

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

972W0214

HOUSE BILL NO. 1211

Introduced by: Representatives Haugaard, Heinemann (Leslie), Hickey, Kaiser, Klumb, Langer, Marty, May, Qualm, and Verchio and Senators Jensen (Phil), Greenfield (Brock), and Olson

1 FOR AN ACT ENTITLED, An Act to repeal the requirement for a marriage license and to
2 provide for a marriage certificate.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-1-10 be repealed.

5 ~~—25-1-10. Previous to any marriage within this state, a license shall be obtained from the~~
6 ~~county register of deeds of any county, the fee for which is forty dollars. Ten dollars of the~~
7 ~~marriage license fee shall be retained by the county in which the fee is collected and placed in~~
8 ~~the county general fund. Thirty dollars of the marriage license fee shall be deposited in the~~
9 ~~county domestic abuse program fund. The license and record of marriage form shall be~~
10 ~~prescribed and furnished by the Department of Health. Certified copies of the marriage record~~
11 ~~shall be furnished by the county register of deeds for a fee established pursuant to § 34-25-52~~
12 ~~and such fee shall be retained by the county in which the fee is collected and placed in the~~
13 ~~county general fund.~~

14 Section 2. That § 25-1-10.1 be repealed.



1 ~~— 25-1-10.1. To obtain a marriage license, each applicant shall sign the application in person~~
2 ~~in the presence of the register of deeds or in the presence of a person duly appointed by the~~
3 ~~register to act in the register's behalf. Each applicant shall provide proof of age prior to issuance~~
4 ~~of the marriage license. Proof of age may be satisfied by providing a certified copy of a birth~~
5 ~~certificate or any photographic identification which includes the applicant's name and date of~~
6 ~~birth. No person may use a power of attorney to obtain a marriage license.~~

7 Section 3. That § 25-1-10.2 be repealed.

8 ~~— 25-1-10.2. The application for a marriage license shall contain the following statement:~~

9 ~~—"The laws of this state affirm your right to enter into this marriage and at the same time to~~
10 ~~live within the marriage free from violence and abuse. Neither of you is the property of the~~
11 ~~other. Physical abuse, sexual abuse, battery, and assault of a spouse or other family member, as~~
12 ~~well as other provisions of the criminal laws of this state, are applicable to spouses and other~~
13 ~~family members and violations thereof are punishable by law."~~

14 ~~— The application shall contain a separate line for the signatures of the applicants verifying~~
15 ~~that the applicants have read and understand the statement.~~

16 Section 4. That § 25-1-11 be repealed.

17 ~~— 25-1-11. Such license must not in any case be granted where either party is under the age~~
18 ~~necessary to render the marriage absolutely valid nor where the condition of either party is such~~
19 ~~as to disqualify him from making any other civil contract nor in any case where the marriage~~
20 ~~would be void under the provisions of §§ 25-1-6 to 25-1-8, inclusive.~~

21 Section 5. That § 25-1-24 be repealed.

22 ~~— 25-1-24. Marriage licenses issued under the provisions of this chapter shall become void and~~
23 ~~of no effect unless the marriage be solemnized within twenty days following the issuance~~
24 ~~thereof.~~

1 Section 6. That § 25-1-28.1 be repealed.

2 ~~—25-1-28.1. At the time the application for a marriage license is filed, the register of deeds~~
3 ~~shall distribute to each applicant educational materials prepared and provided at no cost to the~~
4 ~~counties by the Department of Health on topics related to sexually transmitted disease, HIV~~
5 ~~transmission, and prenatal care. The information shall include a list of locations where~~
6 ~~counseling and testing services are available.~~

7 Section 7. That § 25-1-29 be repealed.

8 ~~—25-1-29. Marriage must be solemnized, authenticated, and recorded as provided in this~~
9 ~~chapter provided, however, that noncompliance with its provisions does not invalidate any~~
10 ~~lawful marriage consented to and subsequently consummated prior to July 1, 1959.~~

11 Section 8. That § 25-1-31 be repealed.

12 ~~—25-1-31. If any marriage is solemnized without the license required by this title being~~
13 ~~procured, the parties so married and all persons aiding in such marriage are guilty of a Class 1~~
14 ~~misdemeanor.~~

15 Section 9. That § 25-1-35 be repealed.

16 ~~—25-1-35. After performing the ceremony, the person solemnizing the marriage shall deliver~~
17 ~~the marriage certificate to the persons married and return, within ten days, the license and record~~
18 ~~of marriage to the county register of deeds.~~

19 Section 10. That § 25-1-36 be repealed.

20 ~~—25-1-36. Persons married in accordance with the creed or custom of any sect or~~
21 ~~denomination to which they belong which dispenses with the services of any minister or other~~
22 ~~person authorized to perform marriages by § 25-1-30 are themselves required to make return~~
23 ~~of such marriage within thirty days thereafter to the county register of deeds. It is a petty offense~~
24 ~~for a husband and wife to fail to make the return of a certificate of a marriage made under this~~

1 section:

2 Section 11. That § 25-1-9 be amended to read as follows:

3 25-1-9. Any unmarried ~~applicant for a marriage license~~ person who is eighteen years old or
4 older, and who is not otherwise disqualified, is capable of consenting to and consummating a
5 marriage. If either applicant for a marriage ~~license~~ certificate is between the age of sixteen and
6 eighteen, that applicant shall submit to the ~~register of deeds~~ solemnizing party a notarized
7 statement of consent to marry from one parent or legal guardian of the applicant. The
8 solemnizing party shall submit to the register of deeds the notarized statement at the time of the
9 filing of the marriage certificate.

10 Section 12. That § 25-1-13 be amended to read as follows:

11 25-1-13. If either party is a minor, no marriage ~~license~~ certificate shall be granted unless the
12 written consent of the parent or guardian, duly acknowledged by the parent or guardian, or
13 proved to be genuine, is filed ~~in the office of the county register of deeds~~ with the solemnizing
14 party prior to issuing the ~~license~~ certificate, and the written consent form and a memorandum
15 of the facts shall be entered ~~in the marriage record book with the other records of the marriage~~
16 license with the marriage certificate filing pursuant to section 14 of this Act.

17 Section 13. That § 25-1-15 be amended to read as follows:

18 25-1-15. Any ~~register of deeds~~ solemnizing party who grants a marriage ~~license~~ certificate
19 contrary to the provisions of this title is guilty of a Class 1 misdemeanor.

20 Section 14. That § 25-1-37 be amended to read as follows:

21 25-1-37. The Department of Health shall maintain marriage ~~licenses~~ certificates issued and
22 records of marriages solemnized in South Dakota. A duly certified copy of the recorded
23 marriage ~~license~~ certificate shall be received as competent evidence of the marriage. The fee to
24 file the certificate is forty dollars. Ten dollars of the fee shall be retained by the county in which

1 the fee is collected and placed in the county general fund. Thirty dollars of the fee shall be
2 deposited in the county domestic abuse program fund. The local registrar shall file monthly, or
3 more frequently if required by the department, a record of all marriages occurring in the local
4 registrar's county with the Department of Health by electronic means, if available. If electronic
5 means are not available, the registrar shall file such record of all marriages on a form prescribed
6 by the department.

7 Section 15. That § 25-7A-56.2 be amended to read as follows:

8 25-7A-56.2. To facilitate the collection of child support and to facilitate locating child
9 support obligors, the following information shall be recorded in the following manners:

- 10 (1) The social security number of any applicant for a professional license, drivers license,
11 occupational license, recreational license, sporting license, or marriage ~~license~~
12 certificate shall be recorded on the application or filing. If an agency allows the use
13 of a number, other than the social security number as the license number, the agency
14 shall advise the applicant;
- 15 (2) The social security number of any person who is subject to a divorce decree, support
16 order, paternity adjudication, or paternity acknowledgment shall be recorded on the
17 document relating to the matter;
- 18 (3) The social security number of any person who has died shall be placed in the death
19 records and recorded on the death certificate;
- 20 (4) The social security number, drivers license number, or identification number of the
21 owners shall be recorded in the records maintained by the Division of Motor Vehicles
22 upon the issuance of the title or renewal of a registration.

23 Section 16. That chapter 25-1 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A marriage certificate may be issued by any person authorized to solemnize a marriage
2 pursuant to § 25-1-30. Prior to issuance of the certificate, any solemnizing party issuing a
3 marriage certificate shall certify that both applicants are eligible to marry pursuant to this
4 chapter. After the marriage certificate is certified and the marriage solemnized, the solemnizing
5 party shall submit to the register of deeds the marriage certificate and any forms required
6 pursuant to this chapter.