

reason, subject to receiving the requested clarifications below, John does not believe a hearing will be necessary to determine if the State Defendants remain in contempt of the Court's previous orders.

However, John expresses two concerns with the proposed policies. First, the proposed revisions for Birth and Death Certificates are limited to same-sex couples that were legally married "in Texas or another state." *See* Ex. A, Tex. Dep't of State Health Services, Revised Policies and Procedures Vital Records Requests from Married Same-Sex Couples (providing that birth and death certificates will issue to same-sex couples "legally married in Texas or another state"). The policy is ambiguous as to whether same-sex couples that were legally married outside of the United States will have the same right to a death or birth certificate as would a heterosexual couple married outside the United States. This ambiguity would be resolved if the State defendants will confirm in writing that "another state" includes foreign states. John believes that the provisions should apply to same-sex couples that were "legally married," without limitation to the jurisdiction where they were legally married.

Second, John remains concerned with the Department of State Health Services' process for amending a decedent's aliases ("AKA's") on the death certificate. John is unaware of any published guidelines regarding the documentation necessary to amend a decedent's aliases. John would like the State Defendants to confirm that the survivor of a same-sex marriage will encounter no greater burden to amend a decedent-spouse's alias to add his or her adopted alias than would the decedent-spouse of a legally married heterosexual. In other words, the survivor of a same-sex marriage should be able to establish an alias with documentary support short of a state driver's license, social security card, or U.S. passport in the decedent's alias—all of which were freely available to a spouse in an opposite-sex marriage without the need for securing a

legal name change in state court. Because the State of Texas denied recognition of same-sex marriages for many years, same-sex couples could not secure such documents in their married name absent a court order.

If the State Defendants will satisfactorily address John's remaining concerns, John agrees that the Court need not conduct a hearing on September 10, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 26, 2015, I served all parties a copy of the foregoing document via the Court's ECF service.

By: /s/ Daniel McNeel Lane, Jr.
Daniel McNeel Lane, Jr.

EXHIBIT A



**REVISED POLICIES AND PROCEDURES
VITAL RECORDS REQUESTS FROM MARRIED SAME-SEX COUPLES**

Birth Certificates:

Birth certificates will be processed, to same sex-couples to whom a child was born in Texas when one spouse is the birth mother, if the parents were legally married in Texas or another state at the time of the child's birth, and provide standard documentation required for birth certificate issuance.

Birth certificate amendments will be processed, upon request, for same-sex couples to whom a child was born in Texas when one spouse is the birth mother, if the parents were legally married prior to the birth of their child. Standard documentation, including verification of marriage, will be required. An informal marriage may be documented for purposes of amending a vital record by a properly filed informal marriage declaration or a court order establishing an informal marriage.

This does not include adoptions or gestational agreements (surrogate birth), which are referenced below.

Death Certificates:

Death certificates will be processed and issued/amended to include the name of a decedent's same-sex surviving spouse, when the death occurred in Texas on or after June 26, 2015 for same-sex couples that were legally married in Texas or another state, at the time of the decedent's death. Documentation must be provided to this effect, along with other standard documentation required for issuance/amendment of a death certificate.

For decedents who died in Texas prior to June 26, 2015, an amendment to the death certificate, as requested, will be processed recognizing any legal, same-sex marriage at the time of death, for same-sex marriages that occurred in another state prior to June 26, 2015, to list the surviving spouse and the decedent's status as "married." Documentation must be provided to this effect, along with other standard documentation required for an amendment to a death certificate.

An informal marriage may be documented for purposes of amending a vital record by a properly filed informal marriage declaration or a court order adjudicating an informal marriage has been established.

Adoptions:

For any adoption ordered on or after June 26, 2015, supplementary birth certificates for children born in Texas will be issued/amended for the adopted child to include same-sex couples whose names are listed on the court order or formal certificate of adoption as the adoptive parents. Documentation must be provided to this effect, along with other standard documentation required for issuance/amendment of a supplementary birth certificate for an adoption.

For adoptions ordered prior to June 26, 2015, amendments to supplementary birth certificates previously issued, will be processed and issued, as requested, to list the names of both persons of the same-sex couple if both are named as parents in the court ordered adoption. Documentation must be provided to this effect, along with other standard documentation required for issuance of an amendment to a supplementary birth certificate for an adoption.

Gestational Agreements (Surrogacy):

Birth certificates will be processed and issued/amended for any births occurring in Texas, for which persons that are a same-sex couple are legally authorized to be the intended parents of the child as



**REVISED POLICIES AND PROCEDURES
VITAL RECORDS REQUESTS FROM MARRIED SAME-SEX COUPLES**

authorized by Texas Family Code, ch. 160, subchapter I. Documentation must be provided to this effect, along with other standard documentation required for issuance/amendment of records for these vital events.

Burial Permits and Disinterment:

These forms remain unchanged and will continue to be processed as received.

Divorce and other Vital Events/Records not listed above:

Any additional requests that are received that are not listed above and involve the recording of vital events through vital records will be reviewed and processed to ensure compliance with *Obergefell* and *DeLeon*.