

2015 Regular Session

HOUSE BILL NO. 836 (Substitute for House Bill No. 716 by Representative Hodges)

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MARRIAGE/LICENSE: Provides for documentation and verification of certain information submitted by applicants for marriage licenses

1 AN ACT

2 To amend and reenact R.S. 9:223, 224(A)(introductory paragraph), (4), and (6) and (B), and
3 225(A)(1) and (B), 226, 227, and 228 and to enact R.S. 9:224(A)(7) and 225(A)(4),
4 relative to marriage licenses; to provide for the application for a marriage license; to
5 provide for the application form; to provide for required information; to provide for
6 required documentation; to provide with respect to the use of birth certificates in the
7 process of applying for a marriage license; to provide for documentation in lieu of
8 a birth certificate; to provide for court orders; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:223, 224(A)(introductory paragraph), (4), and (6) and (B), and
11 225(A)(1) and (B), 226, 227, and 228 are hereby amended and reenacted and R.S.
12 9:224(A)(7) and 225(A)(4) are hereby enacted read as follows:

13 §223. Form

14 A. An application for a marriage license ~~must~~ shall be made on a form
15 provided ~~by the state registrar of vital records~~ by Subsection B of this Section.

16 B. The application form shall be as follows:

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| <u>Application for Marriage</u> | | | | |
|------------------------------------|---|--|--|----------------------|
| _____ (Parish), State of Louisiana | | | | |
| Date of Application: | | | | |
| Hour of Application: | | | | |
| GROOM | Last Name of Groom | First Name of Groom | Middle/Second Name of Groom | |
| | Address | Is residence inside city limits? <input type="checkbox"/> Yes <input type="checkbox"/> No | Parish/County | State |
| | Race | Date of Birth (month-day-year) | State of Birth | |
| | Father's Name | State of Birth | Mother's Maiden Name | State of Birth |
| BRIDE | Last Name of Bride | First Name of Bride | Middle/Second Name of Bride | Maiden Name of Bride |
| | Address | Is residence inside city limits? <input type="checkbox"/> Yes <input type="checkbox"/> No | Parish/County | State |
| | Race | Date of Birth (month-day-year) | State of Birth | |
| | Father's Name | State of Birth | Mother's Maiden Name | State of Birth |
| Covenant Marriage | Covenant Marriage <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, complete the following: We, _____ and _____ do hereby declare our intent to contract a Covenant Marriage and, accordingly, have executed a declaration of intent attached hereto. | | | |
| Groom | Has the groom been formerly married? _____ How many times? _____ | | How and when did the most recent marriage end? _____ | |
| Bride | Has the bride been formerly married? _____ How many times? _____ | | How and when did the most recent marriage end? _____ | |
| SSN | Grooms's Social Security Number (if groom does not have a valid social security number, please see deputy clerk for further instructions) | | Bride's Social Security Number (if bride does not have a valid social security number, please see deputy clerk for further instructions) | |

1 permanent resident of the United States, the party shall present an unexpired passport
2 from the country of his birth or an unexpired visa issued by the United States.

3 (b) The state registrar of vital records and the officiant shall maintain
4 confidentiality of social security numbers. Notwithstanding the provisions of R.S.
5 44:1 et seq. the clerk of court shall maintain the confidentiality of a party's social
6 security number in an application for a marriage license provided a request is made
7 to the clerk in writing by the party at the time of application.

8 (7) An acknowledgment that each party is free to marry pursuant to
9 Louisiana law, that the information contained in the application is true and correct,
10 and that each party understands that falsification of the application shall constitute
11 the filing of false public records pursuant to R.S. 14:133.

12 B. ~~The applicant must verify the information to the issuing official by~~
13 ~~affidavit.~~

14 (1) Both applicants are not required to execute the application at the same
15 time provided that each applicant executes the application before a notary public as
16 required by R.S. 9:224(A).

17 (2) A member of the armed forces of the United States shall not be required
18 to sign the application required by Subsection A of this Section if the co-applicant
19 attaches a copy of the military identification card of the member. If both applicants
20 are members of the armed forces of the United States, only one applicant shall be
21 required to sign the application, but that applicant shall attach a copy of the military
22 identification card of the co-applicant not signing the application.

23 (3) In the event of extenuating circumstances, and after a finding that the
24 parties have complied with all other requirements, for good cause shown, a judge of
25 the Orleans City Courts, a family court judge, a juvenile court judge, a district court
26 judge, a city court judge, or a justice of the peace may order an issuing official within
27 the territorial jurisdiction of his court to issue a marriage license with the notarized

1 signature of only one of the applicants. The written order shall be attached to the
2 marriage application.

3 * * *

4 §225. ~~Same~~ Documents required; attachments

5 A. An application for a marriage license shall be accompanied by:

6 (1)(a) A certified copy of each party's birth certificate as provided by R.S.
7 9:226.

8 (b) If the applicant does not have a birth certificate, the applicant shall obtain
9 an order signed by a judge waiving the requirement pursuant to R.S. 9:228.

10 * * *

11 (4) A valid and unexpired driver's license, a government issued identification
12 card, or a passport.

13 B.(1) It shall be unlawful for any officer authorized to issue a marriage
14 license in this state to issue a license to any male or female unless both parties first
15 present and file with such officer a certified copy of their original birth certificate.

16 (2) A photostatic or photographic reproduction of the certified copy of the
17 birth certificate ~~may~~ shall be filed with the officer.

18 §226. Certified copy of birth certificate

19 A. A person born in Louisiana ~~may~~ shall submit a certified copy of his birth
20 certificate. A short-form birth certification card shall be acceptable as a certified
21 copy of a birth certificate.

22 B. A person born ~~outside of Louisiana may~~ in a state or territory of the
23 United States other than Louisiana shall submit a copy of his birth certificate under
24 the raised seal or stamp of the vital statistics registration authority of his place of
25 birth.

26 C. A person born outside of the United States or territory of the United States
27 shall submit a birth certificate under the seal of the United States or shall submit all
28 of the following:

1 (1)(a) A copy of the person's birth certificate under the raised seal or stamp
2 of the vital statistics registration authority of the person's place of birth.

3 (b) If the birth certificate is not printed in English, the party shall submit a
4 translated copy in addition to the copy required by Subparagraph (a) of this
5 Paragraph. The translation shall contain a sworn declaration of the translator that he
6 is fluent in the language of the original birth certificate and of the translation, and
7 that the translation is a true and accurate representation of the original.

8 (2) A copy of a passport or visa certified by the United States Citizenship
9 and Immigration Service verifying that the individual is in the country lawfully.

10 D. A ~~certified~~ copy of the birth certificate or ~~letter issued in lieu thereof~~
11 order issued pursuant to R.S. 9:228 shall be retained by the official recorder of the
12 marriage for a minimum period of sixty days.

13 §227. Certified copy unavailable; other proof

14 A. If no birth certificate is on file for an applicant, a letter signed by the
15 proper registration authority of the state, territory, or country of the place of birth of
16 the applicant, under his raised seal or stamp, ~~must~~ shall be submitted in lieu of a birth
17 certificate. The letter must state that a thorough search was made and that no birth
18 record was located for the applicant.

19 B. The letter issued pursuant to Subsection A of this Section shall be filed
20 with the court conducting the hearing pursuant to R.S. 9:228.

21 C. The ~~officer~~ judge issuing the order waiving the birth certificate in order
22 to obtain the marriage license ~~may~~ shall demand other proof of birth facts.

23 §228. Same; court order waiving birth certificate; translation to English

24 A. In the event of extenuating circumstances, for good cause shown, and
25 after a hearing, which may be held in camera, finding that the parties have complied
26 with all other requirements, including presentation of the letter required by R.S.
27 9:227 and other competent evidence that the applicant was born in any state or
28 territory of the United States, a judge of the Orleans ~~Parish~~ City Courts, a family
29 court judge, a juvenile court judge, or any district court judge of a parish may order

1 an issuing official within the territorial jurisdiction of his court to issue a marriage
2 license without the applicant submitting a birth certificate. The order need not state
3 the reasons. The written order shall be attached to the marriage application.

4 B. In the event of extenuating circumstances, and for good cause shown, and
5 after a hearing, which may be held in camera, finding that the parties have complied
6 with all other requirements, including presentation of the letter required by R.S.
7 9:227 and other competent evidence that the applicant was born in any state or
8 territory of the United States, a justice of the peace or city court judge may order an
9 issuing official within the parish where his court is situated to issue a marriage
10 license without the applicant submitting a birth certificate. The order need not state
11 the reasons. The written order shall be attached to the marriage application.

12 ~~C. In the event of extenuating circumstances, and after finding that the~~
13 ~~parties have complied with all other requirements, a retired justice of the peace~~
14 ~~authorized to perform marriage ceremonies under R.S. 9:203(C) may order an~~
15 ~~issuing official within the territorial limits provided by R.S. 9:203(A) to issue a~~
16 ~~marriage license without the applicant submitting a birth certificate. The order need~~
17 ~~not state the reasons.~~

18 Section 2. The legislature finds all of the following:

19 (1) The reliability and accuracy of marriage records is a fundamental concern to the
20 people of Louisiana.

21 (2) The state has a fundamental interest in preventing and deterring fraudulent
22 marriages.

23 (3) The most effective way to curb fraud in the area of marriage licenses is to require
24 accurate and verifiable documents in order to obtain a marriage license and to require the
25 parties to swear or affirm, under penalty of law, as to the accuracy of the information on the
26 application for marriage.

27 Section 3. The provisions of this Act shall become effective on January 1, 2016.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 836 Engrossed

2015 Regular Session

Hodges

Abstract: Provides requirements for the issuance of a Louisiana marriage license for residents of the states and territories of the United States, and for persons from foreign countries.

Present law provides for requirements for the issuance of a Louisiana marriage license.

Present law provides that an application for a marriage license must be made on a form provided by the state registrar of vital records.

Proposed law retains present law but provides that the form that is used is provided by proposed law.

Proposed law provides that the application must be in writing and must be sworn to and signed by both parties, but provides exceptions for members of the armed forces of the United States.

Present law provides that the application must contain the date and hour of the application, the full name, residence, race, and age of each party, the names of the parents of each party, the number of former marriages of each party, and whether divorced or not as well as each party's social security number. Present law further provides that the state registrar of vital records shall maintain confidentiality of social security numbers.

Proposed law requires the parties to list the number of times they have been married and list how and when their most recent marriage terminated.

Proposed law retains present law but clarifies that each party's social security number is to be provided on the application if both parties were born in a state or territory of the United States or are naturalized citizens of the United States.

Proposed law provides that if a party does not have a social security number issued by the U.S. Social Security Administration because the party is not a citizen, a valid, unexpired passport number issued from the United States Citizenship and Immigration Service must be included on the application verifying the country of origin.

Present law requires the state registrar of vital records and the officiant to maintain the confidentiality of social security numbers.

Proposed law retains present law.

Present law provides that applicant must verify the application by affidavit.

Proposed law retains present law but provides that the affidavit shall acknowledge that each party is free to marry pursuant to Louisiana law, and further provides that the affidavit shall require each party to verify under oath that the information contained in the application is true and correct.

Present law provides that the filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, in any document containing a false

statement or false representation of a material fact. Present law provides that whoever commits the crime of filing false public records shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than \$5,000, or both.

Proposed law provides that the application of marriage shall include an acknowledgment that each party understands that falsification of the application shall constitute the crime of filing false public records.

Proposed law provides exceptions to the requirement that both parties sign the marriage application.

Present law provides that an application for a marriage license shall be accompanied by a certified copy of each party's birth certificate.

Proposed law retains present law but provides that if the birth certificate is in a language other than English, the birth certificate shall be interpreted in writing in English.

Proposed law provides that a valid and unexpired driver's license, government-issued identification card, or a passport must be produced in order to obtain a marriage license.

Present law provides that it shall be unlawful for any officer authorized to issue a marriage license in this state to issue a license to any male or female unless both parties first present and file with such officer a certified copy of their original birth certificates. Present law further provides that a photostatic or photographic reproduction of the certified copy of the birth certificate may be filed with the officer.

Proposed law retains present law but requires that a photostatic or photographic reproduction of the certified copy of the birth certificate shall be filed with the officer.

Present law provides that a person born in Louisiana may submit a certified copy of his birth certificate with the marriage application. Present law further provides that a short-form birth certification card shall be acceptable as a certified copy of a birth certificate.

Proposed law retains present law but requires a person born in Louisiana to submit a certified copy of his birth certificate with the application.

Present law provides that a person born outside Louisiana may submit a copy of his birth certificate under the raised seal or stamp of the vital statistics registration authority of his place of birth.

Proposed law retains present law but requires that if the applicant's birth was outside Louisiana but in another state or territory of the U.S., the applicant shall submit a copy of his birth certificate under the raised seal or stamp of the state's vital statistics registration authority of his place of birth.

Proposed law retains present law but requires if the applicant is born outside of the United States, the applicant shall submit birth certificate under the seal of the U.S. or all of the following:

- (1) A copy of the person's birth certificate under the raised seal or stamp of the vital statistics registration authority of the person's place of birth.
- (2) If the birth certificate is not printed in English, the party shall obtain a copy translated in English.
- (3) A copy of a passport or visa certified by the U.S.C.I.S. verifying that the individual is in the country lawfully.

Present law provides that certified copy of the birth certificate or letter issued in lieu thereof shall be retained by the official recorder of the marriage for a minimum period of 60 days.

Proposed law deletes the requirement that the copy retained is certified.

Proposed law retains present law but requires that the order which provides that the non-English birth certificate be translated into English be also held for 60 days.

Present law provides that if there is no birth certificate on file for the applicant, a letter signed by the proper registration authority, under his raised seal or stamp, must be submitted in lieu of a birth certificate. Present law provides that the letter must state that a thorough search was made and that no birth record was located for the applicant.

Proposed law provides that the letter issued by the state registrar of vital records or the issuing authority in another state or country shall be filed with the court conducting the hearing, if the requirement of the birth certificate is to be waived.

Present law provides that the officer issuing the marriage license may demand other proof of birth facts.

Proposed law provides that the judge issuing the order waiving the birth certificate in order to obtain the marriage license shall demand other proof of birth facts.

Present law provides that in the event of extenuating circumstances, and after finding that the parties have complied with all other requirements, a judge of an Orleans Parish City Court, a family court judge, a juvenile court judge, any district court judge of a parish, or a justice of the peace may order an issuing official within the territorial jurisdiction of his court to issue a marriage license without the applicant submitting a birth certificate.

Proposed law retains present law but provides that the order waiving the requirement that a birth certificate be necessary to obtain a license for marriage be for good cause shown and authorizes the hearing to be held in camera.

Proposed law further provides that a letter obtained from the Louisiana state registrar of vital records or the proper registration authority stating that the birth certificate could not be found, along with other competent evidence shall be presented to the court at the hearing.

Present law provides that in the event of extenuating circumstances, and after finding that the parties have complied with all other requirements, a retired justice of the peace authorized to perform marriage ceremonies may order an issuing official within the territorial limits provided by to issue a marriage license without the applicant submitting a birth certificate. Present law further provides the order need not state the reasons for waiving the requirement for the birth certificate.

Proposed law deletes present law.

Proposed law provides for legislative findings.

Effective January 1, 2016.

(Amends R.S. 9:223, 224(A)(intro. para.), (4), and (6) and (B), and 225(A)(1) and (B) and 226-228; Adds R.S. 9:224(A)(7) and 225(A)(4))