

Amendment No. 140

Assembly Amendment to Assembly Bill No. 139	(BDR 11-1)
<b>Proposed by:</b> Assembly Committee on Judiciary	
<b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MLS/JMK



Date: 4/4/2019

A.B. No. 139—Requires a person to be at least 18 years of age to marry.  
(BDR 11-1)





ASSEMBLY BILL NO. 139—ASSEMBLYMEN  
BILBRAY-AXELROD; BACKUS, ~~[AND]~~ FUMO, KRASNER, MUNK, SWANK AND TOLLES

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Requires a person to be at least 18 years of age to marry.  
(BDR 11-1)

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 domestic relations; requiring a person to be at least 18 years of age to marry; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law allows a minor to marry in certain circumstances. If the minor is at least 16 years of age, the consent of either parent or legal guardian is required. (NRS 122.020, 122.025) If the minor is younger than 16 years of age, in addition to such consent, a district court must authorize the marriage after making certain findings. (NRS 122.025) **Section 1** of this bill removes that authority and instead requires both persons to be at least 18 years of age to marry. **Section 7** of this bill also repeals the provision authorizing marriages by minors. **Sections 2-5** of this bill make conforming changes to existing law, and **section 7** repeals additional provisions that become obsolete by removing authority for minors to marry. **Section 6** of this bill ensures that the validity of any marriage existing when the bill becomes effective is not affected, and that any married minor on that date continues to have the same rights.

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. ~~[Except as otherwise provided in this section, two]~~ **Two** persons, regardless of gender, *who are* at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a spouse living, may be joined in marriage.

2. Two persons, regardless of gender, who are married to each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.

~~[3.—A person at least 16 years of age but less than 18 years of age may marry only if the person has the consent of:~~

~~—(a) Either parent; or~~

~~—(b) Such person's legal guardian.]~~

1       **Sec. 2.** NRS 122.040 is hereby amended to read as follows:

2       122.040 1. Except as otherwise provided in NRS 122.0615, before persons  
3 may be joined in marriage, a license must be obtained for that purpose from the  
4 county clerk of any county in the State. Except as otherwise provided in this  
5 subsection, the license must be issued at the county seat of that county. The board  
6 of county commissioners:

7       (a) In a county whose population is 700,000 or more may, at the request of the  
8 county clerk, designate not more than five branch offices of the county clerk at  
9 which marriage licenses may be issued, if the designated branch offices are located  
10 outside of the county seat.

11       (b) In a county whose population is less than 700,000 may, at the request of the  
12 county clerk, designate one branch office of the county clerk at which marriage  
13 licenses may be issued, if the designated branch office is established in a county  
14 office building which is located outside of the county seat.

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

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

21       (b) A passport.

22       (c) A birth certificate and:

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

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

27       ➤ If the birth certificate is written in a language other than English, the county  
28 clerk may request that the birth certificate be translated into English and notarized.

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

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

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

37       3. Except as otherwise provided in subsection 4, the county clerk issuing the  
38 license shall require each applicant to answer under oath each of the questions  
39 contained in the form of license. The county clerk shall, except as otherwise  
40 provided in this subsection, require each applicant to include the applicant's social  
41 security number on the affidavit of application for the marriage license. If a person  
42 does not have a social security number, the person must state that fact. The county  
43 clerk shall not require any evidence to verify a social security number. If any of the  
44 information required is unknown to the person, the person must state that the  
45 answer is unknown. The county clerk shall not deny a license to an applicant who  
46 states that the applicant does not have a social security number or who states that  
47 any requested information concerning the applicant's parents is unknown.

48       4. Upon finding that extraordinary circumstances exist which result in only  
49 one applicant being able to appear before the county clerk, the county clerk may  
50 waive the requirements of subsection 3 with respect to the person who is unable to  
51 appear before the county clerk, or may refer the applicant to the district court. If the  
52 applicant is referred to the district court, the district court may waive the  
53 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 the applicant 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 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.]~~ At the time of issuance of the license, an applicant or both applicants may elect to change the middle name or last name, or both, by which an applicant wishes to be known after solemnization of the marriage. The first name of each applicant selected for use by the applicant after solemnization of the marriage must be the same as the first name indicated on the proof of the applicant's name submitted pursuant to subsection 2. An applicant may change his or her name pursuant to this subsection only at the time of issuance of the license. One or both applicants may adopt:

(a) As a middle name, one of the following:

(1) The current last name of the other applicant.

(2) The last name of either applicant given at birth.

(3) A hyphenated combination of the current middle name and the current last name of either applicant.

(4) A hyphenated combination of the current middle name and the last name given at birth of either applicant.

(b) As a last name, one of the following:

(1) The current last name of the other applicant.  
(2) The last name of either applicant given at birth.  
(3) A hyphenated combination of the potential last names described in paragraphs (a) and (b).

~~(9.)~~ 6. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~(10.)~~ 7. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

**Sec. 3.** NRS 122.0615 is hereby amended to read as follows:

122.0615 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]~~ 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 NRS 603A.010 to 603A.290, inclusive, 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.)~~ 5. 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.

~~6.~~ ~~6.~~ 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 made available for public inspection at reasonable times. Such a commercial wedding chapel shall comply with the provisions of NRS 603A.010 to 603A.290, inclusive, in the same manner as all other data collectors to ensure the security of all personal information submitted by applicants for a marriage license.

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

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

**Sec. 4.** NRS 125.300 is hereby amended to read as follows:

125.300 A marriage may be annulled for any of the causes provided in NRS ~~125.320 to~~ **125.330, 125.340 or** 125.350. ~~[-inclusive.]~~

**Sec. 5.** NRS 3.223 is hereby amended to read as follows:

3.223 1. Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159A, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.

(c) ~~For judicial approval of the marriage of a minor.~~

~~(d)~~ Otherwise within the jurisdiction of the juvenile court.

~~(e)~~ (d) To establish the date of birth, place of birth or parentage of a minor.

~~(f)~~ (e) To change the name of a minor.

~~(g)~~ (f) For a judicial declaration of the sanity of a minor.

~~(h)~~ (g) To approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.

~~(i)~~ (h) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.

~~(j)~~ (i) Brought pursuant to NRS 441A.510 to 441A.720, inclusive, for an involuntary court-ordered isolation or quarantine.

2. The family court, where established and, except as otherwise provided in paragraph (m) of subsection 1 of NRS 4.370, the justice court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence.

3. The family court, where established, and the district court have concurrent jurisdiction over any action for damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.

**Sec. 6.** 1. The amendatory provisions of this act do not affect:

(a) The validity of any marriage entered into by a minor before October 1, 2019; or

(b) The legal rights or responsibilities of any minor who married before October 1, 2019.

2. Notwithstanding the repeal of NRS 123.310, a person who on October 1, 2019, is a married minor may make a valid marriage contract or settlement.

**Sec. 7.** NRS 122.025, 123.310 and 125.320 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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#### **122.025 Marriage of persons less than 16 years of age: Consent of parent or guardian; authorization by court.**

1. A person less than 16 years of age may marry only if the person 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 16 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.

**123.310 Minors may make marriage contracts or settlements.** A minor capable of contracting marriage may make a valid marriage contract or settlement.

#### **125.320 Cause for annulment: Lack of consent of parent or guardian.**

1. When the consent of a parent, guardian or district court, as required by NRS 122.020 or 122.025, has not been obtained, the marriage is void from the time its nullity is declared by a court of competent jurisdiction.

2. If the consent required by NRS 122.020 or 122.025 is not first obtained, the marriage contracted without the consent of a parent, guardian or district court may be annulled upon application by or on behalf of the person who fails to obtain such consent, unless such person after reaching the age of 18 years freely cohabits for any time with the other party to the marriage as a married couple. Any such annulment proceedings must be brought within 1 year after such person reaches the age of 18 years.