. The referenced text describes a two-part form issued by the California Department of Public Health Vital Records only one portion of which is the court order the successful petitioner must submit to the court,</p> <p>1. Starting item 1 with the declarant’s assertion that he or she is making the statements in the declaration is consistent with the rest of the items in the form, and personalizes the declaration.</p> <p>2. Instructing a layperson not to rely on facts obtained from hearsay sources is difficult, but is necessary to ensure that evidence submitted in the declaration is reliable, admissible, and would sufficient to support the court’s order at the ex parte hearing authorized in most cases under the statute (See Health & Saf. Code, §§ 103465, 103466.) The committee believes the current text more accurately than the suggested language does this, as “knowledge of a fact” cannot logically be “something someone else told you.” But the committee has changed the sentence in all three declaration forms to read: “(‘<i>Personal knowledge</i>’ of a fact is knowledge that is not gained from</p>

SPR11-58**Delayed Certificates of Death, Birth, and Marriage** (revise forms MC-360 and MC-360A; approve forms MC-361, MC-361A, MC-362, and MC-362A)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
				<i>another person's statements to you about that fact.)</i> " No change in meaning is intended, but this statement is an improvement grammatically.
8.	Superior Court of San Diego County by Michael M. Roddy, Executive Officer San Diego	A.	No specific comment.	No response required.
9.	Superior Court of Shasta County by Janelle Vargo, Court Services Supervisor, and Cindy Crabtree, CSA IV Redding	A	Making the revised and new forms mandatory would limit the time necessary for the clerk to explain the process to the public. If the forms were mandatory, the clerk would just need to provide the appropriate forms on request.	The advisory committee supports this recommendation. It has decided to propose conversion of the existing forms (MC-360 and MC-360A) from optional to mandatory, and adoption of the new forms (MC-361, MC-361A, MC-362, and MC-362A) as mandatory forms.
10.	Hon. David P. Warner Judge of the Superior Court, County of San Joaquin Stockton	A	No specific comment.	No response required.