

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 98

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO MARRIAGE; AMENDING SECTION 32-202, IDAHO CODE, TO PROVIDE THAT A  
2 MARRIAGE LICENSE SHALL NOT BE ISSUED WITHOUT ORDER OF THE COURT IN CER-  
3 TAIN INSTANCES, TO REMOVE A PROVISION REGARDING CHILDREN UNDER THE AGE  
4 OF SIXTEEN, TO REVISE A PROVISION REGARDING AN ORDER FOR MARRIAGE FOR  
5 PERSONS UNDER THE AGE OF EIGHTEEN, TO PROVIDE FOR THE BEST INTEREST OF  
6 THE CHILD, AND TO PROVIDE THAT A MARRIAGE LICENSE MAY NOT BE ISSUED IN  
7 CERTAIN INSTANCES.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 32-202, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 32-202. PERSONS WHO MAY MARRY. Any unmarried male of the age of eigh-  
13 teen (18) years or older, and any unmarried female of the age of eighteen (18)  
14 years or older, and not otherwise disqualified, are capable of consenting to  
15 and consummating marriage. Provided that if the male party to the contract  
16 is under the age of eighteen (18) years and not less than sixteen (16) years  
17 of age, or if the female party to the contract is under the age of eighteen  
18 (18) years and not less than sixteen (16) years of age, the license shall not  
19 be issued except upon the consent in writing duly acknowledged and sworn to  
20 by the father, mother or guardian of any such person if there be either, and  
21 upon order of the court, and provided further, that no such license may be  
22 issued, ~~if the male be under eighteen (18) years of age and the female un-~~  
23 ~~der eighteen (18) years of age,~~ unless each party to the contract submits to  
24 the county recorder his or her original birth certificate, or certified copy  
25 thereof or other proof of age acceptable to the county recorder. ~~Provided~~  
26 ~~further, that where the female is under the age of sixteen (16), or the male~~  
27 ~~is under the age of sixteen (16), the license shall not issue except upon~~  
28 ~~the consent in writing duly acknowledged or sworn to by the father, mother~~  
29 ~~or guardian of such person if there be any such, and upon order of the court.~~  
30 Such order shall be secured upon petition of any interested party, which pe-  
31 tition shall show that the female minor under the age of eighteen (18) years  
32 and not less than sixteen (16) years of age, or the male minor under the age  
33 of eighteen (18) years and not less than sixteen (16) years of age, is physi-  
34 cally and ~~or~~ mentally so far developed as to assume full marital and parental  
35 duties, and ~~or~~ that it is to the best interest of society and the child, which  
36 shall include a determination that the child freely and knowingly consents  
37 to this marriage, that the marriage be permitted. A hearing shall be had on  
38 such petition forthwith or at such time and upon such notice as the court may  
39 designate. The judge shall secure from a physician his opinion as an expert  
40 as to whether said person is sufficiently developed mentally and physically  
41 to assume full marital duties. If said court is satisfied from the evidence  
42 that such person is capable of assuming full marital duties and ~~or~~ that it is

1 to the best interest of ~~society~~ the child, said court shall make an order to  
2 that effect, and a certified copy of said order shall be filed with the county  
3 recorder preliminary to the issuance of a marriage license for the marriage  
4 of such person, and said order of the court shall be the authority for the  
5 county recorder to issue such license. Further, where the person to be mar-  
6 ried is the age of sixteen (16) years or seventeen (17) years, a marriage li-  
7 cence may be issued only if the other party to the marriage is less than three  
8 (3) years older than the minor party.