

Enrolled
House Bill 2113

Sponsored by Representative GREENLICK, Senator STEINER HAYWARD; Representatives NOSSE, PILUSO, SANCHEZ (Presession filed.)

CHAPTER

AN ACT

Relating to solemnization of marriage; creating new provisions; and amending ORS 106.041, 106.120, 106.130 and 106.150.

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

SECTION 1. ORS 106.120 is amended to read:

106.120. (1) [As used in this section, "judicial officer" means:] **As used in this section:**

(a) "Judicial officer" means:

[(a)] **(A)** A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not limited to a judge of a municipal court and a justice of the peace.

[(b)] **(B)** An active judge of a federal court.

[(c)] **(C)** An active United States magistrate judge.

(b) "Secular organization" means an organization that occupies a place in the lives of the organization's members parallel to that filled by a church or particular religious authority.

(2) Marriages may be solemnized by:

(a) A judicial officer;

(b) A county clerk;

(c) Religious congregations or organizations as indicated in ORS 106.150 (2); [or]

(d) A clergyperson of any religious congregation or organization who is authorized by the **religious** congregation or organization to solemnize marriages[.];

(e) Secular organizations as indicated in ORS 106.150 (2); or

(f) A celebrant or officiant of any secular organization described in paragraph (e) of this subsection who is authorized by the secular organization to solemnize marriages.

(3) A person authorized to solemnize marriages under subsection (2) of this section may solemnize a marriage anywhere in this state.

(4)(a) When a marriage is solemnized by a tax, appellate or circuit judge of this state, the clerk of the court or the county clerk shall collect a fee of \$105 and deposit the fee in the Judicial Department Operating Account established in ORS 1.009.

(b) When a marriage is solemnized by a county clerk, the county clerk shall collect a fee of \$105, as provided in ORS 205.320.

(c) The fee described in this subsection may be collected only if:

(A) The marriage is solemnized during normal working hours, excluding holidays;

(B) The marriage is solemnized in court facilities or a county clerk's office; or

(C) More than a minimal amount of staff time or other court or county clerk's office resources are used in connection with the solemnization.

(d) The Chief Justice of the Supreme Court or the county clerk may establish a written procedure for waiver of the fee required under this subsection in exigent circumstances, including but not limited to indigency of the parties to the marriage.

(5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this state and a county clerk may charge and accept an agreed upon personal payment not to exceed \$100 plus actual costs for the solemnization of a marriage if that solemnization is performed:

(a) At a place other than the courthouse where the judicial officer or county clerk serves; or

(b) Outside of the judicial officer's or county clerk's normal working hours.

(6) The charging and accepting of a personal payment by a judicial officer of this state or a county clerk under subsection (5) of this section does not constitute a violation of any of the provisions of ORS chapter 244.

(7) The amount of actual costs charged by a judicial officer of this state or a county clerk under subsection (5) of this section may not exceed:

(a) Actual expenses for food and lodging as verified by receipts.

(b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial officer's or county clerk's home or office, whichever is greater, compensated at the rate of reimbursement then provided by the State of Oregon to its employees or, if travel is made by a commercial carrier, reimbursement shall be made of the actual costs thereof, verified by receipts.

(8) A judicial officer of this state or a county clerk shall maintain records of the amount of personal payments received for performing marriages, of actual costs and the supporting documentation related thereto for a period of four years.

(9) The parties to a marriage solemnized by a tax, appellate or circuit judge of this state shall show to the judge proof of payment of the fee required under subsection (4)(a) of this section before solemnization. Except as provided in subsection (4)(d) of this section, the judge may not solemnize a marriage without proof of payment of the fee.

SECTION 2. ORS 106.041 is amended to read:

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

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

(a) Each applicant's Social Security number recorded on a confidential portion of the application, license and record of marriage;

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

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

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

(3) Each applicant for a marriage license shall file with the county clerk from whom the marriage license is sought a written application for the license on forms prescribed for this purpose by the Center for Health Statistics.

(4) A marriage license must contain the following statement: "Neither you nor your spouse is the property of the other. The laws of the State of Oregon affirm your right to enter into marriage and at the same time to live within the marriage free from violence and abuse."

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

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

SECTION 3. ORS 106.130 is amended to read:

106.130. [A marriage solemnized before any person professing to be a judicial officer of this state, a county clerk or a clergy person of a religious congregation or organization therein is not void, nor

shall the validity thereof be in any way affected, on account of any want of power or authority in such person, if such person was acting at the time in the office or the capacity of a person authorized to solemnize marriage and if such marriage is consummated with the belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.] **A marriage solemnized before a person, religious organization or congregation, or secular organization, that represents having the authority to solemnize marriages under ORS 106.120 is not void, nor is the validity of the marriage affected, if it is discovered after the solemnization that the person, religious organization or congregation, or secular organization, was not authorized to solemnize the marriage, if the parties to the marriage believed in good faith that the marriage was lawfully solemnized.**

SECTION 4. ORS 106.150 is amended to read:

106.150. (1) In the solemnization of a marriage no particular form is required except that the parties thereto shall assent or declare in the presence of the [*clergyperson, county clerk or judicial officer solemnizing the marriage*] **person, religious organization or congregation, or secular organization, authorized to solemnize marriages under ORS 106.120**, and in the presence of at least two witnesses, that they take each other to be spouses in a marriage.

(2) All marriages, to which there are no legal impediments, solemnized before or in any religious organization or congregation, **or secular organization, authorized to solemnize marriages**, according to the established ritual or form commonly practiced therein, are valid. In such case, the person presiding, [*or*] officiating **or celebrating** in the religious organization or congregation, **or secular organization**, shall deliver to the county clerk who issued the marriage license the application, license and record of marriage in accordance with ORS 106.170.

SECTION 5. The amendments to ORS 106.041, 106.120, 106.130 and 106.150 by sections 1 to 4 of this 2017 Act apply to marriages solemnized on or after the effective date of this 2017 Act.

Passed by House March 22, 2017

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate May 9, 2017

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

.....
Dennis Richardson, Secretary of State