

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1125

By: Russ

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8
9 COMMITTEE SUBSTITUTE

10 An Act relating to marriage licenses; amending 28
11 O.S. 2011, Sections 31 and 152.4, which relate to
12 fees; modifying fee; providing fee for recording
13 marriage certificate or affidavit of common law
14 marriage; deleting marriage license fee collection
15 procedure; amending 43 O.S. 2011, Sections 3, 5.1, 7,
16 8, 9, as amended by Section 6, Chapter 278, O.S.L.
17 2012 and 15 (43 O.S. Supp. 2014, Section 9), which
18 relate to marriage; deleting reference to marriage
19 license; describing procedure when written permission
20 is required for marriage; directing permission be
21 retained by official or affixed to affidavit;
22 providing reduced marriage certificate fee if
23 premarital counseling is completed; providing
24 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

1 form for marriage certificate; repealing 43 O.S.
2 2011, Sections 4, 5, as amended by Section 1, Chapter
3 192, O.S.L. 2013, 6, 10, 19 and 36 (43 O.S. Supp.
4 2014, Section 5), which relate to marriage; providing
5 for codification; and providing an effective date.

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

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

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

14 Approving bond or undertaking, including

15 certificate and seal.....\$3.00

16 Making copy of an instrument of record or

17 on file, first page.....\$1.00

18 subsequent pages (each).....\$0.50

19 Certifying to any instrument (each).....\$0.50

20 Authentication of court records.....\$5.00

21 Receiving and paying out money in

22 pursuance of law or order of court.....1%

23 provided, however, that such charge

24 shall not exceed \$300.00.

1 ~~Application, issuing, entering return and~~
2 ~~recording~~ Recording marriage ~~license~~
3 certificate if the applicants submit a
4 certificate that states the applicants
5 have completed the premarital counseling
6 program pursuant to Section 5.1 of Title
7 43 of the Oklahoma Statutes.....\$5.00

8 ~~Application, issuing, entering return and~~
9 ~~recording~~ Recording marriage ~~license~~
10 certificate if the applicants do not
11 submit a certificate that states the
12 applicants have completed the premarital
13 counseling program pursuant to Section
14 5.1 of Title 43 of the Oklahoma Statutes
15 or recording affidavit of common law
16 marriage.....\$50.00

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

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

21 Mailing, by any type of mail, writs,
22 warrants, orders, process, command or
23 notice for each person.....\$10.00, or
24

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~~

- 1 ~~such licensing authority,~~ upon the written consent of
2 the parent or guardian, acknowledged in the same
3 manner as the accompanying medical certificate,
- 4 e. if the parent or guardian is on active duty with the
5 Armed Forces of the United States, upon the written
6 permission of the parent or guardian, acknowledged in
7 the manner provided by law for acknowledgment of deeds
8 by military personnel authorized to administer oaths.
9 Such permission shall be presented ~~to the licensing~~
10 ~~authority,~~ accompanied by a certificate executed by a
11 commissioned officer in command of the ~~applicant~~
12 person, to the effect that the parent or guardian is
13 on active duty in the Armed Forces of the United
14 States, or
- 15 f. upon affidavit of three (3) reputable persons stating
16 that both parents of the minor are deceased, or
17 mentally incompetent, or their whereabouts are unknown
18 to the minor, and that no guardian has theretofore
19 been appointed for the minor. ~~The judge of the~~
20 ~~district court issuing the license may in his or her~~
21 ~~discretion consent to the marriage in the same manner~~
22 ~~as in all cases in which consent may be given by a~~
23 ~~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

1 _____ County

2 I hereby certify that I _____

3 (Name of official solemnizing marriage)

4 _____ of _____

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

6 of _____, in _____ County, State of Oklahoma

7 (City) (County)

8 joined in marriage:

9 _____

10 (Full name of party as it appears on birth certificate or other

11 government-issued identification card)

12 of _____, County of _____

13 (City of residence) (County of residence)

14 State of _____, age _____ years

15 (State of residence) (age of party)

16 and

17 _____

18 (Full name of party as it appears on birth certificate or other

19 government-issued identification card)

20 of _____, County of _____

21 (City of residence) (County of residence)

22 State of _____, age _____ years

23 (State of residence) (age of party)

24

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 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
19 dated 02/18/2015 - DO PASS, As Amended.
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23
24