

SENATE BILL NO. 381—SENATOR MANENDO

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning the issuance of marriage licenses. (BDR 11-227)

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; revising provisions concerning the issuance of marriage licenses; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before two people may be joined in marriage, they must obtain a marriage license from the county clerk of any county in the State. (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners in each county whose population is less than 700,000 (currently all counties other than Clark County) and in which a commercial wedding chapel has been in business for 5 years or more to: (1) ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. Any such program that is established must authorize a commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing a completed registration form with the county clerk, along with a performance bond in the amount of \$50,000.

Section 8.5 also requires a commercial wedding chapel to refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license, and provides that the persons to whom a commercial wedding chapel issues a marriage license may only be joined in marriage in the county in which the marriage license is issued. **Section 8.5** further provides that a commercial wedding chapel that violates any provision relating to the issuance of marriage licenses is guilty of a misdemeanor.



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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8.5, inclusive, of this act.

Sec. 2. *“Commercial wedding chapel” means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.*

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 8.5. 1. *In each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, the board of county commissioners shall:*

(a) Ensure that an office where marriage licenses may be issued is open to the public for the purpose of issuing such licenses from 8 a.m. to 12 a.m. every day, including holidays; or

(b) Provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for 5 years or more is authorized to issue marriage licenses to qualified applicants during the hours when an office where marriage licenses may be issued pursuant to paragraph (a) is not open to the public.

2. *Except as otherwise provided in subsection 3, a program established pursuant to paragraph (b) of subsection 1 must authorize each commercial wedding chapel that has been in business in the county for 5 years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of \$50,000. The performance bond must be conditioned upon the faithful performance of all statutory duties related to the issuance of marriage licenses and compliance with the provisions of chapter 603A of NRS that ensure the security of personal information submitted by applicants for a marriage license.*

3. *A commercial wedding chapel shall refer any application for a marriage license that includes the signature of a guardian for a minor applicant to the county clerk for review and issuance of the marriage license.*



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1 4. The county clerk of the county in which a commercial
2 wedding chapel that issues marriage licenses pursuant to this
3 section is located shall provide to the commercial wedding chapel,
4 without charge, any materials necessary for the commercial
5 wedding chapel to issue marriage licenses. The number of
6 marriage licenses that the commercial wedding chapel may issue
7 must not be limited.

8 5. A commercial wedding chapel that issues marriage
9 licenses pursuant to this section shall comply with all statutory
10 provisions governing the issuance of marriage licenses in the
11 same manner as the county clerk is required to comply, and shall:

12 (a) File the original application for a marriage license with the
13 county clerk on the first available business day after completion of
14 the application;

15 (b) Collect from an applicant for a marriage license all fees
16 required by law to be collected; and

17 (c) Remit all fees collected to the county clerk, in the manner
18 required by the standard of practice adopted by the county clerk.

19 6. The records of a commercial wedding chapel that issues
20 marriage licenses pursuant to this section which pertain to the
21 issuance of a marriage license are public records and must be
22 made available for public inspection at reasonable times. Such a
23 commercial wedding chapel shall comply with the provisions of
24 chapter 603A of NRS in the same manner as all other data
25 collectors to ensure the security of all personal information
26 submitted by applicants for a marriage license.

27 7. The persons to whom a commercial wedding chapel issues
28 a marriage license may not be joined in marriage in any county
29 other than the county in which the marriage license is issued.

30 8. A commercial wedding chapel that violates any provision
31 of this section is guilty of a misdemeanor.

32 **Sec. 9.** NRS 122.001 is hereby amended to read as follows:

33 122.001 As used in this chapter, unless the context otherwise
34 requires, the words and terms defined in NRS 122.002 and 122.006
35 **and section 2 of this act** have the meanings ascribed to them in
36 those sections.

37 **Sec. 9.5.** NRS 122.040 is hereby amended to read as follows:

38 122.040 1. ~~{Before}~~ **Except as otherwise provided in section**
39 **8.5 of this act, before** persons may be joined in marriage, a license
40 must be obtained for that purpose from the county clerk of any
41 county in the State. Except as otherwise provided in this subsection,
42 the license must be issued at the county seat of that county. The
43 board of county commissioners:

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



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(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. 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:

(1) Any secondary 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 provides 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,



1 require each applicant to include the applicant's social security
2 number on the affidavit of application for the marriage license. If a
3 person does not have a social security number, the person must state
4 that fact. The county clerk shall not require any evidence to verify a
5 social security number. If any of the information required is
6 unknown to the person, the person must state that the answer is
7 unknown. The county clerk shall not deny a license to an applicant
8 who states that the applicant does not have a social security number
9 or who states that any requested information concerning the
10 applicant's parents is unknown.

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

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

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

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

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

44 (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 the witness saw the parent or guardian subscribe his or her 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 the county clerk in writing.

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

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

Sec. 10. (Deleted by amendment.)

Sec. 11. The board of county commissioners of each county whose population is less than 700,000, in which a commercial wedding chapel has been in business for 5 years or more, shall take such actions as are necessary to ensure compliance with the provisions of section 8.5 of this act on or before July 1, 2011.

Sec. 12. This act becomes effective upon passage and approval and expires by limitation on June 30, 2013.

