

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3974

By: Bell

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5
6 AS INTRODUCED

7 An Act relating to marriage; amending 43 O.S. 2021,
8 Section 3, which relates to eligibility to marry;
9 modifying procedures for certain minor marriage
10 license applicants; prohibiting marriages for persons
11 under a certain age; amending 43 O.S. 2021, Section
12 5, which relates to marriage license applications;
13 requiring presentment of certain proof of identity
14 and age for verification; and providing an effective
15 date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 43 O.S. 2021, Section 3, is
18 amended to read as follows:

19 Section 3. A. Any unmarried person who is at least eighteen
20 (18) years of age and not otherwise disqualified is capable of
21 contracting and consenting to marriage with a person of the opposite
22 sex.

23 B. 1. ~~Except as otherwise provided by this subsection, no~~
24 ~~person under the age of eighteen (18) years shall enter into the~~
~~marriage relation, nor shall any license issue therefor, except:~~

- 1 a. ~~upon the consent and authority expressly given by the~~
2 ~~parent or guardian of such underage applicant in the~~
3 ~~presence of the authority issuing such license,~~
- 4 b. ~~upon the written consent of the parent or guardian of~~
5 ~~such underage applicant executed and acknowledged in~~
6 ~~person before a judge of the district court or the~~
7 ~~court clerk of any county within the State of~~
8 ~~Oklahoma,~~
- 9 c. ~~if the parent or guardian resides outside of the State~~
10 ~~of Oklahoma, upon the written consent of the parent or~~
11 ~~guardian executed before a judge or clerk of a court~~
12 ~~of record. The executed foreign consent shall be duly~~
13 ~~authenticated in the same manner as proof of documents~~
14 ~~from foreign jurisdictions,~~
- 15 d. ~~if the certificate of a duly licensed medical doctor~~
16 ~~or osteopath, acknowledged in the manner provided by~~
17 ~~law for the acknowledgment of deeds, and stating that~~
18 ~~such parent or guardian is unable by reason of health~~
19 ~~or incapacity to be present in person, is presented to~~
20 ~~such licensing authority, upon the written consent of~~
21 ~~the parent or guardian, acknowledged in the same~~
22 ~~manner as the accompanying medical certificate,~~
- 23 e. ~~if the parent or guardian is on active duty with the~~
24 ~~Armed Forces of the United States, upon the written~~

~~permission of the parent or guardian, acknowledged in the manner provided by law for acknowledgment of deeds by military personnel authorized to administer oaths. Such permission shall be presented to the licensing authority, accompanied by a certificate executed by a commissioned officer in command of the applicant, to the effect that the parent or guardian is on active duty in the Armed Forces of the United States, or~~
f. ~~upon affidavit of three (3) reputable persons stating that both parents of the minor are deceased, or mentally incompetent, or their whereabouts are unknown to the minor, and that no guardian has theretofore been appointed for the minor. The judge of the district court issuing the license may in his or her discretion consent to the marriage in the same manner as in all cases in which consent may be given by a parent or guardian~~

A minor who is sixteen (16) or seventeen (17) years of age may apply for a marriage license if:

- a. the custodial parent or legal guardian of the minor consents to the application and provides a notarized affidavit in support thereof, and
- b. the court has conducted an in camera interview of the minor, individually and without a parent, guardian, or

1 co-applicant present. The in camera interview shall
2 be for the purpose of allowing the court to determine
3 whether the minor is a willing participant in the
4 marriage license application process. Unless the
5 court is satisfied that the marriage is in the best
6 interest of the minor, no marriage license shall be
7 issued.

8 2. Every person under the age of sixteen (16) years is
9 expressly forbidden and prohibited from entering into the marriage
10 relation ~~except when authorized by the court:~~

- 11 ~~a. in settlement of a suit for seduction or paternity, or~~
- 12 ~~b. if the unmarried female is pregnant, or has given~~
13 ~~birth to an illegitimate child and at least one parent~~
14 ~~of each minor, or the guardian or custodian of such~~
15 ~~child, is present before the court and has an~~
16 ~~opportunity to present evidence in the event such~~
17 ~~parent, guardian, or custodian objects to the issuance~~
18 ~~of a marriage license. If they are not present the~~
19 ~~parent, guardian, or custodian may be given notice of~~
20 ~~the hearing at the discretion of the court.~~

21 ~~3. A parent or a guardian of any child under the age of~~
22 ~~eighteen (18) years who is in the custody of the Department of Human~~
23 ~~Services or the Department of Juvenile Justice shall not be eligible~~

1 ~~to consent to the marriage of such minor child as required by the~~
2 ~~provisions of this subsection.~~

3 ~~4. Any certificate or written permission required by this~~
4 ~~subsection shall be retained by the official issuing the marriage~~
5 ~~license.~~

6 C. No marriage may be authorized when such marriage would be
7 incestuous under this ~~chapter~~ title.

8 SECTION 2. AMENDATORY 43 O.S. 2021, Section 5, is
9 amended to read as follows:

10 Section 5. A. Persons desiring to be married in this state
11 shall submit an application in writing signed and sworn to in person
12 before the clerk of the district court by both of the parties
13 setting forth:

- 14 1. The place of residence of each party;
- 15 2. The full legal name and the age of each party as they appear
16 upon or are calculable from a certified copy of the birth
17 certificate, the current driver license or identification card, the
18 current passport or visa, or any other certificate, license or
19 document issued by or existing pursuant to the laws of any nation or
20 of any state, or political subdivision thereof, accepted as proof of
21 identity and age. The documents providing proof of the full legal
22 name and age of each party shall be presented to the court clerk for
23 verification;

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1 3. For each party, the full name by which the party will be
2 known after the marriage, which shall become the full legal name of
3 the party upon the filing of the marriage license and certificate
4 with the court, as required by law; provided, however, a marriage
5 certificate issued prior to June 8, 2006, shall be reissued upon
6 request by the certificate holder to include the information
7 required by this paragraph. Such reissued certificate shall reflect
8 the original marriage date and shall be signed by the court clerk.
9 Signatures of the officiant and original witnesses shall not be
10 required;

11 4. That the parties are not disqualified from or incapable of
12 entering into the marriage relation; and

13 5. Whether the parties have successfully completed a premarital
14 counseling program.

15 B. 1. Upon application pursuant to this section and the
16 payment of fees as provided in Section 31 of Title 28 of the
17 Oklahoma Statutes, if the clerk of the district court is satisfied
18 of the truth and sufficiency of the application and that there is no
19 legal impediment to such marriage, the court clerk shall issue the
20 marriage license authorizing the marriage and a marriage
21 certificate, which shall be incorporated as one document. As
22 required by law, the marriage certificate shall be completed
23 immediately following the marriage, and the marriage license and
24 certificate shall be returned to the court clerk.

1 2. Parties to be married and who present a certificate to the
2 clerk of the district court that states the parties have completed
3 the premarital counseling program pursuant to Section 5.1 of this
4 title shall be entitled to pay a reduced fee for a marriage license
5 in an amount provided in Section 31 of Title 28 of the Oklahoma
6 Statutes.

7 C. In the event that one or both of the parties are under legal
8 age, the application shall have been on file in the court clerk's
9 office for a period of not less than seventy-two (72) hours prior to
10 issuance of the marriage license.

11 D. The marriage license shall be valid in any county within the
12 state.

13 E. The provisions hereof are mandatory and not directory except
14 under the circumstances set out in the provisions of Section 3 of
15 this title.

16 SECTION 3. This act shall become effective November 1, 2022.

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18 58-2-9700 EK 01/03/22