

ASSEMBLY BILL NO. 262—COMMITTEE ON JUDICIARY

MARCH 9, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning marriage.
(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 provisions governing the documentation a person is required to present to obtain a marriage license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other and the record of their marriage has been lost or destroyed or is otherwise unobtainable, they may be rejoined in marriage. **Section 5.47** of this bill provides that, if a husband and wife are rejoined in marriage, the marriage certificate issued to the couple must state that the marriage certificate is replacing a record of marriage that has been lost or destroyed or is otherwise unavailable.

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age may be evidenced by a birth certificate and either any secondary document that contains the applicant's name and a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; (2) if the applicant appears over 25 years of age, documented proof of age is not required; (3) an applicant cannot be denied a marriage license for stating that he does not have a social security number or stating that an answer to a question on the application is unknown; and (4) a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate. (NRS 122.040)



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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 1.1.** (Deleted by amendment.)
3 **Sec. 1.2.** (Deleted by amendment.)
4 **Sec. 1.3.** (Deleted by amendment.)
5 **Sec. 1.4.** (Deleted by amendment.)
6 **Sec. 1.5.** (Deleted by amendment.)
7 **Sec. 1.6.** (Deleted by amendment.)
8 **Sec. 1.7.** (Deleted by amendment.)
9 **Sec. 1.8.** (Deleted by amendment.)
10 **Sec. 1.9.** NRS 122.020 is hereby amended to read as follows:
11 122.020 1. ~~[A]~~ *Except as otherwise provided in this section,*
12 *a male and a female person, at least 18 years of age, not nearer of*
13 *kin than second cousins or cousins of the half blood, and not having*
14 *a husband or wife living, may be joined in marriage.*
15 2. *A male and a female person who are the husband and wife*
16 *of each other may be rejoined in marriage if the record of their*
17 *marriage has been lost or destroyed or is otherwise unobtainable.*
18 3. A person at least 16 years of age but less than 18 years of
19 age may marry only if he has the consent of:
20 (a) Either parent; or
21 (b) His legal guardian.
22 **Sec. 2.** (Deleted by amendment.)
23 **Sec. 3.** NRS 122.040 is hereby amended to read as follows:
24 122.040 1. Before persons may be joined in marriage, a
25 license must be obtained for that purpose from the county clerk of
26 any county in the State. Except as otherwise provided in this
27 subsection, the license must be issued at the county seat of that
28 county. The board of county commissioners:
29 (a) In a county whose population is 400,000 or more:
30 (1) Shall designate one branch office of the county clerk at
31 which marriage licenses may be issued and shall establish and
32 maintain the designated branch office in an incorporated city whose
33 population is 150,000 or more but less than 300,000; and
34 (2) May, in addition to the branch office described in
35 subparagraph (1), at the request of the county clerk, designate not
36 more than four branch offices of the county clerk at which marriage
37 licenses may be issued, if the designated branch offices are located
38 outside of the county seat.
39 (b) In a county whose population is less than 400,000 may, at
40 the request of the county clerk, designate one branch office of the
41 county clerk at which marriage licenses may be issued, if the



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designated branch office is established in a county office building which is located outside of the county seat.

2. ~~{Before}~~ *Except as otherwise provided in this section, before* issuing a marriage license, the county clerk shall 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}~~ :

(1) Any secondary ~~{form of identification}~~ document that contains the name and a photograph of the applicant { } ; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

↪ 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 25 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 , *except as otherwise provided in this subsection,* require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. *The county clerk shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the applicant's parents is unknown.*



4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

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

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

➔ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. *The county clerk shall not deny a license to an applicant who states that he does not have a social security number or who states that any requested information concerning the parents of either the person who is responding to the question or the person who is unable to appear is unknown.*

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

(a) Personally given before the clerk;

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

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. *If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk shall accept, as*



proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

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

~~17.1~~ 8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~18.1~~ 9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.1. (Deleted by amendment.)

Sec. 5.2. (Deleted by amendment.)

Sec. 5.3. (Deleted by amendment.)

Sec. 5.35. NRS 122.061 is hereby amended to read as follows:

122.061 1. In any county whose population is 100,000 or more, the main office of the county clerk where marriage licenses may be issued must be open to the public for the purpose of issuing such licenses from 8 a.m. to 12 ~~p.m.~~ a.m. every day including holidays, and may remain open at other times. The board of county commissioners shall determine the hours during which a branch office of the county clerk where marriage licenses may be issued must remain open to the public.

2. In all other counties, the board of county commissioners shall determine the hours during which the offices where marriage licenses may be issued must remain open to the public.

Sec. 5.4. (Deleted by amendment.)

Sec. 5.43. (Deleted by amendment.)

Sec. 5.47. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. *If a male and female person who are the husband and wife of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the male and female person were rejoined in marriage and that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable.* The certificate of marriage must be in substantially the following form:





- 1 The signature of the person performing the marriage must be an
- 2 original signature.
- 3 **Sec. 5.5.** (Deleted by amendment.)
- 4 **Sec. 5.6.** (Deleted by amendment.)
- 5 **Sec. 6.** This act becomes effective on July 1, 2009.

