

SENATE BILL NO. 381—SENATOR MANENDO

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning counties.
(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 counties; providing for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels; removing the prospective expiration of provisions allowing a county office to deviate from the required hours of operation under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that before two people may be joined in marriage, they
2 must obtain a marriage license from the county clerk of any county in the State.
3 (NRS 122.040) **Section 8.5** of this bill requires the board of county commissioners
4 in each county whose population is 100,000 or more but less than 700,000
5 (currently Washoe County) and in which a commercial wedding chapel has been in
6 business for 5 years or more to: (1) ensure that an office where marriage licenses
7 may be issued is open to the public for the purpose of issuing such licenses from 8
8 a.m. to 12 a.m. every day, including holidays; or (2) provide for the establishment
9 of a program whereby a commercial wedding chapel that has been in business in
10 the county for 5 years or more is authorized to issue marriage licenses during the
11 hours when an office where marriage licenses may be issued is not open to the
12 public. Additionally, **section 8.5** authorizes the board of county commissioners in
13 each county whose population is less than 100,000 (currently all counties other than
14 Clark County and Washoe County) and in which a commercial wedding chapel has
15 been in business for 5 years or more to provide for the establishment of a program
16 whereby such a commercial wedding chapel may issue marriage licenses during the
17 hours when an office where marriage licenses may be issued is not open to the
18 public. Any such program that a board of county commissioners is required or
19 authorized to establish must authorize a commercial wedding chapel that has been
20 in business in the county for 5 years or more to begin issuing marriage licenses
21 upon filing a completed registration form with the county clerk, along with a
22 performance bond in the amount of \$50,000.



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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.

Existing law also establishes the required hours of operation for county offices, including offices where marriage licenses may be issued. (NRS 122.061, 245.040, 252.050) However, for the period between March 11, 2010, and June 30, 2011, county offices are authorized under existing law to deviate from those required hours of operation if the board of county commissioners approves the plan for the deviation submitted by the office. (Chapter 9, Statutes of Nevada 2010, 26th Special Session, p. 50) **Section 9.7** of this bill makes the temporary authority to deviate from the required hours of operation permanent.

Section 12 of this act provides that the sections of this bill that provide for the establishment of county programs for the issuance of marriage licenses by certain commercial wedding chapels expire by limitation in 2 years.

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 100,000 or more but 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. In each county whose population is less than 100,000, in which a commercial wedding chapel has been in business in the county for 5 years or more, the board of county commissioners may 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 is not open to the public.

3. Except as otherwise provided in subsection 4, a program established pursuant to subsection 1 or 2 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.

4. 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 pursuant to NRS 122.040.

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

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

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

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

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

7. The records of a commercial wedding chapel that issues marriage licenses pursuant to this section which pertain to the issuance of a marriage license are public records and must be



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1 *made available for public inspection at reasonable times. Such a*
2 *commercial wedding chapel shall comply with the provisions of*
3 *chapter 603A of NRS in the same manner as all other data*
4 *collectors to ensure the security of all personal information*
5 *submitted by applicants for a marriage license.*

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

9 *9. A commercial wedding chapel that violates any provision*
10 *of this section is guilty of a misdemeanor.*

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

12 122.001 As used in this chapter, unless the context otherwise
13 requires, the words and terms defined in NRS 122.002 and 122.006
14 *and section 2 of this act* have the meanings ascribed to them in
15 those sections.

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

17 122.040 1. ~~{Before}~~ *Except as otherwise provided in section*
18 *8.5 of this act, before* persons may be joined in marriage, a license
19 must be obtained for that purpose from the county clerk of any
20 county in the State. Except as otherwise provided in this subsection,
21 the license must be issued at the county seat of that county. The
22 board of county commissioners:

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

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

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

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

38 2. Except as otherwise provided in this section, before issuing a
39 marriage license, the county clerk shall require each applicant to
40 provide proof of the applicant's name and age. The county clerk
41 may accept as proof of the applicant's name and age an original or
42 certified copy of any of the following:

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



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1 (b) A passport.

2 (c) A birth certificate and:

3 (1) Any secondary document that contains the name and a
4 photograph of the applicant; or

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

7 ➔ If the birth certificate is written in a language other than English,
8 the county clerk may request that the birth certificate be translated
9 into English and notarized.

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

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

17 (f) Any other document that provides the applicant's name and
18 age. If the applicant clearly appears over the age of 25 years, no
19 documentation of proof of age is required.

20 3. Except as otherwise provided in subsection 4, the county
21 clerk issuing the license shall require each applicant to answer under
22 oath each of the questions contained in the form of license. The
23 county clerk shall, except as otherwise provided in this subsection,
24 require each applicant to include the applicant's social security
25 number on the affidavit of application for the marriage license. If a
26 person does not have a social security number, the person must state
27 that fact. The county clerk shall not require any evidence to verify a
28 social security number. If any of the information required is
29 unknown to the person, the person must state that the answer is
30 unknown. The county clerk shall not deny a license to an applicant
31 who states that the applicant does not have a social security number
32 or who states that any requested information concerning the
33 applicant's parents is unknown.

34 4. Upon finding that extraordinary circumstances exist which
35 result in only one applicant being able to appear before the county
36 clerk, the county clerk may waive the requirements of subsection 3
37 with respect to the person who is unable to appear before the county
38 clerk, or may refer the applicant to the district court. If the applicant
39 is referred to the district court, the district court may waive the
40 requirements of subsection 3 with respect to the person who is
41 unable to appear before the county clerk. If the district court waives
42 the requirements of subsection 3, the district court shall notify the
43 county clerk in writing. If the county clerk or the district court
44 waives the requirements of subsection 3, the county clerk shall



1 require the applicant who is able to appear before the county clerk
2 to:

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

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

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

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

23 (a) Personally given before the clerk;

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

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

33 6. If a parent giving consent to the marriage of a minor
34 pursuant to subsection 5 has a last name different from that of the
35 minor seeking to be married, the county clerk shall accept, as proof
36 that the parent is the legal parent of the minor, a certified copy of the
37 birth certificate of the minor which shows the parent's first and
38 middle name and which matches the first and middle name of the
39 parent on any document listed in subsection 2.

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

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



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

3 **Sec. 9.7.** Section 5 of chapter 9, Statutes of Nevada 2010, 26th
4 Special Session, at page 52, is hereby amended to read as follows:

5 Sec. 5. This act becomes effective upon passage and
6 approval. ~~and expires by limitation on June 30, 2011.~~

7 **Sec. 10.** (Deleted by amendment.)

8 **Sec. 11.** The board of county commissioners of each county
9 whose population is 100,000 or more but less than 700,000, in
10 which a commercial wedding chapel has been in business for 5
11 years or more, shall take such actions as are necessary to ensure
12 compliance with the provisions of section 8.5 of this act on or before
13 July 1, 2011.

14 **Sec. 12.** 1. This act becomes effective upon passage and
15 approval.

16 2. This section and sections 1 to 9.5, inclusive, and 10 and 11
17 of this act expire by limitation on June 30, 2013.

