

LEGISLATIVE BILL 525

Approved by the Governor April 18, 1986

Introduced by Hoagland, 6

AN ACT relating to marriage; to amend sections 24-511, 33-110, 33-126.05, 42-104 to 42-108, 42-112, 42-113, 42-115, 42-121, and 71-614, Reissue Revised Statutes of Nebraska, 1943; to transfer the issuance of marriage licenses and related duties from county judges to county clerks; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 24-511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-511. The clerk shall have the same power in the county court, unless otherwise specifically provided in sections 24-501 to 24-590, as the clerk of the district court. ~~The clerk may sign and issue marriage licenses in the name of the county judge.~~ The clerk shall keep and be the custodian of the records of the court. ~~He~~ The clerk shall receive and account for all fees and money received by the court; and shall deposit all money received in a bank approved pursuant to sections 77-2326.01 to 77-2326.09. Provisions of law relating to dockets of the district court shall, as nearly as may be, apply to the dockets of the county court.

Sec. 2. That section 33-110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-110. County clerks shall receive no fee for the performance of the following services: For issuing certificates of election; for performing the duties of clerk of the county board; for taking acknowledgments of claims against the county; for attesting or certifying any document authorized by the county board or required by the departments of the state; ~~and or~~ for recording Army or Navy discharges or furnishing certified copies thereof to be used in connection with any claim for compensation or disability. ~~A ; PROVIDED, that a charge of twenty-five cents shall be made for each certificate and seal not~~

herein excepted. Such fees collected shall be credited to the county general fund. County clerks shall receive a fee of ten dollars for the entire proceedings of issuing a marriage license, administering the related oaths or affirmations, and recording a marriage certificate. Such fee shall be deposited in the county general fund.

Sec. 3. That section 33-126.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-126.05. The county court shall be allowed the following miscellaneous fees: For delayed birth registration, for the entire proceedings, ten dollars; for adoptive birth registration, for the entire proceedings, five dollars; for taking and approving any recognizance or bond for each of the same, five dollars; ~~for issuing marriage license, administering oath therein, and recording certificate, ten dollars,~~ for filing, approving, and recording official bonds or bonds of abstractors, five dollars; and for depositing a will for safekeeping and indexing the same, two dollars. The legal fees for printing notices required by law to be printed in some newspaper shall be allowed in addition to the fees herein allowed. For the following services performed by the county court, it shall be entitled to receive the following fees: For a temporary restraining order in injunction, in the absence of the district judge, five dollars; for appointment of appraisers in condemnation proceedings, fifteen dollars, plus one dollar for each additional parcel of land included in the petition; where when there is more than one; and for certifying a report of appraisers to the county clerk or register of deeds; and making a transcript of the same to the district court, one dollar per page. In addition to the fees provided in sections 33-123 to 33-125, the county court shall be entitled to the following fees: For providing transcripts, copies, and certified copies; and taking depositions, one dollar per page; for executing a certificate and affixing the seal, one dollar; for comparing copies presented for certification, which copies are not prepared by the county court or its employees, a fee at a rate of one dollar per page; and in any other matter, in which there is not a fee specifically provided for herein, the fees of the clerk of the district court, as authorized by law for similar services, shall be collected.

Sec. 4. That section 42-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-104. Previous Prior to the solemnization of any marriage in this state, a license for that purpose must be obtained from a county court clerk in the State of Nebraska. Applications for a marriage license made with the county court prior to the operative date of this act shall be processed and licenses shall be issued by the county court according to the law and procedures in effect on the date each application was made. No ; and no marriage hereafter contracted shall be recognized as valid unless such license has been previously obtained; and unless such marriage is solemnized by a person authorized by law to solemnize marriages. The license shall state the county in which the marriage is to be solemnized, and the marriage shall be solemnized only in that county.

Application for a marriage license shall be made at least two days before a license shall be issued. Each party shall present satisfactory documentary proof of and shall swear or affirm to the application giving: (1) Full name of each applicant and residence; and (2) the place, date, and year of birth of each.

Sec. 5. That section 42-105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-105. When either party is a minor, no license shall be granted without the written consent under oath of: (1) Either one of the parents of such minor, if the parents are living together; (2) the parent having the legal custody of such minor, if the parents are living separate and apart from each other; (3) the surviving parent, if one of the parents of such minor is deceased; or (4) the guardian, conservator, or person under whose care and government such minor may be, if both parents of such minor are deceased or if such guardian, conservator, or person has the legal and actual custody of such minor. The county court clerk shall be justified in issuing the license, without further proof, upon receiving an affidavit setting forth the facts with reference to the conditions above specified and giving consent to the marriage, signed by the person authorized to give written consent under such circumstances.

Sec. 6. That section 42-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-106. When application shall be made for a license to the county judge clerk, he or she shall upon the granting of such license state in the license therein the information contained in the application as

provided in section 42-104. The license shall, prior to the issuing thereof, be entered of record in the office of the county ~~judge~~, clerk in a suitable book to be provided for that purpose.

The forms for the application, license, and certificate of marriage shall be provided by the Bureau of Vital Statistics at actual cost as determined by the bureau.

Sec. 7. That section 42-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-107. If the required proof is not given, ~~or~~ if it shall appear that either of the parties is legally incompetent to enter into such contract, or that there is any impediment in the way, or if either party is a minor and the consent mentioned in section 42-105 shall not be given, the ~~judge~~ county clerk shall refuse to grant a license.

Sec. 8. That section 42-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-108. Every judge, retired judge, or associate county judge, and every preacher of the gospel authorized by the usages of the church to which he or she belongs to solemnize marriages, may perform the marriage ceremony in this state. ~~Every~~ and every such person performing the marriage ceremony shall make a return of his or her proceedings in the premises, showing the names and residences of at least two witnesses who were present at such marriage. ~~The~~ which return shall be made to the county ~~judge~~ clerk who issued the license within fifteen days after such marriage has been performed. ~~The~~ which return the county ~~judge~~ clerk shall record the return or cause it to be recorded in the same book where the marriage license is recorded.

Sec. 9. That section 42-112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-112. The county ~~judge~~ clerk of each county in the state shall record all such returns of such marriages in a book to be kept for that purpose within one month after receiving the ~~same~~ returns.

Sec. 10. That section 42-113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-113. If any justice, minister, or other person whose duty it is to make and transmit to the county ~~judge~~ clerk such certificate, shall neglect to

make and deliver the same; ~~or~~ if the county judge clerk shall neglect to record such certificate; ~~or~~ if any person shall undertake to join others in marriage, knowing that he or she is not legally authorized so to do; or knowing of any legal impediment to the proposed marriage; ~~or~~ if any person authorized to solemnize any marriage shall willfully and knowingly make a false certificate of any marriage to the county judge clerk; or if the county judge clerk shall willfully and knowingly make a false record of any certificate of marriage, ~~to him made; he~~ or she shall be guilty of a Class I misdemeanor.

Sec. 11. That section 42-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-115. It shall be lawful for every religious society to join together in marriage such persons as are of the society, according to the rites and customs of the society to which they belong. ~~The~~ ~~the~~ clerk or keeper of the minutes, proceedings, or other book of the religious society ~~wherein in which~~ such marriage shall be had, or if there be no such clerk or keeper of the minutes, then the moderator or person presiding in such society, shall make out and transmit to the county judge clerk of the county a certificate of the marriage, and the same shall be recorded in ~~like the~~ ~~same~~ manner as is provided in sections 42-108 to 42-112.

Sec. 12. That section 42-121, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-121. Before any county judge clerk shall issue a marriage license, each applicant for such license shall file with him or her a certificate which shall state whether the female applicant has laboratory evidence of immunological response to rubella, commonly known as German measles. The certificate shall not be required to contain such evidence of response to rubella when the female applicant (1) is over fifty years of age, (2) has had a surgical sterilization, or (3) presents laboratory evidence of a prior test declaring her immunity to rubella.

If the laboratory evidence indicates a negative immunological response to rubella, the female applicant shall be notified in writing of an opportunity for counseling in regard to the significance of the absence of antibodies to rubella or shall be sent written material indicating such significance. The results of all tests shall be reported to the laboratory of the Department of Health. All laboratory

notifications shall be confidential and shall not be open to public inspection, except that the Director of Health or some person appointed by him or her may discuss the notification with the attending physician.

Sec. 13. That section 71-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-614. On or before the fifth day of each month, the county ~~judge~~ clerk of each county shall return to the Department of Health upon suitable blank forms, to be provided by the department, a statement of all marriages recorded by him or her during the preceding calendar month. If no marriages were performed in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such returns, such county ~~judge~~ clerk shall, for each such neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the proper county, to be collected as debts of like amount are now collectible.

Sec. 14. This act shall become operative on January 1, 1987.

Sec. 15. That original sections 24-511, 33-110, 33-126.05, 42-104 to 42-108, 42-112, 42-113, 42-115, 42-121, and 71-614, Reissue Revised Statutes of Nebraska, 1943, are repealed.