

Meeting Date: Friday, May 1, 2020

Time: 2:03 p.m. 2:53 p.m.

Location: Conference Call

Special Discussion: Executive Order N-58-20 Remote Marriages

**MINUTES**

2019/2020 County Clerk Legislative Committee Members

|  |  |  |  |
| --- | --- | --- | --- |
| Candace Grubbs, Butte | X | Joani Finwall/Melissa Garcia, San Bernardino | T/T |
| Elizabeth Gutierrez, Contra Costa | T | Val Wood, San Diego | T |
| Brandon Hill, Fresno | T | Teresa Williamson, San Joaquin | T |
| Chuck Storey/Victoria Wong, Imperial | X/X | Joe Holland/Danielle Rifilato/Melinda Greene, Santa Barbara | X/X/T |
| Kammi Foote, Inyo | X | Gina Alcomendras/Louis Chiaramonte/Belinda Gamutan, Santa Clara | T/T/X |
| Portia Sanders/Monique Blakely/Jaime Pailma, Los Angeles | T/T/X | Deva Proto/Carrie Anderson/Amanda King, Sonoma | T/T/T |
| Erik Karhu, Riverside | T | David Valenzuela/Sheila Jetton, Ventura | X/T |
| Donna Allred/Andrew Graham, Sacramento | T/T |  |  |

(**T –** Teleconference; **X** – Not on call)

1. **Call to Order**

Meeting convened at 2:03 p.m.

|  |  |  |
| --- | --- | --- |
| ***County*** | ***Plan to License via Video Conf?*** | ***Ceremonies via Video Conf?*** |
| Alameda | Yes | Yes |
| Alpine | Not in Attendance | -- |
| Amador | Not in Attendance | -- |
| Butte | No | No |
| Calaveras | Not in Attendance | -- |
| Colusa | Undecided | Undecided |
| Contra Costa | Yes | Yes |
| Del Norte | Undecided | Undecided |
| El Dorado | No | No |
| Fresno | Undecided | Undecided |
| Glenn | No | No |
| Humboldt | Yes | Yes |
| Imperial | Not in Attendance | -- |
| Inyo | Undecided | Undecided |
| Kern | Yes | No |
| Kings | Not in Attendance | -- |
| Lake | Undecided | Undecided |
| Lassen | Undecided | Undecided |
| Los Angeles | Undecided | Undecided |
| Madera | Undecided | Undecided |
| Marin | Undecided | Undecided |
| Mariposa | Not in Attendance | -- |
| Mendocino | Yes | Yes |
| Merced | No | No |
| Modoc | Not in Attendance | -- |
| Mono | Yes | Yes |
| Monterey | Yes | No |
| Napa | No | No |
| Nevada | Not in Attendance | -- |
| Orange | Yes | Yes |
| Placer | Undecided | Undecided |
| Plumas | No | No |
| Riverside | Yes | Yes |
| Sacramento | No | No |
| San Benito | Not in Attendance | -- |
| San Bernardino | Yes | Yes |
| San Diego | No | No |
| San Francisco | Yes | Yes |
| San Joaquin | No | No |
| San Luis Obispo | Yes | Yes |
| San Mateo | Undecided | Undecided |
| Santa Barbara | Yes | Yes |
| Santa Clara | Yes | Yes |
| Santa Cruz | No | No |
| Shasta | Undecided | Undecided |
| Sierra | Not in Attendance | -- |
| Siskiyou | No | No |
| Solano | Yes | Yes |
| Sonoma | Undecided | Undecided |
| Stanislaus | No | No |
| Sutter | No | No |
| Tehama | Not in Attendance | -- |
| Trinity | Undecided | Undecided |
| Tulare | Undecided | Undecided |
| Tuolumne | Not in Attendance | -- |
| Ventura | No | No |
| Yolo | Yes | Yes |
| Yuba | Not in Attendance | -- |

|  |  |  |
| --- | --- | --- |
| ***Totals*** | *Licensing* | *Ceremonies* |
| Yes | 16 | 14 |
| No | 14 | 16 |
| Undecided | 15 | 15 |

1. **Remote Marriage Executive Order and Affidavit Update – Matt Siverling**

Executive Order was delivered to Gov. Gavin Newsom on Monday, April 27. Received the Executive Order signed by Gov. Newsom on Thursday, April 30. This conference call will examine the order and explain the differences of what was submitted to the Governor’s Office and what is included in the signed order. Since there are some missing key issues, Matt will follow up with the appropriate staff in the Governor’s Office.

1. **The County Clerk Legislative Committee has noted the following of the Executive Order:**

“1) Notwithstanding Family Code section 359 or section 426, or any other provision of law, adult applicants1 to be married may, in the discretion of the county clerk,2 be permitted to appear before a county clerk to obtain a marriage license via videoconference, rather than in person, if all of the following requirements are met:3”

1. Limited to adults
2. Permissive – issuing licenses is at the discretion of the county clerk
3. All three requirements must be met (requirements a, b, and c of paragraph 1 of the order – a and b listed below)

“a) Both applicants are physically present within the State of California, and present such proof of this fact (which may include, but need not be limited to, oral attestation) as the county clerk may require;1”

1. County Clerk may require proof be presented. While it suggests oral attestation, it is not required. Counties can require a signed affidavit, but the request must be reasonable.

“b) The videoconference includes both live video and live audio;1 and”

1. There is no requirement to retain the video and audio files.

“A marriage license issued using the procedure set forth in this Paragraph 1 may be transmitted1 to the applicants via e-mail or other electronic means.”

1. How the license is sent to the couple is permissive, allowing County Clerk to transmit the marriage license via email or other electronic means. Counties can also send the license via US mail.
2. Counties can also issue confidential marriage licenses in the same manner. In the instances which parties are unable to appear, such as inmates or hospital patients, it is up to the discretion of the County Clerk to determine if they will accept the document.
3. It allows marriage ceremonies to occur via video conference for any and all valid marriage licenses, including licenses not completed via video conferencing. Counties can limit acceptance of video conference marriage ceremonies to licenses issued via video conference.
4. The question was asked if a generic email is available to be sent out to applicants. The order does not give guidance regarding how each county should proceed if they wish to participate in remote licensing and/or marriage ceremonies.
5. Officiant is responsible to verify that the ceremony is visible and audible to the witness and officiant. Though the order does not require the parties to be in the same location, however it is up to the discretion of each County Clerk’s decision.

Before the solemnization of a marriage pursuant to this Paragraph 3, one or both of the parties to be married shall transmit the marriage license via e-mail or other electronic means1 to the person solemnizing the marriage and to any necessary witnesses.

1. Requires transmission of the marriage license by email or other electronic means to the officiant and witness(es), regardless of whether the document has been mailed via United States Postal Service. There was discussion that there are vendors that have services available to keep the document in an electronic format.

Neither the person solemnizing the marriage nor any necessary witnesses need be physically present within the State of California during the solemnization1 of a marriage pursuant to this Order.

1. Officiant and/or witnesses are not required to be in California.

5) Notwithstanding any other provision of law, whenever any provision of law (including, but not limited to, Family Code sections 422–423 or section 506) requires the entry of a signature or other information upon a marriage license or certificate (or any other document required in connection with the act of marriage), a photocopy, scan, or other electronic reproduction of that signature or other information shall have the same legal effect as an original signature, and any legible copy of the marriage license or certificate (or other applicable document) transmitted via e-mail or other electronic means shall have the same legal effect as the original.

1. Allows photocopy, scan, or other electronic reproduction of the signatures required by FAM 422 – 423, and FAM 506 if the marriage license is legible. Additional documents associated with the license, including amendments, can be electronically reproduced.

6) Nothing in this Order shall in any way alter the grounds for denial of a marriage license set forth in Family Code section 352.1 Nothing in this Order shall in any way restrict the authority of a county clerk to examine the applicants for a marriage license on oath or to require additional documentary proof as set forth in Family Code section 354.2 Any procedures related to such examination and proof (including, but not limited, to the reduction of the examination to writing and related signatures) may—but need not—be completed via e-mail or otherwise electronically, in the discretion of the county clerk.

1. a. County Clerk can still deny issuing the license based on FAM 352.

b. County Clerk is allowed to “examine the applicants,” can examine the applicants “on oath,” or require additional documentation (i.e., dissolution paperwork).

1. Allows for County Clerk to complete this via email or other electronic means, but does not require it to be done electronically.

7) The provisions of this Executive Order shall expire 60 days after issuance,1 unless further extended by future Executive Order.

1. Though the order is scheduled to expire on June 29, 2020, the Governor may extend the order due to the conditions of the pandemic.

Additional questions:

Q: Would a picture of the photograph be acceptable as a declaration?

A: The existing language is unclear as to whether something like a photograph would be acceptable.

Q: There was a question/discussion regarding Docusign.

A: Santa Clara County currently has Docusign and is exploring workflow options. San Bernardino is looking at a vendor named Signex that has similar functionality, they are willing to share information with anyone that wants more information.

Q: Do proxy marriages fall under this order?

A: No.

Q: Is anyone currently doing or planning to do inability to appear?

A: There are no counties currently doing or planning to do inability to appear through this process.

Q: Can counties charge fees for the additional services?

A: Fees must be approved by counties’ respective Boards.

1. **For the Good of the Order**

Val will email the poll results to all counties regarding whether counties are planning to issue marriage licenses via video conferencing and/or conducting marriage ceremonies via video conferencing.

1. **Adjourned**

Meeting ended at 2:53 p.m.