

ASSEMBLY BILL NO. 397—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 24, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to county clerks.
(BDR 20-1026)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 county clerks; requiring the county clerk to pay certain fees to the county treasurer on or before the fifth day of the month; revising the permissible uses of certain fees collected by a county clerk; eliminating certain provisions related to the issuance of a marriage license during certain office hours or during other hours by a commercial wedding chapel; requiring that a county clerk in certain counties issue a marriage license during certain hours; making various other changes relating to county clerks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a county clerk may charge and collect an additional fee not to exceed \$3 for filing a certificate of marriage if the board of county commissioners has adopted an ordinance authorizing the additional fee. (NRS 246.180) Existing law also requires the county clerk to pay these collected fees to the county treasurer to be deposited in a separate account in the county general fund, which may only be used to acquire or improve technology used by the office of the county clerk for the issuance of marriage licenses and the filing of marriage certificates. (NRS 246.180, 246.190). **Section 1** of this bill requires the county clerk to pay such fees to the county treasurer on or before the fifth day of each month. **Section 2** of this bill revises the permitted uses of these proceeds by providing that the fees may be used in the office of the county clerk to acquire, improve, support or maintain technology or to acquire temporary or permanent staff or professional services to implement, support or maintain technology that enhances customer service, improves efficiency or promotes transparency in government.

Existing law provides that a county clerk may charge and collect an additional fee not to exceed \$5 for filing and recording or issuing certain bonds, declarations



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and certificates. (NRS 19.013) Existing law also requires the county clerk to pay these collected fees to the county treasurer to be deposited in a separate account in the county general fund, which may only be used in the office of the county clerk for costs related to acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology. (NRS 19.013, 19.016) **Section 3** of this bill revises the permitted uses of these proceeds by providing that the fees may be used in the office of the county clerk to acquire, improve, support or maintain technology or to acquire temporary or permanent staff or professional services to implement, support or maintain technology that enhances customer service, improves efficiency or promotes transparency in government.

Existing law authorizes a county whose population is 100,000 or more (currently Clark and Washoe Counties) to provide a space outside each office and branch office of the county clerk where a commercial wedding chapel, a business licensed to perform weddings or a church or religious organization may place informational brochures for display. (NRS 122.280) **Section 5** of this bill authorizes such a county to provide such a space to display printed or digital information.

Existing law requires the board of county commissioners in each county whose population is 100,000 or more but less than 700,000 (currently Washoe 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. Existing law also authorizes the board of county commissioners in each county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) and in which a commercial wedding chapel has been in business for 5 years or more to provide for the establishment of a program whereby such a commercial wedding chapel may issue marriage licenses during the hours when an office where marriage licenses may be issued is not open to the public. (NRS 122.0615) **Section 6** of this bill repeals this section of NRS. **Section 4** of this bill makes a conforming change to eliminate a reference to the repealed section.

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

Section 1. NRS 246.180 is hereby amended to read as follows:
246.180 1. If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, the county clerk shall charge and collect the following fees:

- (a) For filing any certificate of marriage, \$10.
- (b) For copying any certificate of marriage, \$1 per page.
- (c) For a certified copy of a certificate of marriage, \$10.
- (d) For a certified abstract of a certificate of marriage, \$10.
- (e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of \$5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid



over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.

2. In addition to the fees described in subsection 1, a county clerk may charge and collect an additional fee not to exceed \$3 for filing a certificate of marriage, if the board of county commissioners has adopted an ordinance authorizing the additional fee. ~~{The}~~ **On or before the fifth day of each month, the** county clerk shall pay to the county treasurer the amount of fees collected by the county clerk pursuant to this subsection for credit to the account established pursuant to NRS 246.190.

3. A county clerk shall charge and collect the fees specified in this section for copying a document specified in this section at the request of the State of Nevada or any city or town within the county. For copying, and for the county clerk's certificate and seal upon the copy, the county clerk shall charge the regular fee.

4. Except as otherwise provided in **subsection 2 or** an ordinance adopted pursuant to NRS 244.207, county clerks shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees related to filing certificates of marriage collected during the preceding month.

5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his or her official capacity.

Sec. 2. NRS 246.190 is hereby amended to read as follows:

246.190 1. If a county clerk imposes an additional fee pursuant to subsection 2 of NRS 246.180, the proceeds collected from such a fee must be accounted for separately in the county general fund. Any interest earned on money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the county general fund, and the balance in the account must be carried forward to the next fiscal year.

2. The money in the account must be used only **in the office of the county clerk, including, without limitation,** to acquire , **improve, support or maintain** technology ~~{for or to improve the technology used in the office of the county clerk for the issuance of marriage licenses and the filing of certificates of marriage, including, without limitation, costs related to acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.}~~ **or to acquire**



temporary or permanent staff or professional services to implement, support or maintain technology that enhances customer service, improves efficiency or promotes transparency in government.

3. The county clerk shall submit an annual report to the board of county commissioners which contains:

(a) An estimate of the proceeds that the county clerk will collect from the additional fee imposed pursuant to subsection 2 of NRS 246.180 in the following fiscal year; and

(b) A proposal for expenditures of the proceeds from the additional fee imposed pursuant to subsection 2 of NRS 246.180 for the costs related to the technology required for the office of the county clerk for the following fiscal year.

Sec. 3. NRS 19.016 is hereby amended to read as follows:

19.016 1. If a county clerk imposes an additional fee pursuant to subsection 2 of NRS 19.013, the proceeds collected from such a fee must be accounted for separately in the county general fund. Any interest earned on money in the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the county general fund, and the balance in the account must be carried forward to the next fiscal year.

2. The money in the account must be used only *in the office of the county clerk, including, without limitation,* to acquire , *improve, support or maintain* technology ~~{for or to improve technology used in the office of the county clerk, including, without limitation, costs related to acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.}~~ *or to acquire temporary or permanent staff or professional services to implement, support or maintain technology that enhances customer service, improves efficiency or promotes transparency in government.*

Sec. 4. NRS 122.040 is hereby amended to read as follows:

122.040 1. ~~{Except as otherwise provided in NRS 122.0615, before}~~ *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



1 who states that the applicant does not have a social security number
2 or who states that any requested information concerning the
3 applicant's parents is unknown.

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

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

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

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

33 5. When the authorization of a district court is required because
34 the marriage involves a minor, the county clerk shall issue the
35 license if that authorization is given to the county clerk in writing.

36 6. At the time of issuance of the license, an applicant or both
37 applicants may elect to change the middle name or last name, or
38 both, by which an applicant wishes to be known after solemnization
39 of the marriage. The first name of each applicant selected for use by
40 the applicant after solemnization of the marriage must be the same
41 as the first name indicated on the proof of the applicant's name
42 submitted pursuant to subsection 2. An applicant may change his or
43 her name pursuant to this subsection only at the time of issuance of
44 the license. One or both applicants may adopt:

45 (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).
7. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.
8. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.
Sec. 5. NRS 122.280 is hereby amended to read as follows:
122.280 In each county whose population is 100,000 or more, the county may provide a space ~~{outside}~~ *at* each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business which operates principally for the performance of weddings in the county or a church or religious organization incorporated, organized or established in this State may ~~{place informational brochures for display.}~~ *display printed or digital information.*
Sec. 6. NRS 122.0615 is hereby repealed.
Sec. 7. This act becomes effective on July 1, 2021.

TEXT OF REPEALED SECTION

122.0615 Issuance of marriage license during certain office hours or during other hours by commercial wedding chapel if authorized; establishment of program to authorize certain commercial wedding chapels to issue marriage licenses; duties of such chapels; records of such chapels are public records; geographic limitation on use of marriage licenses issued by such chapels; penalty.

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 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 for a minor applicant who is 17 years of age 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 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.

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.

