

Senate Bill 548

Sponsored by Senators SOLLMAN, SMITH DB, Representative MANNIX; Senators FREDERICK, GELSER BLOUIN, GOLDEN, PATTERSON, TAYLOR, THATCHER, WEBER, Representatives BOWMAN, CHAICHI, GAMBA, GRAYBER, LIVELY, NGUYEN D, OSBORNE, RESCHKE, SOSA, TRAN (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act increases the age a person must be to get married to 18. (Flesch Readability Score: 71.7).

Increases the minimum legal marriageable age to 18 years of age.

A BILL FOR AN ACT

1 Relating to marriage; amending ORS 106.010, 106.041, 106.050, 106.100, 109.056, 125.315, 419B.376 and
2 419C.558; and repealing ORS 106.060.

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

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

5 106.010. Marriage is a civil contract entered into in person by males at least [*17*] **18** years of
6 age and females at least [*17*] **18** years of age, who are otherwise capable, and solemnized in ac-
7 cordance with ORS 106.150.

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

9 106.041. (1) All persons wishing to enter into a marriage contract shall obtain a marriage license
10 from the county clerk upon application, directed to any person, religious organization or congre-
11 gation, or secular organization, authorized by ORS 106.120 to solemnize marriages, and authorizing
12 the person, religious organization or congregation, or secular organization, to join together as
13 spouses in a marriage the persons named in the license.

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

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

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

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

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

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

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

28 (5) A marriage license must contain the following statement: "Neither you nor your spouse is
29

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 the property of the other. The laws of the State of Oregon affirm your right to enter into marriage
2 and at the same time to live within the marriage free from violence and abuse.”

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

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

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

8 106.050. [(1)] The county clerk may accept any reasonable proof of the [*applicant's*] age of an
9 **applicant for a marriage license** satisfactory to the clerk. The clerk may require proof of age by
10 affidavit of some person other than either of the parties seeking the license if the clerk deems it
11 necessary in order to determine the age of an applicant to the clerk's satisfaction.

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

17 **SECTION 4.** ORS 106.100 is amended to read:

18 106.100. (1) The county clerk who issues the marriage license shall maintain records relating to
19 marriages licensed in the county. The records must include the names of the parties before and after
20 marriage, the consent of the [*parent or*] guardian, if any, the name of the affiant, the substance of
21 the affidavit upon which the license was issued and the date of the license.

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

27 (3) The county clerk shall, upon completion of the requirements of this section and ORS 106.077,
28 deliver the original completed application, license and report of marriage to the Center for Health
29 Statistics as required under ORS 432.173.

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

33 **SECTION 5.** ORS 109.056 is amended to read:

34 109.056. (1) Except as provided in subsection (2) or (3) of this section, a parent or guardian of
35 a minor or incapacitated person, by a properly executed power of attorney, may delegate to another
36 person, for a period not exceeding six months, any of the powers of the parent or guardian regarding
37 care, custody or property of the minor child or ward, except the power to consent to [*marriage or*]
38 adoption of a minor ward.

39 (2) A parent or guardian of a minor child may delegate the powers designated in subsection (1)
40 of this section to a school administrator for a period not exceeding 12 months.

41 (3)(a) As used in this subsection, “servicemember-parent” means a parent or guardian:

42 (A) Who is:

43 (i) A member of the organized militia of this state;

44 (ii) A member of the Reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of
45 the United States;

1 (iii) A member of the commissioned corps of the National Oceanic and Atmospheric Adminis-
2 tration; or

3 (iv) A member of the Public Health Service of the United States Department of Health and Hu-
4 man Services detailed by proper authority for duty with the Army or Navy of the United States; and

5 (B) Who is required to enter and serve in the active military service of the United States under
6 a call or order by the President of the United States or to serve on state active duty as defined in
7 the Oregon Code of Military Justice.

8 (b) A servicemember-parent of a minor child may delegate the powers designated in subsection
9 (1) of this section for a period not exceeding the term of active duty service plus 30 days.

10 (c) Except as provided in paragraph (d) of this subsection, if the minor child is living with the
11 child's other parent, a delegation under paragraph (b) of this subsection must be to the parent with
12 whom the minor child is living unless a court finds that the delegation would not be in the best
13 interests of the minor child.

14 (d) When the servicemember-parent has joint custody of the minor child with the child's other
15 parent or another individual, and the servicemember-parent is married to an individual other than
16 the child's other parent, the servicemember-parent may delegate the powers designated in subsection
17 (1) of this section to the spouse of the servicemember-parent for a period not exceeding the term of
18 active duty service plus 30 days, unless a court finds that the delegation would not be in the best
19 interests of the minor child.

20 **SECTION 6.** ORS 125.315 is amended to read:

21 125.315. (1) A guardian has the following powers and duties:

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

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

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

35 (d) The guardian may:

36 (A) Make advance funeral and burial arrangements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 **SECTION 7.** ORS 419B.376 is amended to read:

43 419B.376. A person, agency or institution having guardianship of a ward by reason of appoint-
44 ment by the court has the duties and authority of a guardian of the ward, including but not limited
45 to the following:

1 (1) To authorize surgery for the ward, but this authority does not prevent the person having
2 legal custody of the ward from acting under ORS 419B.373 (4).

3 (2) To authorize the ward to enlist in the Armed Forces of the United States.

4 (3) To consent to the ward's marriage **if the ward is at least 18 years of age.**

5 (4) When the ward has been committed under ORS 419B.527, to consent to the adoption of the
6 ward.

7 (5) To make other decisions concerning the ward of substantial legal significance.

8 (6) To make such reports and to supply such information to the court as the court may from time
9 to time require.

10 **SECTION 8.** ORS 419C.558 is amended to read:

11 419C.558. A person, agency or institution having guardianship of an adjudicated youth by reason
12 of appointment by the court has the duties and authority of a guardian of the adjudicated youth,
13 including but not limited to the following:

14 (1) To authorize surgery for the adjudicated youth, but this authority does not prevent the per-
15 son having legal custody of the adjudicated youth from acting under ORS 419C.550 (4).

16 (2) To authorize the adjudicated youth to enlist in the Armed Forces of the United States.

17 (3) To consent to the adjudicated youth's marriage **if the adjudicated youth is at least 18**
18 **years of age.**

19 (4) To make other decisions concerning the adjudicated youth of substantial legal significance.

20 (5) To make such reports and to supply such information to the court as the court may from time
21 to time require.

22 **SECTION 9.** ORS 106.060 is repealed.
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