

Enrolled
House Bill 3120

Corrected Sponsor

Sponsored by Representative BERGER; Senators BROWN, BURDICK, GORDLY, JOHNSON, MONNES ANDERSON, WALKER (at the request of Oregon Association of County Clerks)

CHAPTER

AN ACT

Relating to marriage forms issued by county clerk; creating new provisions; amending ORS 106.041, 106.100, 106.150, 106.160, 106.165, 106.170, 106.220, 106.990, 432.121 and 432.235; and repealing ORS 106.079 and 106.180.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 106.041 is amended to read:

106.041. (1) All persons wishing to enter into a marriage contract shall obtain a **marriage** license [*therefor*] from the county clerk upon application, directed to any person or religious organization or congregation authorized by ORS 106.120 to solemnize marriages, and authorizing [*such*] **the** person, organization or congregation to join together as husband and wife the persons named in the license.

[(2) No license shall be issued by the county clerk until the provisions of this section, ORS 106.050 and 106.060 are complied with.]

*[(3)] (2) [Each applicant for a marriage license shall file with the county clerk from whom the license is sought a written application for the license on forms provided for this purpose by the Department of Human Services which shall] **The State Registrar of the Center for Health Statistics shall provide a standard form of the application, license and record of marriage to be used in this state that must** include: [*the applicant's Social Security number, certain statistical data regarding age, place of birth, sex, occupation, residence and previous marital status of the applicant and, if required, the name and address of the affiant under ORS 106.050.*]*

(a) Each applicant's Social Security number recorded on a confidential portion of the application, license and record of marriage;

(b) Certain statistical data regarding age, place of birth, sex, occupation, residence and previous marital status of each applicant;

(c) The name and address of the affiant under ORS 106.050, if required; and

(d) Each applicant's name after marriage as provided in ORS 106.220.

(3) Each applicant for a marriage license shall file with the county clerk from whom the marriage license is sought a written application for the license on forms prescribed for this purpose by the Center for Health Statistics.

(4) A marriage license [issued after July 13, 1995,] must contain the following statement: "Neither you nor your spouse is the property of the other. The laws of the State of Oregon affirm your

right to enter into marriage and at the same time to live within the marriage free from violence and abuse.”

(5) **An applicant may not intentionally make a material false statement in the records required by this section.**

(6) **The county clerk may not issue a marriage license until the provisions of this section and ORS 106.050 and 106.060 are complied with.**

SECTION 2. ORS 106.100 is amended to read:

106.100. (1) *[The person solemnizing the marriage may retain the marriage license in the possession of the person.]* The **county clerk** who issues the **marriage license**, *before delivering it, shall enter in the marriage book a memorandum of* **shall maintain records relating to marriages licensed in the county. The records must include** the names of the parties, the consent of the parent or guardian, if any, the name of the affiant, the substance of the affidavit upon which the license issued and the date of the license.

(2) **Upon return of the completed application, license and record of marriage under ORS 106.170, the county clerk shall add the date of the marriage ceremony to the clerk’s records maintained under subsection (1) of this section and file the completed application, license and record of marriage. Except as provided in ORS 205.320, the county clerk may not charge a fee for filing, recording or indexing the application, license and record of marriage.**

(3) **The county clerk shall, upon completion of the requirements of this section and ORS 106.077, deliver the original completed application, license and record of marriage to the Center for Health Statistics as required under ORS 432.405.**

(4) **Notwithstanding any other provision of law, the record of marriage maintained by a county clerk is not a vital record as defined in ORS 432.005 and is a public record open and subject to full disclosure.**

SECTION 3. ORS 106.150 is amended to read:

106.150. (1) In the solemnization of a marriage no particular form is required except that the parties thereto shall assent or declare in the presence of the clergyperson, county clerk or judicial officer solemnizing the marriage and in the presence of at least two witnesses, that they take each other to be husband and wife.

(2) All marriages, to which there are no legal impediments, solemnized before or in any religious organization or congregation according to the established ritual or form commonly practiced therein, are valid. In such case, the person presiding or officiating in *[such]* **the** religious organization or congregation shall *[make and]* deliver to the county clerk who issued the marriage license the *[certificate]* **application, license and record of marriage in accordance with** *[described in]* ORS 106.170.

SECTION 4. ORS 106.160 is amended to read:

106.160. The *[person solemnizing the marriage]* **county clerk** shall give to the parties to the marriage a **commemorative** marriage certificate in *[the form prescribed in]* **accordance with** ORS 106.165 *[(1) and (2)]* **upon issuing the marriage license.**

SECTION 5. ORS 106.165 is amended to read:

106.165. (1) The *[Director of Human Services by rule]* **county clerk** shall prescribe a standard form of *[the]* **a commemorative** marriage certificate to be *[used in this state]* **issued by the county clerk and kept by the married couple.** The certificate *[shall]* **must** contain the names and addresses of the parties and of at least two witnesses, the date and place of the marriage, the signature of the person who solemnized the marriage, the date of the **marriage** license *[for the marriage]* and the name of the county clerk who issued the license.

(2) **The commemorative marriage certificate must contain the following wording in legible font type: “This is a commemorative certificate. This certificate is not the legal marriage record.”**

[(2)] (3) The *[form]* **commemorative marriage certificate** shall be of such size and appearance as to emphasize the importance of the event. *[that it evidences and the significance of the pioneer heritage of this state.]*

confidentiality of vital records and vital reports. The state registrar shall adopt rules to ensure that, for records of dissolution of marriage issued in proceedings under ORS 107.085 or 107.485, Social Security numbers of the parties are kept confidential and exempt from public inspection.

(2) The State Registrar of the Center for Health Statistics shall authorize the inspection, disclosure and copying of the information referred to in subsection (1) of this section as follows:

(a) To the subject of the record; spouse, child, parent, sibling or legal guardian of the subject of the record; an authorized representative of the subject of the record, spouse, child, parent, sibling or legal guardian of the subject of the record; and, in the case of death, marriage or divorce records, to other next of kin.

(b) When a person demonstrates that a death, marriage or divorce record is needed for the determination or protection of a personal or property right.

(c) When 100 years have elapsed after the date of birth or 50 years have elapsed after the date of death, marriage or divorce.

(d) When the person requesting the information demonstrates that the person intends to use the information solely for research purposes. In order to receive the information, the person must submit a written request to the state registrar requesting a research agreement. The state registrar shall issue a research agreement if the person demonstrates that the information will be used only for research and will be held confidential. The research agreement shall prohibit the release by the person of any information other than that authorized by the agreement that might identify any person or institution.

(e) To the federal agency responsible for national vital statistics, upon request. The copies or data may be used solely for the conduct of official duties. Before furnishing the records, reports or data, the state registrar shall enter into an agreement with the federal agency indicating the statistical or research purposes for which the records, reports or data may be used. The agreement shall also set forth the support to be provided by the federal agency for the collection, processing and transmission of the records, reports or data. Upon written request of the federal agency, the state registrar may approve, in writing, additional statistical or research uses of the records, reports or data supplied under the agreement.

(f) To federal, state and local governmental agencies, upon request. The copies or data may be used solely for the conduct of official duties of the requesting governmental agency.

(g) To offices of vital statistics outside this state when such records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. Before furnishing the records, reports or data, the state registrar shall enter into an agreement with the office of vital statistics. The agreement shall specify the statistical and administrative purposes for which the records, reports or data may be used and the agreement shall further provide instructions for the proper retention and disposition of the copies. Copies received by the Center for Health Statistics from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(h) To an investigator licensed under ORS 703.430, upon request.

(3) The state registrar, upon request of a family member or legal representative, shall issue a certified copy or other copy of a death certificate containing the cause of death information as provided in subsection (2) of this section or as follows:

(a) When a person has demonstrated through documented evidence a need for the cause of death to establish a legal right or claim.

(b) When the request for the copy is made by or on behalf of an organization that provides benefits to the decedent's survivors or beneficiaries.

(4) Nothing in this section prohibits the release of information or data that would not identify any person or institution named in a vital record or a vital report.

(5) Nothing in this section shall prohibit a health care provider from disclosing information contained in the provider's records as otherwise allowed by law.

(6) Nothing in this section shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth certificate, fetal death report or the "Information for Statistical Purposes Only" section **or other confidential section** of the

[*certificate*] **application, license and record** of marriage or certificate of divorce, unless specifically authorized by the state registrar for statistical or research purposes. The data shall not be subject to subpoena or court order and shall not be admissible before any court, tribunal or judicial body.

(7) All forms and procedures used in the issuance of certified copies of vital records and vital reports shall be uniform and provided by or approved by the state registrar. All certified copies issued shall have security features that safeguard the document against alteration, counterfeiting, duplication or simulation without ready detection.

(8) Each copy issued shall show the date of filing. Copies issued from records marked "Amended" shall be similarly marked and shall show the effective date of the amendment. Copies issued from records marked "Delayed" shall be similarly marked and shall include the date of filing and a description of the evidence used to establish the delayed certificate.

(9) Any copy issued of a certificate of foreign birth shall indicate this fact and show the actual place of birth and the fact that the certificate is not proof of United States citizenship for an adoptive child.

(10) Appeals from decisions of the state registrar to refuse to disclose information or to permit inspection or copying of records as prescribed by this section and rules adopted pursuant thereto shall be made under ORS chapter 183.

(11) The state registrar shall adopt rules to implement this section in accordance with the applicable sections of ORS chapter 183.

(12) Indexes of deaths, marriages or divorces that list names, dates of events, county of events or certificate numbers may be disclosed.

SECTION 10. ORS 432.235 is amended to read:

432.235. (1) A certificate or report registered under this chapter may be amended only in accordance with this chapter and rules adopted by the State Registrar of the Center for Health Statistics to protect the integrity and accuracy of vital records and vital reports.

(2) A certificate or report that is amended under this section shall indicate that it has been amended, except as otherwise provided in ORS 432.230, this section or by rule of the state registrar. A record shall be maintained that identifies the evidence upon which the amendment was based, the date of the amendment and the identity of the person making the amendment. The state registrar shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or reports within one year without the certificate or report indicating that it has been amended.

(3) Upon receipt of a certified copy of an order of a court changing the name of a person born in this state and upon request of such person or if the person is a minor or incompetent, the parents, guardian or legal representative of the person, the state registrar shall amend the certificate of birth to show the new name.

(4) Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual born in this state has been changed by surgical procedure and whether such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by rule of the state registrar.

(5) When an applicant does not submit the minimum documentation required by rule of the state registrar for amending a vital record or when the state registrar has cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right of appeal under ORS 183.480 and 183.484.

(6) When a certificate or report is amended under this section by the state registrar, the state registrar shall report the amendment to any other custodian of the vital record and the record of the other custodian shall be amended accordingly.

(7) When an amendment is made to [*a certificate*] **an application, license and record** of marriage by the local official issuing the marriage license, copies of the amendment shall be forwarded to the state registrar.

(8)(a) When a party or legal representative proposes to set aside or change any information recorded in a dissolution of marriage judgment filed pursuant to ORS 432.408, the party or legal representative seeking the amendment or set aside order shall prepare a summary of the changes in the form prescribed or furnished by the state registrar and shall present the form to the clerk of the court along with the proposed supplemental judgment. In all cases the completed form shall be a prerequisite to the entry of the supplemental judgment.

(b) The clerk of the court shall complete and forward to the Center for Health Statistics the records of each such supplemental judgment in the same manner prescribed by ORS 432.408.

SECTION 11. ORS 106.079 and 106.180 are repealed.

SECTION 12. ORS 106.220 is amended to read:

106.220. *[Upon entering into marriage, either person may retain the prior surname, and either person may resume the person's prior legal name during the marriage.]* (1) **Upon entering into marriage, either party may retain the party's surname prior to the marriage or change the party's surname to the surname of the other party or to a hyphenated combination of the surnames of both parties. If a party requests a surname change under this section, that party may also change the party's middle name to the party's surname prior to the marriage. Each party must indicate on the application, license and record of marriage the party's name after marriage.**

(2) **The name of each party after marriage as indicated on the application, license and record of marriage shall become the sole legal name of each party after marriage. If a party indicates a name change other than as described in subsection (1) of this section, the party shall request approval of the court pursuant to ORS 33.410.**

SECTION 13. If House Bill 2007 becomes law, section 10 of this 2007 Act (amending ORS 432.235) is repealed and ORS 432.235, as amended by section 17, chapter 99, Oregon Laws 2007 (Enrolled House Bill 2007), is amended to read:

432.235. (1) A certificate or report registered under this chapter may be amended only in accordance with this chapter and rules adopted by the State Registrar of the Center for Health Statistics to protect the integrity and accuracy of vital records and vital reports.

(2) A certificate or report that is amended under this section shall indicate that it has been amended, except as otherwise provided in ORS 432.230, this section or by rule of the state registrar. A record shall be maintained that identifies the evidence upon which the amendment was based, the date of the amendment and the identity of the person making the amendment. The state registrar shall prescribe by rule the conditions under which additions or minor corrections may be made to certificates or reports within one year without the certificate or report indicating that it has been amended.

(3) Upon receipt of a certified copy of an order of a court changing the name of a person born in this state and upon request of such person or if the person is a minor or incompetent, the parents, guardian or legal representative of the person, the state registrar shall amend the certificate of birth to show the new name.

(4) Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual born in this state has been changed by surgical procedure and whether such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by rule of the state registrar.

(5) When an applicant does not submit the minimum documentation required by rule of the state registrar for amending a vital record or when the state registrar has cause to question the validity or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital record and shall advise the applicant of the reason for this action and shall further advise the applicant of the right of appeal under ORS 183.480 and 183.484.

(6) When a certificate or report is amended under this section by the state registrar, the state registrar shall report the amendment to any other custodian of the vital record and the record of the other custodian shall be amended accordingly.

(7) When an amendment is made to [a certificate for a] **an application, license and record of marriage** or to a Declaration of Domestic Partnership by the local official issuing the marriage license or registering the declaration, copies of the amendment shall be forwarded to the state registrar.

(8)(a) When a party or legal representative proposes to set aside or change any information recorded in a dissolution of marriage judgment or dissolution of domestic partnership judgment filed pursuant to ORS 432.408, the party or legal representative seeking the amendment or set aside order shall prepare a summary of the changes in the form prescribed or furnished by the state registrar and shall present the form to the clerk of the court along with the proposed supplemental judgment. In all cases the completed form shall be a prerequisite to the entry of the supplemental judgment.

(b) The clerk of the court shall complete and forward to the Center for Health Statistics the records of each such supplemental judgment in the same manner prescribed by ORS 432.408.

Passed by House May 9, 2007

Received by Governor:

Repassed by House June 7, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

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Governor

Passed by Senate June 4, 2007

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2007

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Secretary of State