

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1125

By: Russ

COMMITTEE SUBSTITUTE

An Act relating to marriage licenses; amending 28 O.S. 2011, Sections 31 and 152.4, which relate to fees; modifying fee; providing fee for recording marriage certificate or affidavit of common law marriage; deleting marriage license fee collection procedure; amending 43 O.S. 2011, Sections 3, 5.1, 7, 8, 9, as amended by Section 6, Chapter 278, O.S.L. 2012 and 15 (43 O.S. Supp. 2014, Section 9), which relate to marriage; deleting reference to marriage license; describing procedure when written permission is required for marriage; directing permission be retained by official or affixed to affidavit; providing reduced marriage certificate fee if premarital counseling is completed; providing exception; allowing assemblies with no ordained minister to solemnize marriages; allowing affidavit of common law marriage; providing for filing of affidavit with court clerk; listing contents of affidavit; requiring execution of marriage certificate; listing contents of certificate; directing filing of certificate with court clerk; instructing court clerk to record certificate or affidavit; setting forth procedures for recording and recordkeeping; requiring entity accept certificate or affidavit as proof of identity or marital status; providing applicability; construing provision; providing punishment for judge or clerk recording prohibited marriage certificate; providing statutory form for marriage certificate; repealing 43 O.S. 2011, Sections 4, 5, as amended by Section 1, Chapter

1 192, O.S.L. 2013, 6, 10, 19 and 36 (43 O.S. Supp.  
2 2014, Section 5), which relate to marriage; providing  
3 for codification; and providing an effective date.  
4

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY 28 O.S. 2011, Section 31, is  
7 amended to read as follows:

8 Section 31. Notwithstanding any other provision of law, the  
9 clerk of the district court, or the clerk of any other court of  
10 record, shall charge and collect the following fees for services by  
11 them respectively rendered and none others, except as otherwise  
12 provided by law:

13 Approving bond or undertaking, including  
14 certificate and seal.....\$3.00  
15 Making copy of an instrument of record or  
16 on file, first page.....\$1.00  
17 subsequent pages (each).....\$0.50  
18 Certifying to any instrument (each).....\$0.50  
19 Authentication of court records.....\$5.00  
20 Receiving and paying out money in  
21 pursuance of law or order of court.....1%  
22 provided, however, that such charge  
23 shall not exceed \$300.00.  
24

~~Application, issuing, entering return and~~  
~~recording~~ Recording marriage ~~license~~  
certificate if the applicants submit a  
certificate that states the applicants  
have completed the premarital counseling  
program pursuant to Section 5.1 of Title  
43 of the Oklahoma Statutes.....\$5.00

~~Application, issuing, entering return and~~  
~~recording~~ Recording marriage ~~license~~  
certificate if the applicants do not  
submit a certificate that states the  
applicants have completed the premarital  
counseling program pursuant to Section  
5.1 of Title 43 of the Oklahoma Statutes  
or recording affidavit of common law  
marriage.....\$50.00

Conveyance of full-blood Indian heirs to  
interest in inherited lands, same to be  
accounted for as other fees.....\$5.00

Posting notice outside the courthouse.....\$10.00

Mailing, by any type of mail, writs,  
warrants, orders, process, command or  
notice for each person.....\$10.00, or

1 actual expense, whichever is greater,  
2 except ordinary mailing of first-class  
3 mail in probate cases, for each case.....\$10.00, or  
4 actual expense, whichever is greater.

5 For the actual cost of all postage in each  
6 case in excess of.....\$10.00, or  
7 actual expense, whichever is greater.

8 For filing and indexing of disclaimers  
9 other than in pending probate or civil  
10 cases pursuant to the provisions of  
11 Section 751 et seq. of Title 60 of the  
12 Oklahoma Statutes.....\$5.00

13 SECTION 2. AMENDATORY 28 O.S. 2011, Section 152.4, is  
14 amended to read as follows:

15 Section 152.4 In any proceeding for issuance of a license ~~other~~  
16 ~~than a marriage license~~, the court clerk shall collect at the time  
17 of filing the application for said license, court costs in the same  
18 amounts as required in civil cases in addition to other fees  
19 prescribed by law.

20 SECTION 3. AMENDATORY 43 O.S. 2011, Section 3, is  
21 amended to read as follows:

22 Section 3. A. Any unmarried person who is at least eighteen  
23 (18) years of age and not otherwise disqualified is capable of  
24

1 contracting and consenting to marriage ~~with a person of the opposite~~  
2 ~~sex.~~

3 B. 1. Except as otherwise provided by this subsection, no  
4 person under the age of eighteen (18) years shall enter into the  
5 marriage relation, ~~nor shall any license issue therefor,~~ except:

- 6 a. upon the consent and authority expressly given by the  
7 parent or guardian of such underage ~~applicant in the~~  
8 ~~presence of the authority issuing such license~~ person,
- 9 b. upon the written consent of the parent or guardian of  
10 such underage ~~applicant~~ person executed and  
11 acknowledged in person before a judge of the district  
12 court or the court clerk of any county within the  
13 State of Oklahoma,
- 14 c. if the parent or guardian resides outside of the State  
15 of Oklahoma, upon the written consent of the parent or  
16 guardian executed before a judge or clerk of a court  
17 of record. The executed foreign consent shall be duly  
18 authenticated in the same manner as proof of documents  
19 from foreign jurisdictions,
- 20 d. if the certificate of a duly licensed medical doctor  
21 or osteopath, acknowledged in the manner provided by  
22 law for the acknowledgment of deeds, and stating that  
23 such parent or guardian is unable by reason of health  
24 or incapacity to be present in person, ~~is presented to~~

- ~~such licensing authority,~~ upon the written consent of the parent or guardian, acknowledged in the same manner as the accompanying medical certificate,
- e. if the parent or guardian is on active duty with the Armed Forces of the United States, upon the written permission of the parent or guardian, acknowledged in the manner provided by law for acknowledgment of deeds by military personnel authorized to administer oaths. Such permission shall be presented ~~to the licensing authority,~~ accompanied by a certificate executed by a commissioned officer in command of the ~~applicant person,~~ to the effect that the parent or guardian is on active duty in the Armed Forces of the United States, or
- f. upon affidavit of three (3) reputable persons stating that both parents of the minor are deceased, or mentally incompetent, or their whereabouts are unknown to the minor, and that no guardian has theretofore been appointed for the minor. ~~The judge of the district court issuing the license may in his or her discretion consent to the marriage in the same manner as in all cases in which consent may be given by a parent or guardian.~~

1        2. Every person under the age of sixteen (16) years is  
2 expressly forbidden and prohibited from entering into the marriage  
3 relation except when authorized by the court:

- 4            a. in settlement of a suit for seduction or paternity, or  
5            b. if the unmarried female is pregnant, or has given  
6 birth to an illegitimate child and at least one parent  
7 of each minor, or the guardian or custodian of such  
8 child, is present before the court and has an  
9 opportunity to present evidence in the event such  
10 parent, guardian, or custodian objects to the ~~issuance~~  
11 ~~of a marriage license~~. If they are not present the  
12 parent, guardian, or custodian may be given notice of  
13 the hearing at the discretion of the court.

14        3. A parent or a guardian of any child under the age of  
15 eighteen (18) years who is in the custody of the Department of Human  
16 Services or the Department of Juvenile Justice shall not be eligible  
17 to consent to the marriage of such minor child as required by the  
18 provisions of this subsection.

19        4. Any certificate or written permission required by this  
20 subsection shall be retained by the official ~~issuing~~ performing the  
21 marriage ~~license~~ ceremony or affixed to the affidavit of common law  
22 marriage.

23        C. No marriage may be authorized when such marriage would be  
24 incestuous under this chapter.

1       SECTION 4.       AMENDATORY       43 O.S. 2011, Section 5.1, is  
2 amended to read as follows:

3       Section 5.1 A. The clerk of the district court shall reduce  
4 the fee for recording a marriage ~~license~~ certificate as prescribed  
5 by Section 31 of Title 28 of the Oklahoma Statutes to persons who  
6 have successfully completed a premarital counseling program meeting  
7 the conditions specified by this section.

8       B. 1. A premarital counseling program shall be conducted by a  
9 health professional, an official representative of a religious  
10 institution, or a person trained by the principal authors or duly  
11 authorized agents of the principal authors of nationally recognized  
12 marriage education curriculum including, but not limited to,  
13 Prevention & Relationship Enhancement Program (PREP). Upon  
14 successful completion of the program, the counseling program  
15 provider shall issue to the persons a certificate signed by the  
16 instructor of the counseling program. The certificate shall state  
17 that the named persons have successfully completed the premarital  
18 counseling requirements. A minimum of four (4) hours of education  
19 or counseling shall be necessary for successful completion of the  
20 marriage education curriculum.

21       2. For purposes of this subsection, the term "health  
22 professional" means a person licensed or certified by this state to  
23 practice psychiatry or psychology; a licensed social worker with  
24

1 experience in marriage counseling; a licensed marital and family  
2 therapist; or a licensed professional counselor.

3 SECTION 5. AMENDATORY 43 O.S. 2011, Section 7, is  
4 amended to read as follows:

5 Section 7. A. ~~All~~ Except as provided in subsection E of this  
6 section marriages must be contracted by a formal ceremony performed  
7 or solemnized in the presence of at least two adult, competent  
8 persons as witnesses, by a judge or retired judge of any court in  
9 this state, or an ordained or authorized preacher or minister of the  
10 Gospel, priest or other ecclesiastical dignitary of any denomination  
11 who has been duly ordained or authorized by the church to which he  
12 or she belongs to preach the Gospel, or a rabbi and who is at least  
13 eighteen (18) years of age.

14 B. 1. The judge shall place his or her order of appointment on  
15 file with the office of the court clerk of the county in which he or  
16 she resides.

17 2. The preacher, minister, priest, rabbi, or ecclesiastical  
18 dignitary who is a resident of this state shall have filed, in the  
19 office of the court clerk of the county in which he or she resides,  
20 a copy of the credentials or authority from his or her church or  
21 synagogue authorizing him or her to solemnize marriages.

22 3. The preacher, minister, priest, rabbi, or ecclesiastical  
23 dignitary who is not a resident of this state, but has complied with  
24 the laws of the state of which he or she is a resident, shall have

1 filed once, in the office of the court clerk of the county in which  
2 he or she intends to perform or solemnize a marriage, a copy of the  
3 credentials or authority from his or her church or synagogue  
4 authorizing him or her to solemnize marriages.

5 4. The filing by resident or nonresident preachers, ministers,  
6 priests, rabbis, ecclesiastical dignitaries or judges shall be  
7 effective in and for all counties of this state; provided, no fee  
8 shall be charged for such recording.

9 C. No person herein authorized to perform or solemnize a  
10 marriage ceremony shall do so ~~unless the license issued therefor be~~  
11 ~~first delivered into his or her possession nor unless he or she has~~  
12 ~~good reason to believe the persons presenting themselves before him~~  
13 ~~or her for marriage are the identical persons named in the license,~~  
14 ~~and for whose marriage the same was issued, and that if there is no~~  
15 a legal objection or impediment to such marriage.

16 D. Marriages between persons belonging to the society called  
17 Friends, or Quakers, the spiritual assembly of the Baha'is, or the  
18 Church of Jesus Christ of Latter Day Saints, or other assemblies  
19 which have no ordained minister, may be solemnized by the persons  
20 and in the manner prescribed by and practiced in any such society,  
21 church, or assembly.

22 E. Marriages not contracted by a formal ceremony pursuant to  
23 subsection A of this section may be acknowledged by filing an  
24 affidavit of common law marriage with the court clerk. The

1 affidavit of common law marriage shall be signed by both parties,  
2 notarized with official seal affixed and include:

3 1. The place of residence of each party;

4 2. The full legal name and age of each party as they appear  
5 upon or are calculable from a certified copy of the birth  
6 certificate, the current driver license or identification card, the  
7 current passport or visa, or any other certificate, license or  
8 document issued by or existing pursuant to the laws of any nation or  
9 of any state, or political subdivision thereof, accepted as proof of  
10 identity and age;

11 3. The full name by which each party will be known after the  
12 common law marriage, which shall become the full legal name of the  
13 party upon the filing of the affidavit of common law marriage; and

14 4. That the parties are not disqualified from or incapable of  
15 entering into a common law marriage.

16 SECTION 6. AMENDATORY 43 O.S. 2011, Section 8, is  
17 amended to read as follows:

18 Section 8. A. The person performing or solemnizing the  
19 marriage ceremony shall, immediately upon the completion of the  
20 ceremony, ~~endorse upon the license~~ execute a marriage certificate  
21 provided in Section 9 of this act authorizing the marriage and  
22 containing the following information:

23 1. The place of residence of each party;  
24

1        2. The full legal name and age of each party as they appear  
2 upon or are calculable from a certified copy of the birth  
3 certificate, the current driver license or identification card, the  
4 current passport or visa, or any other certificate, license or  
5 document issued by or existing pursuant to the laws of any nation or  
6 of any state, or political subdivision thereof, accepted as proof of  
7 identity and age;

8        3. The full name by which each party will be known after the  
9 marriage, which shall become the full legal name of the party upon  
10 the filing of the marriage certificate;

11        4. That the parties are not disqualified from or incapable of  
12 entering into marriage;

13        5. His or her name and official or clerical designation;

14        ~~2.~~ 6. The court of which he or she is the judge, or the  
15 congregation or body of which he or she is pastor, preacher,  
16 minister, priest, rabbi or dignitary of a recognized assembly;  
17 provided, that the authority to perform or solemnize marriages shall  
18 be coextensive with the congregation or body of which he or she is  
19 pastor, preacher, minister, priest, rabbi or dignitary of a  
20 recognized assembly; provided further, that all marriages solemnized  
21 among the society called Friends or Quakers, the spiritual assembly  
22 of the Baha'is, or the Church of Jesus Christ of Latter-day Saints,  
23 or other assemblies which have no ordained minister, in the form  
24 heretofore practiced and in use in their meetings shall be good and

1 valid. One person chosen by such society, assembly, or church shall  
2 be responsible for completing the marriage certificate pursuant to  
3 this section in the same manner as a minister or other person  
4 authorized to perform marriages;

5 ~~3.~~ 7. The town or city and county where the court,  
6 congregation, body, society, assembly, or church is located; and

7 ~~4.~~ 8. His or her signature along with his or her official or  
8 clerical designation.

9 B. The witnesses to the ceremony shall endorse the marriage  
10 certificate, attesting to their presence at the ceremony, with their  
11 names and post office addresses.

12 C. The persons who have been married in the ceremony shall  
13 endorse the marriage certificate with the names by which they are to  
14 be known from the time of the marriage, ~~as evidenced on the marriage~~  
15 ~~license.~~

16 D. The ~~marriage license, along with the completed~~ marriage  
17 certificate shall be transmitted without delay to the ~~judge or the~~  
18 court clerk who ~~issued the license and~~ shall file the marriage  
19 certificate.

20 SECTION 7. AMENDATORY 43 O.S. 2011, Section 9, as  
21 amended by Section 6, Chapter 278, O.S.L. 2012 (43 O.S. Supp. 2014,  
22 Section 9), is amended to read as follows:

23 Section 9. A. The ~~judge or~~ clerk of the district court ~~issuing~~  
24 recording any marriage license certificate or affidavit of common

1 law marriage shall make a complete record of the ~~application,~~  
2 ~~license, and certificate thereon~~ or affidavit, on an optical disc,  
3 microfilm, microfiche, imaging, in a book kept by the ~~judge or~~ clerk  
4 for that purpose, properly indexed, or by electronic means using any  
5 method approved by the Supreme Court; and the record of the ~~license~~  
6 ~~shall be made before it is delivered to the person procuring the~~  
7 ~~same, and the record of the~~ certificate or affidavit shall be made  
8 upon ~~the return of the license~~ filing; provided, that all records  
9 pertaining to ~~the issuance of such license~~ marriage certificates or  
10 affidavits of common law marriage shall be open to public inspection  
11 during office hours; provided further, that after recording of the  
12 original ~~license and completed~~ certificate or affidavit as  
13 hereinbefore required, it shall be returned to the persons ~~to whom~~  
14 ~~the same was issued~~ who filed it, with the ~~issuing officer's~~ court  
15 clerk's certificate affixed thereon showing the book and page or  
16 case number where the same has been recorded.

17 B. Any entity requiring proof of identity or marital status  
18 shall accept a certified copy of the marriage certificate or  
19 affidavit of common law marriage that has been filed with the court  
20 clerk. Any reference in the Oklahoma Statutes requiring a marriage  
21 license as proof of identity or marital status shall be interpreted  
22 to include a marriage certificate or affidavit of common law  
23 marriage executed on or after November 1, 2015.  
24

1        C. Nothing provided in this section shall be construed to  
2        invalidate a marriage license issued by the court clerk prior to  
3        November 1, 2015.

4                SECTION 8.            AMENDATORY            43 O.S. 2011, Section 15, is  
5        amended to read as follows:

6                Section 15. Any judge of the district court, or clerk of the  
7        district court, knowingly ~~issuing~~ recording any marriage ~~license,~~  
8        certificate or concealing any record thereof, contrary to the  
9        provisions of this chapter, or any person knowingly performing or  
10       solemnizing the marriage ceremony contrary to any of the provisions  
11       of this chapter, shall be guilty of a misdemeanor and upon  
12       conviction thereof shall be punished by a fine of not less than One  
13       Hundred Dollars (\$100.00) nor more than Five Hundred Dollars  
14       (\$500.00), or by imprisonment in the county jail not less than  
15       thirty (30) days nor more than one (1) year or by both such fine and  
16       imprisonment.

17                SECTION 9.            NEW LAW            A new section of law to be codified  
18        in the Oklahoma Statutes as Section 8.1 of Title 43, unless there is  
19        created a duplication in numbering, reads as follows:

20                A. The following statutory form of marriage certificate as  
21        authorized by Section 8 of Title 43 of the Oklahoma Statutes is  
22        legally sufficient:

23                                STATUTORY FORM FOR MARRIAGE CERTIFICATE

24        In the District Court of

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\_\_\_\_\_ County

I hereby certify that I \_\_\_\_\_

(Name of official solemnizing marriage)

\_\_\_\_\_ of \_\_\_\_\_

(Official or Clerical Designation) (Congregation or Religious Group)

of \_\_\_\_\_, in \_\_\_\_\_ County, State of Oklahoma

(City) (County)

joined in marriage:

\_\_\_\_\_

(Full name of party as it appears on birth certificate or other government-issued identification card)

of \_\_\_\_\_, County of \_\_\_\_\_

(City of residence) (County of residence)

State of \_\_\_\_\_, age \_\_\_\_\_ years

(State of residence) (age of party)

and

\_\_\_\_\_

(Full name of party as it appears on birth certificate or other government-issued identification card)

of \_\_\_\_\_, County of \_\_\_\_\_

(City of residence) (County of residence)

State of \_\_\_\_\_, age \_\_\_\_\_ years

(State of residence) (age of party)

1 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_,  
2 State of Oklahoma, in the presence of witnesses who have endorsed  
3 this Certificate below.

4 My credentials or authority to solemnize marriage are recorded in  
5 Minister's Credentials Case No. \_\_\_\_\_ or Book \_\_\_\_\_ at  
6 page \_\_\_\_\_ of \_\_\_\_\_ County, Oklahoma.

7 \_\_\_\_\_  
8 (Signature of Official Solemnizing Marriage Ceremony)

9 \_\_\_\_\_  
10 (Official or Clerical Designation)

11 In witness thereof, we hereby attest that we were present at the  
12 ceremony referenced above:

13 \_\_\_\_\_ of \_\_\_\_\_,  
14 (Witness) (City) (State)

15 \_\_\_\_\_ of \_\_\_\_\_,  
16 (Witness) (City) (State)

17 \_\_\_\_\_  
18 First Spouse's Full Name To Be Known As

19 \_\_\_\_\_

20 First Spouse's Signature (sign full name to be known as, exactly as  
21 above)

22 \_\_\_\_\_

23 Second Spouse's Full Name To Be Known As

24 \_\_\_\_\_

1 Second Spouse's Signature (sign full name to be known as, exactly as  
2 above)

3 This Marriage Certificate was filed with the Court Clerk's Office,  
4 where it was recorded in Marriage Record Book \_\_\_\_\_ at Page \_\_\_\_\_  
5 or in Case # \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
6 \_\_\_\_\_, Court Clerk of \_\_\_\_\_ County

7 By \_\_\_\_\_

8 (Court Clerk or Deputy)

9 B. The power of attorney is legally sufficient under this act,  
10 if the wording of the form complies substantially with subsection A  
11 of this section, the form is properly completed, and the signatures  
12 of the parties are acknowledged.

13 SECTION 10. REPEALER 43 O.S. 2011, Sections 4, 5, as  
14 amended by Section 1, Chapter 192, O.S.L. 2013, 6, 10, 19 and 36 (43  
15 O.S. Supp. 2014, Section 5), are hereby repealed.

16 SECTION 11. This act shall become effective November 1, 2015.

17  
18 55-1-6877 EK 02/18/15  
19  
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24