

## Frequently Asked Questions on Executive Order N-58-20

This Executive Order allows videoconferencing with audio and video to take the place of appearing in person for the issuance of marriage licenses and marriage ceremonies. The order also allows signatures to be placed on the license by electronic means, including scanning and e-mailing.

### Recommended Registration Procedure

- When a marriage license is issued electronically, the county clerk should transmit the original license to the county recorder.
- When the officiant submits electronic facsimile signatures on copies of the marriage license to the recorder, on the original license the recorder should type “/s/” and the name of the person signing in the signature fields followed by “(per EO N-58-20).”
- The recorder will then register and apply the Local Registration Number (LRN) to the original marriage certificate.
- The recorder shall then transmit the registered certificate to the State Registrar per the normal procedure.
- If all the required signatures are contained on a single electronic document, such as those created using DocuSign, the local registrar of marriages may print, register and record that document.
- The State Registrar shall register the original marriage certificate and scan it into the electronic archive. The county clerk and/or recorder should retain any physical or electronic records related to marriages registered under this Executive Order.

### Frequently Asked Questions

1. Can counties extend the expiration date of the unused licenses that are currently in circulation?

The Executive Order does not address licenses already in circulation.

If counties are considering waiving fees to reissue expired licenses, they should consult with county counsel.

#### Related Questions

- a. Can couples issued a marriage license in Alameda County in March 2020 and then were unable to have the ceremony prior to COVID-19 guidelines for self-quarantine be married virtually online by a wedding officiant?

If a license is not expired, a video marriage ceremony can be held.

b. Can couples issued a marriage license in February 2020 who planned to marry in March but were unable to due to COVID-19 guidelines for self-quarantine and now have an expired license, have the license expiration date extended?

If the license is expired, couples should contact the county regarding their policies for reissuing marriage licenses. New licenses may be issued via video conference in accordance with the Executive Order.

2. Can marriage license fees be refunded for licenses that are not used due to the pandemic response?

Government Code 26840 states that the fees for a marriage license are intended to cover the costs of issuing the license and makes no provision for the return of fees for unused licenses. The Governor's Executive Order also does not provide for the return of fees for unused licenses.

If counties are considering waiving fees to reissue expired licenses, they should consult with their county counsel.

3. Can counties require an affidavit for Section 1a of the Executive Order to be recorded with the license?

The Executive Order does not specify as to what proof is required to establish that both parties to the marriage are in California when requesting a marriage license. As part of the affidavit on the marriage license, the parties sign under penalty of perjury that "no legal objection to the marriage nor the issuance of the license is known to us." If the issuing clerk makes clear that the couple must be in California for the license to be issued legally, and the couple signs the affidavit, the clerk may refer the matter to the district attorney if it is later found the couple was not in California. The method and date of verification can be noted in the "Official Use Only" box on the back of the original license.

4. For Section 1b of the Executive Order, can local jurisdictions encourage county clerks to require that the parties to the marriage be in the same room during the video chat?

Because the Executive Order states that counties "may" issue licenses using videoconferencing, it is up to the individual counties to develop their own procedures in consultation with their county counsel.

5. For Section 1 of the Executive Order, can local jurisdictions encourage county clerks to continue to mail out hard copy marriage licenses?

The California Department of Public Health (CDPH) recommends that the original marriage license be transmitted from the county clerk to the county recorder where the original license will be used to create the official marriage certificate from the compiled electronic signatures (see registration procedure above).

6. For those licenses that are already issued and will be conducted via video marriage, how do counties know that, so their office can accept the email or scanned copy? Should there be another affidavit for that? Or, are counties accepting emailed, scanned copies for everything during the duration of this order?

As the Executive Order does not limit videoconference solemnization to just those parties who received licenses by videoconference, county recorders should accept any marriage license submitted with electronic facsimile signatures so long as the ceremony took place while the Executive Order was in effect. For these marriages, CDPH recommends that the recorder request the original license be physically mailed to the recorder along with printed copies of all the electronic signatures.

7. In Box 28B (City/Town of Marriage) and 28C (County of Marriage) of the marriage license, does the officiant enter the location of the couple? Does the couple have to be in the same physical location?

Yes, because the couple is required to be in California, their location is considered the place where the marriage was solemnized. As the Executive Order does not specifically waive the requirement that the couple must be in each other's physical presence for the ceremony, CDPH recommends that counties require couples to be in the same location within California for the solemnization.

#### **Related Question**

Do the parties to the marriage have to be in the same location for the marriage solemnization?

As the Executive Order is very specific in stating that the officiant and witnesses do not have to be in California but is silent on the location of the couple, CDPH recommends that both parties to the marriage should be in each other's physical presence within the State of California. The location of the couple should be recorded as the location of the marriage.

8. Will affidavits/amendments and duplicates be done via email/scanned image as well during the duration of this order?

Section 5 of the Executive Order states that electronic signatures “shall” be accepted on “any other document required in connection with the act of marriage.”

9. Are marriages an essential service?

The executive orders consider essential those workers and functions “consistent with Continuity of Operations Plans and Continuity of Government plans.”

10. Will the State Registrar reject records for issues related to PDF such as spacing and size?

No. The Executive Order states “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.” CDPH will accept any facsimile of the original certificate so long as the form is complete, all items are legible, and all the information thereupon is acceptable.

11. Is DocuSign acceptable for marriage signatures?

The Executive Order requires that any “electronic reproduction” be accepted. Counties should accept all electronically collected signatures, including, but not limited to, those collected using DocuSign.

When using DocuSign, CDPH recommends that the counties draw the signature areas on the form in such a way as to allow both the header (“DocuSigned by:”) and footer (ID #) of the electronic signature be visible within the signature area on the license/certificate.

When using an electronic signature application, the service should be configured so that no logos are added to the marriage certificate, no printed text on the certificate is obscured, and the space for the State File Number is not obstructed.

12. If counties receive a marriage license for a marriage solemnized by video conference and there are multiple copies of the license (parties, officiant, and witness signatures on different copies) do counties accept all pages? Will the State Registrar accept all pages?

If the recorder is in possession of the original marriage license, CDPH recommends the recorder type the names of the signing parties on to the original in a manner similar to the way they prepare duplicate licenses. This will create a single-page document that can be registered and issued. The registered certificate should be transmitted to the State Registrar, and the counties should

preserve any physical or electronic documents related to any marriage registered under the Executive Order.

13. Does CDPH suggest counties not implement remote marriages until CDPH issues guidance?

The Executive Order took effect when it was signed on April 30, 2020. Counties should consult with county counsel as to any questions regarding implementation.

14. To be safe, should counties print and send everything back and forth for signatures by postal mail?

The Executive Order specifically allows the signatures to be transmitted by e-mail or other electronic means. Counties should accept licenses and certificates that comply with the Executive Order, and should not create additional requirements.

15. How should the video marriage and electronic signatures be noted on the marriage certificate?

Counties may use the "Official Use Only" box on the back to denote how the marriage license was issued, how the signatures were gathered and how the ceremony was conducted.

16. Would CDPH be willing to participate in a task force with county officials on video marriages and other emergency procedures?

CDPH is always willing to work collaboratively with county officials. The quarterly Vision Meetings have proven to be a very effective forum for sharing ideas. If the need arises, we could discuss convening an emergency Vision Meeting.

17. If the parties to the marriage hold a valid California marriage license, do both parties need to be in California for the marriage ceremony?

County Registrars and the State Registrar can only record vital record events that occur in the State of California. Events that take place outside of California need to be registered in the jurisdiction where they occurred. For the purposes of marriage by video conference, the location of the couple at the time of solemnization is the location of the marriage as recorded in fields 28B and 28C of the marriage certificate.

18. Can counties choose not to implement the provisions of this Executive Order?

Because Section 1 of the Executive Order states “adult applicants to be married may, in the discretion of the county clerk, be permitted to appear before a county clerk to obtain a marriage license via videoconference, rather than in person,” the provision for issuing marriage licenses remotely is optional.

Sections 3 and 4 of the Executive Order state that marriage ceremonies “may” be held by video conference. This decision is left to the couple and their officiant. County recorders should accept any properly completed marriage license for a marriage solemnized by video conference. However, nothing in the Executive Order requires counties to perform civil marriage ceremonies by video conference if they choose to not do so.

Section 5 of the Executive Order says that electronic signatures “shall” have the same effect as ink signatures for marriage documents. County officials should accept any document related to marriage that is submitted with electronic signatures, including multiple copies of the document to collect multiple electronic signatures.

19. Can the procedures set forth in the Executive Order be used to issue a License and Certificate of Declaration of Marriage?

Yes, counties “may” issue a License and Certificate of Declaration of Marriage via video conference in the same way that they would issue a public license. A License and Certificate of Declaration of Marriage that is returned with one or more electronic signatures “shall” be accepted for registration.

20. How should counties handle documents and electronic files related to video marriages and electronic signatures?

CDPH recommends that county officials keep all records (including those kept by an electronic authentication service) that are generated in relation to this Executive Order. The records should be preserved so that any questions about the validity of the marriage can be easily resolved.