

(Including Amendments to Resolve Conflicts)

B-Engrossed House Bill 3120

Ordered by the Senate May 30
Including House Amendments dated May 4 and Senate Amendments dated
May 30

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

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs State Registrar of Center for Health Statistics to *[create]* **provide** standard forms of marriage application, license and record. Directs county clerks to create commemorative marriage certificate.

Reduces time within which person solemnizing marriage must return marriage forms to county clerk.

Allows either party entering into marriage to retain surname or to change surname to surname of other party or hyphenated combination of surnames of both parties.

A BILL FOR AN ACT

1
2 Relating to marriage forms issued by county clerk; creating new provisions; amending ORS 106.041,
3 106.100, 106.150, 106.160, 106.165, 106.170, 106.220, 106.990, 432.121 and 432.235; and repealing
4 ORS 106.079 and 106.180.

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

6 **SECTION 1.** ORS 106.041 is amended to read:

7 106.041. (1) All persons wishing to enter into a marriage contract shall obtain a **marriage** li-
8 cense *[therefor]* from the county clerk upon application, directed to any person or religious organ-
9 ization or congregation authorized by ORS 106.120 to solemnize marriages, and authorizing *[such]*
10 **the** person, organization or congregation to join together as husband and wife the persons named
11 in the license.

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

14 *[(3)]* **(2)** *[Each applicant for a marriage license shall file with the county clerk from whom the li-*
15 *cence is sought a written application for the license on forms provided for this purpose by the Depart-*
16 *ment of Human Services which shall]* **The State Registrar of the Center for Health Statistics**
17 **shall provide a standard form of the application, license and record of marriage to be used**
18 **in this state that must** include: *[the applicant's Social Security number, certain statistical data re-*
19 *garding age, place of birth, sex, occupation, residence and previous marital status of the applicant and,*
20 *if required, the name and address of the affiant under ORS 106.050.]*

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

23 **(b) Certain statistical data regarding age, place of birth, sex, occupation, residence and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **previous marital status of each applicant;**

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

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

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

7 (4) A **marriage** license [*issued after July 13, 1995,*] must contain the following statement: "Nei-
8 ther you nor your spouse is the property of the other. The laws of the State of Oregon affirm your
9 right to enter into marriage and at the same time to live within the marriage free from violence and
10 abuse."

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

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

15 **SECTION 2.** ORS 106.100 is amended to read:

16 106.100. (1) [*The person solemnizing the marriage may retain the marriage license in the pos-*
17 *session of the person.*] The **county** clerk who issues the **marriage** license[, *before delivering it, shall*
18 *enter in the marriage book a memorandum of*] **shall maintain records relating to marriages li-**
19 **icensed in the county. The records must include** the names of the parties, the consent of the
20 parent or guardian, if any, the name of the affiant, the substance of the affidavit upon which the
21 license issued and the date of the license.

22 (2) **Upon return of the completed application, license and record of marriage under ORS**
23 **106.170, the county clerk shall add the date of the marriage ceremony to the clerk's records**
24 **maintained under subsection (1) of this section and file the completed application, license and**
25 **record of marriage. Except as provided in ORS 205.320, the county clerk may not charge a**
26 **fee for filing, recording or indexing the application, license and record of marriage.**

27 (3) **The county clerk shall, upon completion of the requirements of this section and ORS**
28 **106.077, deliver the original completed application, license and record of marriage to the**
29 **Center for Health Statistics as required under ORS 432.405.**

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

33 **SECTION 3.** ORS 106.150 is amended to read:

34 106.150. (1) In the solemnization of a marriage no particular form is required except that the
35 parties thereto shall assent or declare in the presence of the clergyperson, county clerk or judicial
36 officer solemnizing the marriage and in the presence of at least two witnesses, that they take each
37 other to be husband and wife.

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

44 **SECTION 4.** ORS 106.160 is amended to read:

45 106.160. The [*person solemnizing the marriage*] **county clerk** shall give to the parties to the

1 marriage a **commemorative** marriage certificate in *[the form prescribed in]* **accordance with** ORS
2 106.165 *[(1) and (2)]* **upon issuing the marriage license.**

3 **SECTION 5.** ORS 106.165 is amended to read:

4 106.165. (1) The *[Director of Human Services by rule]* **county clerk** shall prescribe a standard
5 form of *[the]* **a commemorative** marriage certificate to be *[used in this state]* **issued by the county**
6 **clerk and kept by the married couple.** The certificate *[shall]* **must** contain the names and ad-
7 dresses of the parties and of at least two witnesses, the date and place of the marriage, the signa-
8 ture of the person who solemnized the marriage, the date of the **marriage** license *[for the*
9 *marriage]* and the name of the county clerk who issued the license.

10 **(2) The commemorative marriage certificate must contain the following wording in legi-**
11 **ble font type: “This is a commemorative certificate. This certificate is not the legal marriage**
12 **record.”**

13 *[(2)]* **(3)** The *[form]* **commemorative marriage certificate** shall be of such size and appearance
14 as to emphasize the importance of the event. *[that it evidences and the significance of the pioneer*
15 *heritage of this state.]*

16 *[(3) In carrying out the duties imposed by subsections (1) and (2) of this section, the Director of*
17 *Human Services shall consult with the county clerks and may authorize a competition among graphic*
18 *artists to prepare the form to be prescribed.]*

19 **SECTION 6. ORS 106.165 is added to and made a part of ORS chapter 106.**

20 **SECTION 7.** ORS 106.170 is amended to read:

21 106.170. *[(1)]* A person solemnizing a marriage shall, within *[one month thereafter make]* **10 days**
22 **after the marriage ceremony, complete the original application, license and record of mar-**
23 **riage form** and deliver **the form** to the county clerk who issued the **marriage** license. *[for the*
24 *marriage a certificate containing:]* **The person solemnizing the marriage may keep a copy of the**
25 **application, license and record of marriage form.**

26 *[(a) The names and addresses of the parties and the names of at least two witnesses;]*

27 *[(b) The date and place of the marriage;]*

28 *[(c) The date of the marriage license and the name of the county that issued the license;]*

29 *[(d) If the person who solemnized the marriage is a clergy person, the name and location of the*
30 *religious congregation or organization that authorized the person to solemnize marriages; and]*

31 *[(e) The signature of the person who solemnized the marriage.]*

32 *[(2) The certificate may be in the following form:]*

33 [_____]

34
35 State of Oregon,)

36) ss.

37 County of _____,)

38 This is to certify that the undersigned (judicial officer, county clerk or clergy person, as the case
39 may be), by authority of a marriage license bearing date the _____ of _____, 2____, and issued by
40 the county clerk of the County of _____, did on the _____ day of _____, 2____, at the house
41 of _____, in the county and state aforesaid, join in lawful wedlock, A. B., of the County of
42 _____, and State of _____, and C. D., of the County of _____, and State of
43 _____, with their mutual assent, in the presence of E. F. and G. H., witnesses. If the undersigned
44 is a clergy person, the authority to solemnize the marriage is granted by _____ (name of religious
45 congregation or organization), located in _____ (city, town or county, and state or country).

1 *Witness my hand.*

2 J. P.

3 *(Judicial officer, county clerk or clergyperson, as the case may be.)*

4 [_____]

5
6 **SECTION 8.** ORS 106.990 is amended to read:

7 106.990. (1) Violation of ORS [106.079] **106.041 (5)** is punishable, upon conviction, by a fine of
8 not more than \$100 or by imprisonment in the county jail for not more than 30 days, or both.

9 (2) Violation of ORS 106.110 or 106.140 is punishable upon conviction by imprisonment in the
10 custody of the Department of Corrections or county jail for not more than one year, or by a fine
11 of not more than \$500 nor less than \$100.

12 (3) Refusal or neglect to comply with ORS 106.170 shall result in the forfeiture of a penalty of
13 not less than \$10 nor more than \$50 to be recovered by action for every five days of such refusal
14 or neglect.

15 **SECTION 9.** ORS 432.121 is amended to read:

16 432.121. (1) To protect the integrity of vital records and vital reports, to ensure their proper use
17 and to ensure the efficient and proper administration of the system of vital statistics, it shall be
18 unlawful for any person to permit inspection of, or to disclose information from vital records or vital
19 reports in the custody of the State Registrar of the Center for Health Statistics, county registrar
20 or local registrar or to copy or issue a copy of all or part of any such record or report unless au-
21 thorized by this chapter and by rules adopted pursuant thereto or by order of a court of competent
22 jurisdiction. Rules adopted under this section shall provide for adequate standards of security and
23 confidentiality of vital records and vital reports. The state registrar shall adopt rules to ensure
24 that, for records of dissolution of marriage issued in proceedings under ORS 107.085 or 107.485, So-
25 cial Security numbers of the parties are kept confidential and exempt from public inspection.

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

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

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

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

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

43 (e) To the federal agency responsible for national vital statistics, upon request. The copies or
44 data may be used solely for the conduct of official duties. Before furnishing the records, reports or
45 data, the state registrar shall enter into an agreement with the federal agency indicating the sta-

1 tistical or research purposes for which the records, reports or data may be used. The agreement
2 shall also set forth the support to be provided by the federal agency for the collection, processing
3 and transmission of the records, reports or data. Upon written request of the federal agency, the
4 state registrar may approve, in writing, additional statistical or research uses of the records, reports
5 or data supplied under the agreement.

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

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

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

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

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

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

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

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

27 (6) Nothing in this section shall be construed to permit disclosure of information contained in
28 the "Information for Medical and Health Use Only" section of the birth certificate, fetal death re-
29 port or the "Information for Statistical Purposes Only" section **or other confidential section** of the
30 [certificate] **application, license and record** of marriage or certificate of divorce, unless specifically
31 authorized by the state registrar for statistical or research purposes. The data shall not be subject
32 to subpoena or court order and shall not be admissible before any court, tribunal or judicial body.

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

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

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

44 (10) Appeals from decisions of the state registrar to refuse to disclose information or to permit
45 inspection or copying of records as prescribed by this section and rules adopted pursuant thereto

1 shall be made under ORS chapter 183.

2 (11) The state registrar shall adopt rules to implement this section in accordance with the ap-
3 plicable sections of ORS chapter 183.

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

6 **SECTION 10.** ORS 432.235 is amended to read:

7 432.235. (1) A certificate or report registered under this chapter may be amended only in ac-
8 cordance with this chapter and rules adopted by the State Registrar of the Center for Health Sta-
9 tistics to protect the integrity and accuracy of vital records and vital reports.

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

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

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

25 (5) When an applicant does not submit the minimum documentation required by rule of the state
26 registrar for amending a vital record or when the state registrar has cause to question the validity
27 or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies
28 are not corrected, the state registrar shall not amend the vital record and shall advise the applicant
29 of the reason for this action and shall further advise the applicant of the right of appeal under ORS
30 183.480 and 183.484.

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

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

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

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

45 **SECTION 11.** ORS 106.079 and 106.180 are repealed.

1 **SECTION 12.** ORS 106.220 is amended to read:

2 106.220. [*Upon entering into marriage, either person may retain the prior surname, and either*
3 *person may resume the person's prior legal name during the marriage.*] (1) **Upon entering into**
4 **marriage, either party may retain the party's surname prior to the marriage or change the**
5 **party's surname to the surname of the other party or to a hyphenated combination of the**
6 **surnames of both parties. If a party requests a surname change under this section, that**
7 **party may also change the party's middle name to the party's surname prior to the marriage.**
8 **Each party must indicate on the application, license and record of marriage the party's name**
9 **after marriage.**

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

14 **SECTION 13.** If House Bill 2007 becomes law, section 10 of this 2007 Act (amending ORS
15 **432.235) is repealed and ORS 432.235, as amended by section 17, chapter 99, Oregon Laws 2007**
16 **(Enrolled House Bill 2007), is amended to read:**

17 432.235. (1) A certificate or report registered under this chapter may be amended only in ac-
18 cordance with this chapter and rules adopted by the State Registrar of the Center for Health Sta-
19 tistics to protect the integrity and accuracy of vital records and vital reports.

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

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

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

35 (5) When an applicant does not submit the minimum documentation required by rule of the state
36 registrar for amending a vital record or when the state registrar has cause to question the validity
37 or adequacy of the applicant's sworn statements or the documentary evidence, and if the deficiencies
38 are not corrected, the state registrar shall not amend the vital record and shall advise the applicant
39 of the reason for this action and shall further advise the applicant of the right of appeal under ORS
40 183.480 and 183.484.

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

44 (7) When an amendment is made to [*a certificate for a*] **an application, license and record of**
45 **marriage or to a Declaration of Domestic Partnership by the local official issuing the marriage li-**

1 cense or registering the declaration, copies of the amendment shall be forwarded to the state
2 registrar.

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

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

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