

ASSEMBLY BILL NO. 262—COMMITTEE ON JUDICIARY

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning the issuance of marriage licenses. (BDR 11-961)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to marriage; allowing certain married persons to remarry each other; revising the age for which consent of a parent, guardian or court is required to be married; revising provisions governing the documentation a person is required to present to obtain a marriage license; providing for the collection of additional fees relating to a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides that a person cannot marry another person if he or she
- 2 has a wife or husband living. (NRS 122.020) **Section 1** of this bill provides that if a
- 3 male and female are the husband and wife of each other, they may be rejoined in
- 4 marriage.
- 5 Existing law provides that if a person is at least 16 years of age but less than 18
- 6 years of age, that person cannot marry without the consent of a parent or legal
- 7 guardian. If a person is less than 16 years of age, the person must also have the
- 8 authorization of a district court. (NRS 122.020, 122.025) **Sections 1 and 2** of this
- 9 bill provide that a person at least 15 years of age but less than 18 years of age may
- 10 marry with the consent of a parent or guardian, and that additional district court
- 11 authorization is necessary for a person less than 15 years of age.
- 12 **Section 3** of this bill provides that in the application for a marriage license: (1)
- 13 proof of an applicant's name and age is discretionary; (2) any secondary document
- 14 showing the applicant's name and age with a birth certificate will be accepted; (3)
- 15 if the applicant appears over 18 years of age, documented proof of age is not
- 16 required; (4) an applicant cannot be denied a marriage license for failure to provide
- 17 his social security number if he does not know it; (5) a parent giving consent to a
- 18 minor to marry can prove his relationship with the minor using the minor's birth
- 19 certificate; and (6) if an applicant meets the requirements of the statute, the county
- 20 clerk must issue him a marriage license. (NRS 122.040)



* A B 2 6 2 *

Section 4 of this bill increases the additional fee collected by the commissioner of civil marriages or his deputy when solemnizing a marriage from \$5 to \$20 for the Account for Aid for Victims of Domestic Violence in the State General Fund and adds a \$10 fee to be placed in the State General Fund. (NRS 122.181)

Section 5 of this bill provides that the county clerk shall collect, if authorized by the board of county commissioners, an additional fee of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. (NRS 246.180)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ *Except as otherwise provided in this section,* a male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. *A male and a female person who are the husband and wife of each other may be rejoined in marriage.*

3. A person at least ~~H6~~ 15 years of age but less than 18 years of age may marry only if he has the consent of:

- (a) Either parent; or
- (b) His legal guardian.

Sec. 2. NRS 122.025 is hereby amended to read as follows:

122.025 1. A person less than ~~H6~~ 15 years of age may marry only if he has the consent of:

- (a) Either parent; or
- (b) Such person's legal guardian,

➔ and such person also obtains authorization from a district court as provided in subsection 2.

2. In extraordinary circumstances, a district court may authorize the marriage of a person less than ~~H6~~ 15 years of age if the court finds that:

- (a) The marriage will serve the best interests of such person; and
- (b) Such person has the consent required by paragraph (a) or (b) of subsection 1.

➔ Pregnancy alone does not establish that the best interests of such person will be served by marriage, nor may pregnancy be required by a court as a condition necessary for its authorization for the marriage of such person.

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this



subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Before issuing a marriage license, the county clerk ~~shall~~ *may* require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~a~~ *any* secondary ~~form of identification~~ *document* that contains the name of the applicant. If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~the county clerk determines~~ provides ~~proof of~~ the applicant's name and age. *If the applicant clearly appears over the age of 18 years, no documentation of proof of age is required.*

3. Except as otherwise provided in subsection 4, the county clerk issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~shall~~ *may* require each applicant to include the



1 applicant's social security number on the affidavit of application for
2 the marriage license. If a person does not have a social security
3 number, the person must state that fact. The county clerk shall not
4 require any evidence to verify a social security number. If any of the
5 information required is unknown to the person, the person must state
6 that the answer is unknown. *The county clerk shall not deny a*
7 *license to an applicant for stating that an answer is unknown.*

8 4. Upon finding that extraordinary circumstances exist which
9 result in only one applicant being able to appear before the county
10 clerk, the county clerk may waive the requirements of subsection 3
11 with respect to the person who is unable to appear before the county
12 clerk, or may refer the applicant to the district court. If the applicant
13 is referred to the district court, the district court may waive the
14 requirements of subsection 3 with respect to the person who is
15 unable to appear before the county clerk. If the district court waives
16 the requirements of subsection 3, the district court shall notify the
17 county clerk in writing. If the county clerk or the district court
18 waives the requirements of subsection 3, the county clerk shall
19 require the applicant who is able to appear before the county clerk
20 to:

21 (a) Answer under oath each of the questions contained in the
22 form of license. The applicant shall answer any questions with
23 reference to the other person named in the license.

24 (b) Include the applicant's social security number and the social
25 security number of the other person named in the license on the
26 affidavit of application for the marriage license. If either person
27 does not have a social security number, the person responding to the
28 question must state that fact. The county clerk shall not require any
29 evidence to verify a social security number.

30 ➤ If any of the information required on the application is unknown
31 to the person responding to the question, the person must state that
32 the answer is unknown. *The county clerk shall not deny a license*
33 *to an applicant for stating that an answer is unknown.*

34 5. If any of the persons intending to marry are under age and
35 have not been previously married, and if the authorization of a
36 district court is not required, the clerk shall issue the license if the
37 consent of the parent or guardian is:

38 (a) Personally given before the clerk;

39 (b) Certified under the hand of the parent or guardian, attested
40 by two witnesses, one of whom must appear before the clerk and
41 make oath that he saw the parent or guardian subscribe his name to
42 the annexed certificate, or heard him or her acknowledge it; or

43 (c) In writing, subscribed to and acknowledged before a person
44 authorized by law to administer oaths. A facsimile of the



1 acknowledged writing must be accepted if the original is not
2 available.

3 6. *If a parent giving consent to the marriage of a minor*
4 *pursuant to subsection 5 has a last name different from that of the*
5 *minor seeking to be married, the county clerk shall accept, as*
6 *proof that the parent is the legal parent of the minor, a certified*
7 *copy of the birth certificate of the minor which shows the parent's*
8 *first and middle name and which matches the first and middle*
9 *name of the parent on any document listed in subsection 2 or on a*
10 *notarized statement of consent by the parent.*

11 7. If the authorization of a district court is required, the county
12 clerk shall issue the license if that authorization is given to him in
13 writing.

14 ~~7-1~~ 8. *The county clerk shall issue a marriage license to*
15 *each applicant who fulfills the requirements set forth in this*
16 *section.*

17 9. All records pertaining to marriage licenses are public records
18 and open to inspection pursuant to the provisions of NRS 239.010.

19 ~~8-1~~ 10. A marriage license issued on or after July 1, 1987,
20 expires 1 year after its date of issuance.

21 **Sec. 4.** NRS 122.181 is hereby amended to read as follows:

22 122.181 1. The commissioner of civil marriages or his deputy
23 commissioner of civil marriages is entitled to receive as his fee for
24 solemnizing a marriage \$45. The fee must be deposited in the
25 county general fund.

26 2. The commissioner of civil marriages or his deputy
27 commissioner of civil marriages shall also at the time of
28 solemnizing a marriage collect the additional sum of ~~15~~ \$20 for
29 the Account for Aid for Victims of Domestic Violence in the State
30 General Fund. The fees collected for this purpose must be paid over
31 to the county treasurer by the county clerk on or before the fifth day
32 of each month for the preceding calendar month, and must be
33 credited to that Account. The county treasurer shall, on or before the
34 15th day of each month, remit those fees deposited by the clerk to
35 the State Controller for credit to that Account.

36 3. *The commissioner of civil marriages or his deputy*
37 *commissioner of civil marriages shall also at the time of*
38 *solemnizing a marriage collect the additional sum of \$10. The fees*
39 *collected must be paid over to the county treasurer by the county*
40 *clerk on or before the fifth day of each month for the preceding*
41 *calendar month, and must be placed to the credit of the State*
42 *General Fund. The county treasurer shall, on or before the 15th*
43 *day of each month, remit those fees deposited by the county clerk*
44 *to the State Controller for credit to the State General Fund.*



Sec. 5. NRS 246.180 is hereby amended to read as follows:

246.180 1. If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, the county clerk shall charge and collect the following fees:

(a) For filing any certificate of marriage, \$10.

(b) For copying any certificate of marriage, \$1 per page.

(c) For a certified copy of a certificate of marriage, \$10.

(d) For a certified abstract of a certificate of marriage, \$10.

(e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.

2. In addition to the fees described in subsection 1, a county clerk may charge and collect an additional fee not to exceed \$3 for filing a certificate of marriage, if the board of county commissioners has adopted an ordinance authorizing the additional fee. The county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to NRS 246.190.

3. A county clerk shall charge and collect the fees specified in this section for copying a document specified in this section at the request of the State of Nevada or any city or town within the county. For copying, and for his certificate and seal upon the copy, the county clerk shall charge the regular fee.

4. Except as otherwise provided in an ordinance adopted pursuant to NRS 244.207, county clerks shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees related to filing certificates of marriage collected during the preceding month.

5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.

Sec. 6. This act becomes effective on July 1, 2009.

