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AN ACT

RELATING TO MARRIAGE LICENSES; ADDRESSING THE COLLECTION AND
USE OF SOCIAL SECURITY NUMBERS; PROVIDING A DEFINITION OF
"SOLEMNIZE" IN REGARD TO THE MARRIAGE CONTRACT; UPDATING
RESTRICTIONS ON MARRIAGE FOR MINORS AND BETWEEN CERTAIN
RELATIVES; ADDRESSING THE LEGAL RIGHTS OF CHILDREN BORN TO
PARENTS WHO ARE NOT MARRIED TO EACH OTHER; REQUIRING A
PERSONAL APPEARANCE IN MOST CASES TO APPLY FOR A MARRIAGE
LICENSE; ELIMINATING THE NEED FOR CERTAIN PHYSICIAN
CERTIFICATES; CLARIFYING THE NEED TO ASCERTAIN QUALIFICATIONS
FOR MARRIAGE; PROVIDING FOR CORRECTION OF A MARRIAGE
CERTIFICATE; INCREASING THE PENALTY FOR VIOLATIONS OF
CHAPTER 40, ARTICLE 1 NMSA 1978; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 27-1-10 NMSA 1978 (being Laws 1997,
Chapter 237, Section 15) is amended to read:

"27-1-10. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS
FOR USE IN CHILD SUPPORT ENFORCEMENT.--

A. For applicants or persons who have been
assigned a social security number, the state shall have and
use procedures requiring that the social security number of
any:

(1) applicant for a professional license,

1 commercial driver's license or occupational license be
2 recorded on the application;

3 (2) applicant for a marriage license be
4 collected and placed in the records maintained by the county
5 clerk;

6 (3) person who is subject to a divorce
7 decree, support order or paternity determination or
8 acknowledgment be placed in the records relating to the
9 matter; and

10 (4) person who has died be placed in the
11 records relating to the death and be recorded on the death
12 certificate.

13 B. The collection and use of social security
14 numbers shall be made available to the human services
15 department for use in child support enforcement."

16 SECTION 2. Section 40-1-2 NMSA 1978 (being Laws
17 1859-1860, p. 120, as amended) is amended to read:

18 "40-1-2. MARRIAGES SOLEMNIZED--ORDAINED CLERGY OR CIVIL
19 MAGISTRATES MAY SOLEMNIZE.--

20 A. The civil contract of marriage is entered into
21 when solemnized as provided in Chapter 40, Article 1
22 NMSA 1978. As used in Chapter 40, Article 1 NMSA 1978,
23 "solemnize" means to join in marriage before witnesses by
24 means of a ceremony.

25 B. A person who is an ordained member of the

1 clergy or who is an authorized representative of a federally
2 recognized Indian nation, tribe or pueblo may solemnize the
3 contract of marriage without regard to sect or rites and
4 customs the person may practice.

5 C. Active or retired judges, justices and
6 magistrates of any of the courts established by the
7 constitution of New Mexico, United States constitution, laws
8 of the state or laws of the United States are civil
9 magistrates having authority to solemnize contracts of
10 marriage. Civil magistrates solemnizing contracts of
11 marriage shall charge no fee therefor."

12 SECTION 3. Section 40-1-3 NMSA 1978 (being Laws
13 1862-1863, p. 66, as amended) is amended to read:

14 "40-1-3. CEREMONY BY RELIGIOUS SOCIETY.--It is lawful
15 for any religious society or federally recognized Indian
16 nation, tribe or pueblo to solemnize marriage conformably
17 with its rites and customs, and the secretary of the society
18 or the person authorized by the society or federally
19 recognized Indian nation, tribe or pueblo shall make and
20 transmit a transcript to the county clerk certifying to the
21 marriages solemnized."

22 SECTION 4. Section 40-1-6 NMSA 1978 (being Laws 1876,
23 Chapter 31, Section 2, as amended) is repealed and a new
24 Section 40-1-6 NMSA 1978 is enacted to read:

25 "40-1-6. RESTRICTIONS ON MARRIAGE OF MINORS.--

1 A. The county clerk shall not issue a marriage
2 license to an unemancipated person sixteen or seventeen years
3 of age, and no person authorized by the laws of this state to
4 solemnize marriages shall knowingly unite in marriage any
5 person sixteen or seventeen years of age, unless the minor
6 first receives the written consent of each of the minor's
7 living parents as shown on the minor's certificate of birth,
8 or the district court has authorized the marriage of such
9 person upon request of a parent or legal guardian of the
10 person for good cause shown, and a certified copy of the
11 judicial authorization is filed with the county clerk.

12 B. The county clerk shall not issue a marriage
13 license to any person under sixteen years of age, and no
14 person authorized by the laws of this state to solemnize
15 marriages shall knowingly unite in marriage any person under
16 sixteen years of age, unless the children's or family court
17 division of the district court has first authorized the
18 marriage of the person upon request of a parent or legal
19 guardian of the person in settlement of proceedings to compel
20 support and establish parentage, or where an applicant for
21 the marriage license is pregnant, and a certified copy of the
22 judicial authorization is filed with the county clerk."

23 SECTION 5. Section 40-1-7 NMSA 1978 (being Laws 1876,
24 Chapter 31, Section 1, as amended) is amended to read:

25 "40-1-7. INCESTUOUS MARRIAGES.--All marriages between

1 relations and children, including grandparents and
2 grandchildren of all degrees; between brothers and sisters of
3 full blood or of half blood; between uncles and nieces; and
4 between aunts and nephews are declared incestuous and
5 absolutely void."

6 SECTION 6. Section 40-1-9 NMSA 1978 (being Laws 1876,
7 Chapter 32, Section 1, as amended) is amended to read:

8 "40-1-9. PROHIBITED MARRIAGES.--No marriage between
9 relatives within the prohibited degrees or between or with
10 persons under the prohibited ages shall be declared void
11 except by a decree of the district court upon proper
12 proceedings. A cause of action may be instituted by the
13 minor, by next friend, by either parent or legal guardian of
14 the minor or by the district attorney. In the case of
15 minors, no party to the marriage who may be over the
16 prohibited age shall be allowed to apply for or obtain a
17 decree of the court declaring the marriage void; but the
18 minor may do so, and the court may, in its discretion, grant
19 alimony until the minor becomes of age or remarries. If the
20 parties should live together until they arrive at the age
21 under which marriage is permitted by statute, then the
22 marriage shall be deemed legal and binding."

23 SECTION 7. Section 40-1-10 NMSA 1978 (being Laws 1905,
24 Chapter 65, Section 1, as amended) is amended to read:

25 "40-1-10. LICENSE REQUIRED--COUNTY CLERK.--

1 A. Each couple desiring to marry pursuant to the
2 laws of New Mexico shall first obtain a license from a county
3 clerk of this state and following a ceremony conducted in
4 this state file the license for recording in the county
5 issuing the license.

6 B. To obtain a marriage license, the couple shall
7 personally appear at the office of the county clerk issuing
8 the license and provide sufficient identification to satisfy
9 the county clerk as to each person's identity and
10 qualification to receive a marriage license pursuant to
11 Chapter 40, Article 1 NMSA 1978. On application to a judge
12 of the district court, the court, for good cause, may
13 authorize a person unable to appear personally to obtain a
14 license from the county clerk, and a certified copy of the
15 judicial authorization shall be filed with the county clerk.

16 C. The county clerk:

17 (1) shall collect the social security number
18 of an applicant for a marriage license only as provided for
19 in Section 27-1-10 NMSA 1978;

20 (2) shall not make available a social
21 security number to another person except as provided for in
22 Section 27-1-10 NMSA 1978; and

23 (3) may, thirty days after the commencement
24 of each fiscal year, dispose of, in a secure manner, those
25 social security numbers collected in the previous fiscal year

1 that have not been requested as provided for in Section
2 27-1-10 NMSA 1978."

3 SECTION 8. Section 40-1-11 NMSA 1978 (being Laws 1957,
4 Chapter 33, Section 1, as amended) is amended to read:

5 "40-1-11. FEES--DISPOSITION.--The county clerk shall
6 receive a fee of twenty-five dollars (\$25.00) for issuing,
7 acknowledging and recording a marriage license and marriage
8 certificate. Fifteen dollars (\$15.00) of each fee shall be
9 remitted by the county treasurer to the state treasurer,
10 within fifteen days of the last day of each month, for credit
11 to the children's trust fund."

12 SECTION 9. Section 40-1-14 NMSA 1978 (being Laws 1905,
13 Chapter 65, Section 3, as amended) is amended to read:

14 "40-1-14. PRODUCTION OF LICENSE AND PROOF OF LEGAL
15 QUALIFICATIONS.--Prior to a ceremony, all persons authorized
16 to solemnize marriage shall require the parties contemplating
17 marriage to produce a license signed and sealed by the county
18 clerk issuing the license. Nothing in Chapter 40, Article 1
19 NMSA 1978 shall excuse any person authorized by the laws of
20 this state to solemnize the contract of marriage from being
21 satisfied as to the legal qualifications of any parties
22 desiring to be married, in addition to the authority
23 conferred by the license."

24 SECTION 10. Section 40-1-15 NMSA 1978 (being Laws 1905,
25 Chapter 65, Section 4, as amended) is amended to read:

1 "40-1-15. CERTIFICATION OF MARRIAGE--RECORDING AND
2 INDEXING.--

3 A. It is the duty of all persons solemnizing the
4 contract of marriage in this state to certify the marriage to
5 the county clerk within ninety days from the date of the
6 marriage ceremony. Upon ensuring the information on the
7 certificate is complete and legible, the county clerk shall
8 immediately upon receipt of the certificate cause it to be
9 properly recorded and indexed in a permanent record as a part
10 of the county records.

11 B. The county clerk may issue a certificate of
12 correction or correct or reissue an application for a
13 marriage license, a marriage license or a certificate of
14 marriage as a result of a typographical or data entry error
15 by the office of the county clerk. The county clerk shall
16 issue a certificate of correction or correct or reissue an
17 application for a marriage license, a marriage license or a
18 certificate of marriage to correct an error on the document
19 upon order of the district court."

20 SECTION 11. Section 40-1-16 NMSA 1978 (being Laws 1905,
21 Chapter 65, Section 5, as amended) is amended to read:

22 "40-1-16. APPLICATION OF LAW.--

23 A. A child born to parents who are not married to
24 each other has the same rights pursuant to the law as a child
25 born to parents who are married to each other.

1 B. Nothing in Chapter 40, Article 1 NMSA 1978
2 shall be construed to in any manner interfere with the
3 records kept by any civil magistrate, religious society,
4 church organization or federally recognized Indian nation,
5 tribe or pueblo or with any additional form of ceremony,
6 regulation or requirement prescribed by them."

7 SECTION 12. Section 40-1-17 NMSA 1978 (being Laws 1905,
8 Chapter 65, Section 7, as amended) is amended to read:

9 "40-1-17. UNIFORM USE FORM.--To ensure a uniform system
10 of records of all marriages contracted and the better
11 preservation of the records for future reference, the form of
12 application, license and certificate shall be substantially
13 as provided in Section 40-1-18 NMSA 1978, each blank to be
14 numbered consecutively corresponding with the page number of
15 the record book in the clerk's office; provided that the
16 medical evaluation language shall not be printed on the
17 application until such time as the secretary of health deems
18 such evaluation necessary through the issuance of rules."

19 SECTION 13. Section 40-1-19 NMSA 1978 (being Laws 1905,
20 Chapter 65, Section 9, as amended) is amended to read:

21 "40-1-19. OFFENSES--PENALTIES.--

22 A. For failure to perform the county clerk's
23 responsibilities and duties pursuant to Chapter 40, Article 1
24 NMSA 1978, a county clerk is responsible on the county
25 clerk's official bond for damages suffered by the injured

1 party.

2 B. A person who performs the marriage ceremony or
3 certifies a marriage to the county clerk, who neglects or
4 fails to comply with the provisions of Chapter 40, Article 1
5 NMSA 1978 and any person who willfully violates the law by
6 deceiving or attempting to deceive or mislead any officer or
7 person in order to obtain a marriage license or to be married
8 contrary to law is upon conviction guilty of a misdemeanor
9 and shall be sentenced pursuant to the provisions of Section
10 31-19-1 NMSA 1978."

11 SECTION 14. REPEAL.--Sections 40-1-5, 40-1-8, 40-1-12
12 and 40-1-13 NMSA 1978 (being Laws 1862-1863, p. 64, Laws 1876,
13 Chapter 31, Section 3, and Laws 1957, Chapter 33, Sections 2
14 and 3, as amended) are repealed. _____

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