House Bill 3380

Sponsored by Representative SCHOUTEN (at the request of Unchained at Last)

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 as introduced.

Modifies description of marriage. Increases minimum legal marriageable age to 18 years of age. Creates exception for emancipated persons who are at least 16 years of age.

A BILL FOR AN ACT

Relating to marriage; amending ORS 106.010, 106.041, 106.050 and 125.315; and repealing ORS 106.060.

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

SECTION 1. ORS 106.010 is amended to read:
106.010. Marriage is a civil contract entered into in person by [males] two persons who are at least 17 years of age or, if emancipated, at least 16 years of age, and [females at least 17 years of age, who are otherwise capable, and] solemnized in accordance with ORS 106.150.

SECTION 2. ORS 106.041 is amended to read:
106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license from the county clerk upon application, directed to any person, religious organization or congregation, or secular organization, authorized by ORS 106.120 to solemnize marriages, and authorizing the person, religious organization or congregation, or secular organization, to join together as spouses in a marriage the persons named in the license.

(2) 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:

(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) The form of application, license and record provided by the state registrar under subsection (2) of this section may not require an address for any religious organization or congregation authorized by ORS 106.120 to solemnize marriages.

(4) 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.

(5) A marriage license 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.”

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.

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

(7) 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 3. ORS 106.050 is amended to read:

106.050. (1) The county clerk may accept any reasonable proof of the applicant’s age satisfactory to the clerk. The clerk may require proof of age by affidavit of some person other than either of the parties seeking the license if the clerk deems it necessary in order to determine the age of an applicant to the clerk’s satisfaction.

(2) If an applicant for a marriage license is less than 18 years of age, the applicant must file with the county clerk an affidavit of some person other than either of the parties seeking the license showing [the facts other than age necessary to be shown under ORS 106.060 in the particular case, except the consent of the parent or guardian required by ORS 106.060 shall not be part of the affidavit] that the person under 18 years of age is emancipated. The affidavit is sufficient authority to the clerk, so far as the facts stated therein, for issuing the license.

SECTION 4. ORS 106.060 is repealed.

SECTION 5. ORS 125.315 is amended to read:

125.315. (1) A guardian has the following powers and duties:

(a) Except to the extent of any limitation under the order of appointment, the guardian has custody of the protected person and may establish the protected person’s place of abode within or without this state.

(b) The guardian shall provide for the care, comfort and maintenance of the protected person and, whenever appropriate, shall arrange for training and education of the protected person. Without regard to custodial rights of the protected person, the guardian shall take reasonable care of the person’s clothing, furniture and other personal effects unless a conservator has been appointed for the protected person.

(c) Subject to the provisions of ORS 127.505 to 127.660 and subsection (3) of this section, the guardian may consent, refuse consent or withhold or withdraw consent to health care, as defined in ORS 127.505, for the protected person. A guardian is not liable solely by reason of consent under this paragraph for any injury to the protected person resulting from the negligence or acts of third persons.

(d) The guardian may:

(A) Make advance funeral and burial arrangements;

(B) Subject to the provisions of ORS 97.130, control the disposition of the remains of the protected person; and

(C) Subject to the provisions of ORS 97.965, make an anatomical gift of all or any part of the body of the protected person.

(e) The guardian of a minor has the powers and responsibilities of a parent who has legal custody of a child, except that the guardian has no obligation to support the minor beyond the support that can be provided from the estate of the minor, and the guardian is not liable for the torts of the minor. The guardian may consent to the [marriage or] adoption of a protected person who is a minor.

(f) Subject to the provisions of ORS 125.320 (2), the guardian may receive money and personal property deliverable to the protected person and apply the money and property for support, care and education of the protected person. The guardian shall exercise care to conserve any excess for the
protected person's needs.

(g) The guardian shall promote the self-determination of the protected person and, to the extent practicable, encourage the protected person to participate in decisions, act on the protected person's own behalf and develop or regain the capacity to manage the protected person's personal affairs. To accomplish the duties under this paragraph, the guardian shall:

(A) Become or remain personally acquainted with the protected person and maintain sufficient contact with the protected person, including through regular visitation, to know the protected person's abilities, limitations, needs, opportunities and physical and mental health;

(B) To the extent practicable, identify the values and preferences of the protected person and involve the protected person in decisions affecting the protected person, including decisions about the protected person's care, dwelling, activities or social interactions; and

(C) Make reasonable efforts to identify and facilitate supportive relationships and services for the protected person.

(h) In making decisions for the protected person, the guardian shall make the decisions the guardian reasonably believes the protected person would make if the protected person were able, unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the protected person. To determine the decision the protected person would make if able, the guardian shall consider the protected person's previous or current instructions, preferences, opinions, values and actions, to the extent actually known or reasonably ascertainable by the guardian.

(i) If the guardian cannot make a decision under paragraph (h) of this subsection because the guardian does not know and cannot reasonably determine the decision the protected person would make if able, or the guardian reasonably believes the decision the protected person would make would unreasonably harm or endanger the welfare or personal or financial interests of the protected person, the guardian shall act in accordance with the best interest of the protected person. In determining the best interest of the protected person, the guardian shall consider:

(A) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the protected person;

(B) Other information the guardian believes the protected person would consider if the protected person were able; and

(C) Other factors a reasonable person in the circumstances of the protected person would consider, including consequences for others.

(2) If a conservator has been appointed for the protected person, the guardian may file a motion with the court seeking an order of the court on the duties of the conservator relating to payment of support for the protected person.

(3) A guardian may consent to the withholding or withdrawing of artificially administered nutrition and hydration for a protected person only under the circumstances described in ORS 127.580 (1)(a), (b), (d), (e) or (f) and, if the protected person has a medical condition specified in ORS 127.580 (1)(b), (d), (e) or (f), the condition has been medically confirmed.