

ASSEMBLY BILL NO. 139—ASSEMBLYMEN
BILBRAY-AXELROD; BACKUS AND FUMO

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:

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

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

1 **Section 1.** NRS 122.020 is hereby amended to read as follows:
2 122.020 1. ~~Except as otherwise provided in this section,~~
3 ~~two} Two~~ persons, regardless of gender, *who are* at least 18 years of
4 age, not nearer of kin than second cousins or cousins of the half
5 blood, and not having a spouse living, may be joined in marriage.



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

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

6 ~~—(a) Either parent; or~~

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

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

9 122.040 1. Except as otherwise provided in NRS 122.0615,
10 before persons may be joined in marriage, a license must be
11 obtained for that purpose from the county clerk of any county in the
12 State. Except as otherwise provided in this subsection, the license
13 must be issued at the county seat of that county. The board of
14 county commissioners:

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

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

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

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

33 (b) A passport.

34 (c) A birth certificate and:

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

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

39 ↪ If the birth certificate is written in a language other than English,
40 the county clerk may request that the birth certificate be translated
41 into English and notarized.

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



1 (e) A Certificate of Citizenship, Certificate of Naturalization,
2 Permanent Resident Card or Temporary Resident Card issued by the
3 United States Citizenship and Immigration Services of the
4 Department of Homeland Security.

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

8 3. Except as otherwise provided in subsection 4, the county
9 clerk issuing the license shall require each applicant to answer under
10 oath each of the questions contained in the form of license. The
11 county clerk shall, except as otherwise provided in this subsection,
12 require each applicant to include the applicant's social security
13 number on the affidavit of application for the marriage license. If a
14 person does not have a social security number, the person must state
15 that fact. The county clerk shall not require any evidence to verify a
16 social security number. If any of the information required is
17 unknown to the person, the person must state that the answer is
18 unknown. The county clerk shall not deny a license to an applicant
19 who states that the applicant does not have a social security number
20 or who states that any requested information concerning the
21 applicant's parents is unknown.

22 4. Upon finding that extraordinary circumstances exist which
23 result in only one applicant being able to appear before the county
24 clerk, the county clerk may waive the requirements of subsection 3
25 with respect to the person who is unable to appear before the county
26 clerk, or may refer the applicant to the district court. If the applicant
27 is referred to the district court, the district court may waive the
28 requirements of subsection 3 with respect to the person who is
29 unable to appear before the county clerk. If the district court waives
30 the requirements of subsection 3, the district court shall notify the
31 county clerk in writing. If the county clerk or the district court
32 waives the requirements of subsection 3, the county clerk shall
33 require the applicant who is able to appear before the county clerk
34 to:

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

38 (b) Include the applicant's social security number and the social
39 security number of the other person named in the license on the
40 affidavit of application for the marriage license. If either person
41 does not have a social security number, the person responding to the
42 question must state that fact. The county clerk shall not require any
43 evidence to verify a social security number.

44 ↪ If any of the information required on the application is unknown
45 to the person responding to the question, the person must state that



1 the answer is unknown. The county clerk shall not deny a license to
2 an applicant who states that the applicant does not have a social
3 security number or who states that any requested information
4 concerning the parents of either the person who is responding to the
5 question or the person who is unable to appear is unknown.

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

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

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

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

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

27 ~~—7. If the authorization of a district court is required, the county
28 clerk shall issue the license if that authorization is given to the
29 county clerk in writing.~~

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

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

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

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

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

44 (4) A hyphenated combination of the current middle name
45 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.



1 4. ~~[A commercial wedding chapel shall refer any application~~
2 ~~for a marriage license that includes the signature of a guardian for a~~
3 ~~minor applicant to the county clerk for review and issuance of the~~
4 ~~marriage license pursuant to NRS 122.040.~~

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

11 ~~[6.]~~ 5. A commercial wedding chapel that issues marriage
12 licenses pursuant to this section shall comply with all statutory
13 provisions governing the issuance of marriage licenses in the same
14 manner as the county clerk is required to comply, and shall:

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

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

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

22 ~~[7.]~~ 6. The records of a commercial wedding chapel that issues
23 marriage licenses pursuant to this section which pertain to the
24 issuance of a marriage license are public records and must be made
25 available for public inspection at reasonable times. Such a
26 commercial wedding chapel shall comply with the provisions of
27 NRS 603A.010 to 603A.290, inclusive, in the same manner as all
28 other data collectors to ensure the security of all personal
29 information submitted by applicants for a marriage license.

30 ~~[8.]~~ 7. The persons to whom a commercial wedding chapel
31 issues a marriage license may not be joined in marriage in any
32 county other than the county in which the marriage license is issued.

33 ~~[9.]~~ 8. A commercial wedding chapel that violates any
34 provision of this section is guilty of a misdemeanor.

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

36 125.300 A marriage may be annulled for any of the causes
37 provided in NRS ~~[125.320 to]~~ 125.330, 125.340 or 125.350 . ~~[~~
38 ~~inclusive.]~~

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

40 3.223 1. Except if the child involved is subject to the
41 jurisdiction of an Indian tribe pursuant to the Indian Child Welfare
42 Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in
43 which it is established, the family court has original, exclusive
44 jurisdiction in any proceeding:



1 (a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125,
2 125A, 125B, 125C, 126, 127, 128, 129, 130, 159A, 425 or 432B of
3 NRS, except to the extent that a specific statute authorizes the use of
4 any other judicial or administrative procedure to facilitate the
5 collection of an obligation for support.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



TEXT OF REPEALED SECTIONS

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.

