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SENATE BILL 375

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO MARRIAGE LICENSES; CHANGING PROCEDURES FOR  
COLLECTION OF SOCIAL SECURITY NUMBERS; CLARIFYING PROCEDURES  
RELATED TO RESTRICTIONS ON MARRIAGE FOR MINORS; CLARIFYING  
PROCEDURES FOR ISSUANCE OF A MARRIAGE LICENSE; PERMITTING  
COUNTY CLERKS TO REISSUE OR CORRECT MARRIAGE LICENSE DOCUMENTS;  
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 27-1-10 NMSA 1978 (being Laws 1997,  
Chapter 237, Section 15) is amended to read:

"27-1-10. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS  
FOR USE IN CHILD SUPPORT ENFORCEMENT.--

A. The state [~~must~~] shall have and use procedures  
requiring that the social security number of:

(1) any applicant for a professional license,

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1 commercial driver's license or occupational license [~~or~~  
2 ~~marriage license~~] be recorded on the application;

3 (2) any applicant for a marriage license be  
4 collected and placed in the records maintained by the county  
5 clerk;

6 [~~(2)~~] (3) any person who is subject to a  
7 divorce decree, support order or paternity determination or  
8 acknowledgment be placed in the records relating to the matter;  
9 and

10 [~~(3)~~] (4) any person who has died be placed in  
11 the records relating to the death and be recorded on the death  
12 certificate.

13 B. The collection and use of social security  
14 numbers shall be made available to the state Title IV-D agency  
15 for use in child support enforcement."

16 SECTION 2. Section 40-1-6 NMSA 1978 (being Laws 1876,  
17 Chapter 31, Section 2, as amended) is amended to read:

18 "40-1-6. RESTRICTIONS ON MARRIAGE OF MINORS.--

19 A. The county clerk shall not issue a marriage  
20 license to any person sixteen or seventeen years of age, and no  
21 person authorized by the laws of this state to [~~celebrate~~  
22 solemnize marriages shall knowingly unite in marriage [~~(1)~~] any  
23 person [~~under the age of eighteen~~] sixteen or seventeen years  
24 [~~without the consent of his parent or guardian; or~~

25 ~~(2) any person under the age of sixteen years~~

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1 ~~with or without the consent of his parent or guardian~~ of age,  
2 unless the minor first receives the written consent of each of  
3 the minor's living parents as shown on the minor's certificate  
4 of birth, or the district court has authorized the marriage of  
5 the person for good cause shown, and a certified copy of the  
6 order is filed with the county clerk.

7 B. The county clerk shall not issue a marriage  
8 license to any person under sixteen years of age, and no person  
9 authorized by the laws of this state to solemnize marriages  
10 shall knowingly unite in marriage any person under sixteen  
11 years of age, unless the children's or family court division of  
12 the district court ~~[may authorize]~~ has first authorized the  
13 marriage of ~~[persons under the ages stated in Subsection A of~~  
14 ~~this section]~~ the person in settlement of proceedings to compel  
15 support and establish parentage, or where the female is under  
16 the age of consent and is pregnant, ~~[if the marriage would not~~  
17 ~~be incestuous]~~ and a certified copy of the order is filed with  
18 the county clerk."

19 SECTION 3. Section 40-1-10 NMSA 1978 (being Laws 1905,  
20 Chapter 65, Section 1, as amended) is amended to read:

21 "40-1-10. LICENSE REQUIRED--COUNTY CLERK.--

22 A. Each couple desiring to marry in New Mexico  
23 shall first obtain a license from a county clerk and, following  
24 the ceremony, file ~~[the same]~~ it for recording in the county  
25 issuing the license. ~~[following the marriage ceremony. Except~~

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1 ~~as provided in Section 57-1-6 NMSA 1953, a county clerk shall~~  
2 ~~issue no license for the marriage of any person under the age~~  
3 ~~of majority without the consent of his parent or guardian. It~~  
4 ~~shall be the duty of each county clerk to require the affidavit~~  
5 ~~of at least two reliable persons who are acquainted with the~~  
6 ~~age of the applicant for license, as to the age of whom a~~  
7 ~~county clerk may be in doubt, and the failure of any county~~  
8 ~~clerk to perform his duty under this section shall be grounds~~  
9 ~~for the removal of the county clerk from office in the manner~~  
10 ~~provided for the removal from office of county officers for~~  
11 ~~misfeasance or malfeasance in office.] To obtain a license, the~~  
12 ~~couple shall appear in person at the office of the county clerk~~  
13 ~~that is issuing the license and provide sufficient~~  
14 ~~identification to satisfy the county clerk as to each person's~~  
15 ~~identity and qualification to receive a marriage license~~  
16 ~~pursuant to Chapter 40, Article 1 NMSA 1978.~~

17 B. On application to the district court, the  
18 district court for good cause shown may authorize a person  
19 unable to appear in person to obtain a license from the county  
20 clerk, and a certified copy of the order shall be filed with  
21 the county clerk.

22 C. Pursuant to Section 27-1-10 NMSA 1978, the  
23 county clerk shall collect the social security number of any  
24 applicant for a marriage license; provided that collection of a  
25 social security number is not a prerequisite to issuing a

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1 marriage license. Social security numbers collected pursuant  
2 to this subsection shall be made available to the state Title  
3 IV-D agency and to no other person."

4 SECTION 4. Section 40-1-15 NMSA 1978 (being Laws 1905,  
5 Chapter 65, Section 4, as amended) is amended to read:

6 "40-1-15. CERTIFICATION--RECORDING--CORRECTIONS.-- [~~See~~  
7 ~~14.~~]

8 A. It [~~shall be~~] is the duty of all persons  
9 [~~performing the~~] solemnizing the contract of marriage  
10 [~~ceremony~~] in this state [~~as herein provided~~] to certify [~~said~~]  
11 the marriage to the county clerk within ninety days from the  
12 date of the marriage ceremony. Upon ensuring that the  
13 information on the certificate is complete and legible, the  
14 county clerk shall immediately upon receipt of [~~said~~] the  
15 certificate cause [~~the same~~] it to be properly recorded and  
16 indexed in a permanent record [~~book kept for that purpose~~] as a  
17 part of the county records.

18 B. The county clerk may correct or reissue an  
19 application for a marriage license, a marriage license or a  
20 certificate of marriage as a result of a typographical or data  
21 entry error by the office of the county clerk."

22 SECTION 5. REPEAL.--Section 40-1-5 NMSA 1978 (being Laws  
23 1862-1863, p. 64, as amended) is repealed.

24 SECTION 6. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2011.

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