



Office of the Court Executive
Superior Court of the State of California
County of Kings

JEFFREY E. LEWIS
Clerk of Court
and
Jury Commissioner

DELAYED BIRTH, MARRIAGE, AND DEATH CERTIFICATES

Registering Vital Records after the Fact

Disclaimer: This guide is intended as general information only. Your case may have factors that are requiring different procedures or forms. If you need further assistance, consult a lawyer.

CONTENTS

This packet includes:

- Step-by-Step Instructions
- Sample Petition to Establish Fact of Marriage (MC-362)
- Sample Declaration in Support of Petition to Establish Fact of Marriage (MC-362A)

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. (Cal. Health and Safety Code § 103450-103490) The party must first file a court petition to establish the fact of birth, marriage, or death, and then submit Form VS-108 (birth), Form VS-122 (marriage), or Form VA-109 (death) 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 addressed all of the three situations. Use these links to download whichever set fits your situation:

Delayed Certificate of Death

- Petition to Establish Fact, Date, and Place of Death (Judicial Council Form MC-360) <http://www.courts.ca.gov/documents/mc360.pdf>
- Declaration in Support of Petition to Establish Fact, Date, and Place of Death (Judicial Council Form MC-360A) <http://www.courts.ca.gov/documents/mc360a.pdf>

Delayed Certificate of Birth

- Petition to Establish Fact, Date, and Place of Birth (Judicial Council Form MC-361) <http://www.courts.ca.gov/documents/mc361.pdf>
- Declaration in Support of Petition to Establish Fact, Date, and Place of Birth (Judicial Council Form MC-361A) <http://www.courts.ca.gov/documents/mc361a.pdf>

Delayed Certificate of Marriage

- Petition to Establish Fact, Date, and Place of Marriage (Judicial Council Form MC-362) <http://www.courts.ca.gov/documents/mc362.pdf>
- Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage (Judicial Council Form MC-362A) <http://www.courts.ca.gov/documents/mc362a.pdf>

PROCEDURE

Overview

1. Fill out Form VS-108 (birth), Form VS-122 (marriage), or Form VS-109 (death), 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 and the bottom half of Form VS-108, VS-122, or VS-109, to the California Office of Vital Records. The form will be processed in approximately three months.

Step-by-Step Instructions

Step 1. Fill out Form VS-108 (birth), Form VS-122 (marriage), or Form VS-109 (death). The Department of Public Health offers detailed packets on completing these forms at <http://www.cdph.ca.gov/certlic/birthdeathmar/Pages/default.aspx>

You must use an original form from the California Department of Public Health; it cannot be photocopied or downloaded. The bottom portion will become the new certificate. Pick up the form from the county recorder's office, or order it from the California Department of Public Health (916-445-2684).

Step 2. 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 Judicial Council Form MC-360A (death), MC-361A (birth), and MC-362A (marriage).

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 witness, physicians, officiants, and relatives or close family friends about the date and place of the event.
- 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 <http://www.census.gov/topics/population/genealogy.html>

Step 3. File original and two copies of a 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 submitted on Judicial Council form MC-360 (death), MC-361 (birth) or MC-362 (marriage), along with a declaration or declarations on Judicial Council Form MC-360A, MC-361A, or MC-362A as appropriate. Samples of a Petition and Declaration to establish marriage are attached to the end of this guide; the forms for establishing birth and death are almost identical.

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.

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.

There will be a filing fee for the Petition. Currently the fee is \$225.00. Current fees can be found at

<http://www.kings.courts.ca.gov/feesforms/DOCS/Civil%20Fee%20Schedule%20Effective%20January%202014%20Revised%201.6.14.pdf>

When you file the Petition, the clerk will write a hearing date and time on your petition.

Step 4. Attend the court hearing. Bring the filed-out Order (the top 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.

Step 5. Mail in (1) a certified copy of the order, (2) 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 acknowledgment postcard in about 6-10 weeks. The entire processing time is about (3) months.

FOR HELP

The Department of Public Health offers detailed packets on completing this process at <http://www.cdph.ca.gov/certlic/birthdeathmar/Pages/default.aspx>. If you have questions after reading the applicable packet, call the Department of Public Health at (916) 557-6078.