

Amendment No. CA7

Conference Committee Amendment to (BDR 11-1)
Assembly Bill No. 139 Second Reprint

Proposed by: Conference Committee

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN the unfunded mandate requested by the affected local government to A.B. 139 R2 (§ 5.3).

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.

BAW



Date: 6/3/2019

A.B. No. 139—Revises provisions relating to when minors may marry.
(BDR 11-1)



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

FEBRUARY 14, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to when minors may marry. (BDR 11-1)

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

CONTAINS UNFUNDED MANDATE (§ 5.3)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; revising provisions relating to when minors may 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: (1) removes the ability of a minor who is under 17 years of age to marry; and (2) allows a minor who is 17 years of age to marry if the minor has the consent of either parent or the minor's legal guardian and the minor obtains authorization from a district court after the court holds an evidentiary hearing and makes certain findings. **Section 1.5** of this bill sets forth the requirements for the court to authorize the marriage of a minor who is 17 years of age.

Sections 2-3.5 of this bill make conforming changes. **Section 5.3** of this bill requires each county clerk to compile a report concerning marriage licenses issued for minors who are 17 years of age and submit the report to the Director of the Legislative Counsel Bureau for distribution to the 81st Session of the Legislature. **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,~~ *subsection 2 and NRS 122.025*, 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.}~~

Sec. 1.5. NRS 122.025 is hereby amended to read as follows:

122.025 1. A ~~{person less than 16}~~ *minor who is 17* years of age may marry only if the ~~{person}~~ *minor* has the consent of:

(a) Either parent; or

(b) ~~{Such person's}~~ *The minor's* legal guardian,

➤ and ~~{such person}~~ *the minor* also obtains authorization from a district court as provided in ~~{subsection 2.}~~ *this section.*

2. In extraordinary circumstances, a district court may authorize the marriage of a ~~{person less than 16}~~ *minor who is 17* years of age if the court finds , *by clear and convincing evidence, after an evidentiary hearing in which both parties to the prospective marriage provide sworn testimony,* that:

(a) *Both parties to the prospective marriage are residents of this State;*

(b) ~~{The minor has received a high school diploma, a general educational development certificate or an equivalent document.}~~

~~— (c) The marriage will serve the best interests of {such person;} the minor; and~~

~~{(b) Such person}~~

~~{(d)}~~ *(c) The minor* has the consent required by paragraph (a) or (b) of subsection 1.

➤ Pregnancy alone does not establish that the best interests of ~~{such person}~~ *the minor* 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.}~~ *the minor.*

3. In determining the best interests of the minor for the purposes of subsection 2, the court shall consider, without limitation:

(a) The difference in age between the parties to the prospective marriage;

(b) The need for the marriage to occur before the minor reaches 18 years of age; and

(c) The emotional and intellectual maturity of the minor.

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

122.040 1. Except as otherwise provided in NRS 122.0615, 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 700,000 or more may, at the request of the county clerk, designate not more than five 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 700,000 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, 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 the applicant 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 the applicant

1 does not have a social security number or who states that any requested information
2 concerning the parents of either the person who is responding to the question or the
3 person who is unable to appear is unknown.

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

7 ~~— (a) Personally given before the clerk;~~

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

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

15 ~~— 6. If a parent giving consent to the marriage of a minor pursuant to subsection~~
16 ~~5 has a last name different from that of the minor seeking to be married, the county~~
17 ~~clerk shall accept, as proof that the parent is the legal parent of the minor, a~~
18 ~~certified copy of the birth certificate of the minor which shows the parent's first and~~
19 ~~middle name and which matches the first and middle name of the parent on any~~
20 ~~document listed in subsection 2.~~

21 ~~7. If the authorization of a district court is required.]~~ *When the authorization*
22 *of a district court is required because the marriage involves a minor,* the county
23 clerk shall issue the license if that authorization is given to the county clerk in
24 writing.

25 ~~[8.]~~ **6.** At the time of issuance of the license, an applicant or both applicants
26 may elect to change the middle name or last name, or both, by which an applicant
27 wishes to be known after solemnization of the marriage. The first name of each
28 applicant selected for use by the applicant after solemnization of the marriage must
29 be the same as the first name indicated on the proof of the applicant's name
30 submitted pursuant to subsection 2. An applicant may change his or her name
31 pursuant to this subsection only at the time of issuance of the license. One or both
32 applicants may adopt:

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

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

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

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

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

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

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

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

43 (3) A hyphenated combination of the potential last names described in
44 paragraphs (a) and (b).

45 ~~[9.]~~ **7.** All records pertaining to marriage licenses are public records and open
46 to inspection pursuant to the provisions of NRS 239.010.

47 ~~[10.]~~ **8.** A marriage license issued on or after July 1, 1987, expires 1 year
48 after its date of issuance.

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

50 122.0615 1. In each county whose population is 100,000 or more but less
51 than 700,000, in which a commercial wedding chapel has been in business for 5
52 years or more, the board of county commissioners shall:

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

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

9 2. In each county whose population is less than 100,000, in which a
10 commercial wedding chapel has been in business in the county for 5 years or more,
11 the board of county commissioners may provide for the establishment of a program
12 whereby a commercial wedding chapel that has been in business in the county for 5
13 years or more is authorized to issue marriage licenses to qualified applicants during
14 the hours when an office where marriage licenses may be issued is not open to the
15 public.

16 3. Except as otherwise provided in subsection 4, a program established
17 pursuant to subsection 1 or 2 must authorize each commercial wedding chapel that
18 has been in business in the county for 5 years or more to begin issuing marriage
19 licenses upon filing with the county clerk a completed registration form prescribed
20 by the board of county commissioners, along with a performance bond in the
21 amount of \$50,000. The performance bond must be conditioned upon the faithful
22 performance of all statutory duties related to the issuance of marriage licenses and
23 compliance with the provisions of NRS 603A.010 to 603A.290, inclusive, that
24 ensure the security of personal information submitted by applicants for a marriage
25 license.

26 4. A commercial wedding chapel shall refer any application for a marriage
27 license ~~{that includes the signature of a guardian}~~ for a minor applicant *who is 17*
28 *years of age* to the county clerk for review and issuance of the marriage license
29 pursuant to NRS 122.040.

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

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

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

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

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

45 7. The records of a commercial wedding chapel that issues marriage licenses
46 pursuant to this section which pertain to the issuance of a marriage license are
47 public records and must be made available for public inspection at reasonable
48 times. Such a commercial wedding chapel shall comply with the provisions of NRS
49 603A.010 to 603A.290, inclusive, in the same manner as all other data collectors to
50 ensure the security of all personal information submitted by applicants for a
51 marriage license.

8. 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.

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

Sec. 3.5. NRS 125.320 is hereby amended to read as follows:

125.320 1. When the consent of a parent, guardian or district court, as required by NRS ~~{122.020-0#}~~ 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 ~~{122.020-0#}~~ 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.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.3. 1. Each county clerk shall compile a report containing information about each marriage license issued on or after October 1, 2019, for the marriage of a person who is 17 years of age. For each such marriage, the report must include, without limitation, the ages of the parties to the marriage.

2. On or before January 1, 2021, each county clerk shall submit the report required pursuant to this section to the Director of the Legislative Counsel Bureau for distribution to the 81st Session of the Legislature.

Sec. 5.7. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

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

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

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

Sec. 7. (Deleted by amendment.)