

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3873

By: Dunnington

AS INTRODUCED

An Act relating to marriage; amending 43 O.S. 2011, Section 3, which relates to eligibility to marry; eliminating exceptions to age requirement; amending 43 O.S. 2011, Section 5, as amended by Section 1, Chapter 192, O.S.L. 2013 (43 O.S. Supp. 2019, Section 5), which relates to marriage license applications; removing reference to underage applicants; removing reference to procedure for underage persons to marry; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2011, Section 3, is amended to read as follows:

Section 3. A. Any unmarried person who is at least eighteen (18) years of age and not otherwise disqualified is capable of contracting and consenting to marriage with a person of the opposite sex.

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

- 1 a. ~~upon the consent and authority expressly given by the~~

2 ~~parent or guardian of such underage applicant in the~~

3 ~~presence of the authority issuing such license,~~
- 4 b. ~~upon the written consent of the parent or guardian of~~

5 ~~such underage applicant executed and acknowledged in~~

6 ~~person before a judge of the district court or the~~

7 ~~court clerk of any county within the State of~~

8 ~~Oklahoma,~~
- 9 c. ~~if the parent or guardian resides outside of the State~~

10 ~~of Oklahoma, upon the written consent of the parent or~~

11 ~~guardian executed before a judge or clerk of a court~~

12 ~~of record. The executed foreign consent shall be duly~~

13 ~~authenticated in the same manner as proof of documents~~

14 ~~from foreign jurisdictions,~~
- 15 d. ~~if the certificate of a duly licensed medical doctor~~

16 ~~or osteopath, acknowledged in the manner provided by~~

17 ~~law for the acknowledgment of deeds, and stating that~~

18 ~~such parent or guardian is unable by reason of health~~

19 ~~or incapacity to be present in person, is presented to~~

20 ~~such licensing authority, upon the written consent of~~

21 ~~the parent or guardian, acknowledged in the same~~

22 ~~manner as the accompanying medical certificate,~~
- 23 e. ~~if the parent or guardian is on active duty with the~~

24 ~~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, 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.~~

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

- ~~a. in settlement of a suit for seduction or paternity, or~~
- ~~b. if the unmarried female is pregnant, or has given birth to an illegitimate child and at least one parent of each minor, or the guardian or custodian of such~~

1 ~~child, is present before the court and has an~~
2 ~~opportunity to present evidence in the event such~~
3 ~~parent, guardian, or custodian objects to the issuance~~
4 ~~of a marriage license. If they are not present the~~
5 ~~parent, guardian, or custodian may be given notice of~~
6 ~~the hearing at the discretion of the court.~~

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

12 ~~4. Any certificate or written permission required by this~~
13 ~~subsection shall be retained by the official issuing the marriage~~
14 ~~license.~~

15 ~~C.~~ No marriage may be authorized when such marriage would be
16 incestuous under this chapter.

17 SECTION 2. AMENDATORY 43 O.S. 2011, Section 5, as
18 amended by Section 1, Chapter 192, O.S.L. 2013 (43 O.S. Supp. 2019,
19 Section 5), is amended to read as follows:

20 Section 5. A. Persons desiring to be married in this state
21 shall submit an application in writing signed and sworn to in person
22 before the clerk of the district court by both of the parties
23 setting forth:

24 1. The place of residence of each party;

1 2. The full legal name and the 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. For each party, the full name by which the party will be
9 known after the marriage, which shall become the full legal name of
10 the party upon the filing of the marriage license and certificate
11 with the court, as required by law; provided, however, a marriage
12 certificate issued prior to June 8, 2006, shall be reissued upon
13 request by the certificate holder to include the information
14 required by this paragraph. Such reissued certificate shall reflect
15 the original marriage date and shall be signed by the court clerk.
16 Signatures of the officiant and original witnesses shall not be
17 required;

18 4. That the parties are not disqualified from or incapable of
19 entering into the marriage relation; and

20 5. Whether the parties have successfully completed a premarital
21 counseling program.

22 B. 1. Upon application pursuant to this section and the
23 payment of fees as provided in Section 31 of Title 28 of the
24 Oklahoma Statutes, if the clerk of the district court is satisfied

1 of the truth and sufficiency of the application and that there is no
2 legal impediment to such marriage, the court clerk shall issue the
3 marriage license authorizing the marriage and a marriage
4 certificate, which shall be incorporated as one document. As
5 required by law, the marriage certificate shall be completed
6 immediately following the marriage, and the marriage license and
7 certificate shall be returned to the court clerk.

8 2. Parties to be married and who present a certificate to the
9 clerk of the district court that states the parties have completed
10 the premarital counseling program pursuant to Section 5.1 of this
11 title shall be entitled to pay a reduced fee for a marriage license
12 in an amount provided in Section 31 of Title 28 of the Oklahoma
13 Statutes.

14 ~~C. In the event that one or both of the parties are under legal~~
15 ~~age, the application shall have been on file in the court clerk's~~
16 ~~office for a period of not less than seventy-two (72) hours prior to~~
17 ~~issuance of the marriage license.~~

18 ~~D.~~ The marriage license shall be valid in any county within the
19 state.

20 ~~E.~~ D. The provisions hereof are mandatory and not directory
21 ~~except under the circumstances set out in the provisions of Section~~
22 ~~3 of this title.~~

SECTION 3. This act shall become effective November 1, 2020.

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