

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

1
2 Relating to marriage; amending ORS 106.010, 106.041, 106.050 and 125.315; and repealing ORS
3 106.060.

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

5 **SECTION 1.** ORS 106.010 is amended to read:

6 106.010. Marriage is a civil contract entered into in person by [*males*] **two persons who are**
7 at least [*17*] **18 years of age or, if emancipated, at least 16 years of age**, and [*females at least 17*
8 *years of age, who are otherwise capable, and*] solemnized in accordance with ORS 106.150.

9 **SECTION 2.** ORS 106.041 is amended to read:

10 106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license
11 from the county clerk upon application, directed to any person, religious organization or congrega-
12 tion, or secular organization, authorized by ORS 106.120 to solemnize marriages, and authorizing
13 the person, religious organization or congregation, or secular organization, to join together as
14 spouses in a marriage the persons named in the license.

15 (2) The State Registrar of the Center for Health Statistics shall provide a standard form of the
16 application, license and record of marriage to be used in this state that must include:

17 (a) Each applicant's Social Security number recorded on a confidential portion of the applica-
18 tion, license and record of marriage;

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

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

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

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

26 (4) Each applicant for a marriage license shall file with the county clerk from whom the mar-
27 riage license is sought a written application for the license on forms prescribed for this purpose by
28 the Center for Health Statistics.

29 (5) A marriage license must contain the following statement: "Neither you nor your spouse is
30 the property of the other. The laws of the State of Oregon affirm your right to enter into marriage
31 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.

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

3 (7) The county clerk may not issue a marriage license until the provisions of this section and
 4 ORS 106.050 [and 106.060] are complied with.

5 **SECTION 3.** ORS 106.050 is amended to read:

6 106.050. (1) The county clerk may accept any reasonable proof of the applicant's age satisfactory
 7 to the clerk. The clerk may require proof of age by affidavit of some person other than either of the
 8 parties seeking the license if the clerk deems it necessary in order to determine the age of an ap-
 9 plicant to the clerk's satisfaction.

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

16 **SECTION 4. ORS 106.060 is repealed.**

17 **SECTION 5.** ORS 125.315 is amended to read:

18 125.315. (1) A guardian has the following powers and duties:

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

22 (b) The guardian shall provide for the care, comfort and maintenance of the protected person
 23 and, whenever appropriate, shall arrange for training and education of the protected person.
 24 Without regard to custodial rights of the protected person, the guardian shall take reasonable care
 25 of the person's clothing, furniture and other personal effects unless a conservator has been ap-
 26 pointed for the protected person.

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

32 (d) The guardian may:

33 (A) Make advance funeral and burial arrangements;

34 (B) Subject to the provisions of ORS 97.130, control the disposition of the remains of the pro-
 35 tected person; and

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

38 (e) The guardian of a minor has the powers and responsibilities of a parent who has legal cus-
 39 tody of a child, except that the guardian has no obligation to support the minor beyond the support
 40 that can be provided from the estate of the minor, and the guardian is not liable for the torts of the
 41 minor. The guardian may consent to the [*marriage or*] adoption of a protected person who is a mi-
 42 nor.

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

1 protected person's needs.

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

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

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

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

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

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

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

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

30 (C) Other factors a reasonable person in the circumstances of the protected person would con-
 31 sider, including consequences for others.

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

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

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