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SENATE BILL 395

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Richard C. Martinez and Zachary J. Cook

AN ACT

RELATING TO MARRIAGE LICENSES; CHANGING PROCEDURES FOR
COLLECTION OF SOCIAL SECURITY NUMBERS; CLARIFYING PROCEDURES
RELATED TO RESTRICTIONS ON MARRIAGE FOR MINORS; CLARIFYING
PROCEDURES FOR ISSUANCE OF A MARRIAGE LICENSE; PERMITTING
COUNTY CLERKS TO REISSUE OR CORRECT MARRIAGE LICENSE DOCUMENTS;
PROVIDING THAT MEDICAL EVALUATION LANGUAGE SHALL NOT BE PRINTED
ON THE APPLICATION UNTIL NEW RULES ARE ADOPTED; AMENDING AND
REPEALING 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. The state [~~must~~] shall have and use procedures

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1 requiring that the social security number of:

2 (1) any applicant for a professional license,
3 commercial driver's license or occupational license [~~or~~
4 ~~marriage license~~] be recorded on the application;

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

8 [~~(2)~~] (3) any person who is subject to a
9 divorce decree, support order or paternity determination or
10 acknowledgment be placed in the records relating to the matter;
11 and

12 [~~(3)~~] (4) any person who has died be placed in
13 the records relating to the death and be recorded on the death
14 certificate.

15 B. The collection and use of social security
16 numbers shall be made available to the state Title IV-D agency
17 for use in child support enforcement."

18 SECTION 2. Section 40-1-6 NMSA 1978 (being Laws 1876,
19 Chapter 31, Section 2, as amended) is amended to read:

20 "40-1-6. RESTRICTIONS ON MARRIAGE OF MINORS.--

21 A. The county clerk shall not issue a marriage
22 license to any person sixteen or seventeen years of age, and no
23 person authorized by the laws of this state to [~~celebrate~~]
24 solemnize marriages shall knowingly unite in marriage [~~(1)~~] any
25 person [~~under the age of eighteen~~] sixteen or seventeen years

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1 ~~[without the consent of his parent or guardian; or~~
2 ~~(2) any person under the age of sixteen years~~
3 ~~with or without the consent of his parent or guardian]~~ of age,
4 unless the minor first receives the written consent of each of
5 the minor's living parents as shown on the minor's certificate
6 of birth, or the district court has authorized the marriage of
7 the person for good cause shown, and a certified copy of the
8 order is filed with the county clerk.

9 B. The county clerk shall not issue a marriage
10 license to any person under sixteen years of age, and no person
11 authorized by the laws of this state to solemnize marriages
12 shall knowingly unite in marriage any person under sixteen
13 years of age, unless the children's or family court division of
14 the district court [~~may authorize~~] has first authorized the
15 marriage of [~~persons under the ages stated in Subsection A of~~
16 this section] the person in settlement of proceedings to compel
17 support and establish parentage, or where the female is under
18 the age of consent and is pregnant, [~~if the marriage would not~~
19 be incestuous] and a certified copy of the order is filed with
20 the county clerk."

21 SECTION 3. Section 40-1-10 NMSA 1978 (being Laws 1905,
22 Chapter 65, Section 1, as amended) is amended to read:

23 "40-1-10. LICENSE REQUIRED--COUNTY CLERK.--

24 A. Each couple desiring to marry in New Mexico
25 shall first obtain a license from a county clerk and, following

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1 the ceremony, file [the same] it for recording in the county
2 issuing the license. [~~following the marriage ceremony. Except~~
3 ~~as provided in Section 57-1-6 NMSA 1953, a county clerk shall~~
4 ~~issue no license for the marriage of any person under the age~~
5 ~~of majority without the consent of his parent or guardian. It~~
6 ~~shall be the duty of each county clerk to require the affidavit~~
7 ~~of at least two reliable persons who are acquainted with the~~
8 ~~age of the applicant for license, as to the age of whom a~~
9 ~~county clerk may be in doubt, and the failure of any county~~
10 ~~clerk to perform his duty under this section shall be grounds~~
11 ~~for the removal of the county clerk from office in the manner~~
12 ~~provided for the removal from office of county officers for~~
13 ~~misfeasance or malfeasance in office.] To obtain a license, the
14 couple shall appear in person at the office of the county clerk
15 that is issuing the license and provide sufficient
16 identification to satisfy the county clerk as to each person's
17 identity and qualification to receive a marriage license
18 pursuant to Chapter 40, Article 1 NMSA 1978.~~

19 B. On application to the district court, the
20 district court for good cause shown may authorize a person
21 unable to appear in person to obtain a license from the county
22 clerk, and a certified copy of the order shall be filed with
23 the county clerk.

24 C. Pursuant to Section 27-1-10 NMSA 1978, the
25 county clerk shall collect the social security number of any

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1 applicant for a marriage license; provided that collection of a
2 social security number is not a prerequisite to issuing a
3 marriage license. Social security numbers collected pursuant
4 to this subsection shall be made available to the state Title
5 IV-D agency and to no other person."

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

8 "40-1-15. CERTIFICATION--RECORDING--CORRECTIONS.--[~~See~~
9 ~~14.~~]

10 A. It [~~shall be~~] is the duty of all persons
11 [~~performing the~~] solemnizing the contract of marriage
12 [~~ceremony~~] in this state [~~as herein provided~~] to certify [~~said~~]
13 the marriage to the county clerk within ninety days from the
14 date of the marriage ceremony. Upon ensuring that the
15 information on the certificate is complete and legible, the
16 county clerk shall immediately upon receipt of [~~said~~] the
17 certificate cause [~~the same~~] it to be properly recorded and
18 indexed in a permanent record [~~book kept for that purpose~~] as a
19 part of the county records.

20 B. The county clerk may correct or reissue an
21 application for a marriage license, a marriage license or a
22 certificate of marriage as a result of a typographical or data
23 entry error by the office of the county clerk."

24 SECTION 5. Section 40-1-17 NMSA 1978 (being Laws 1905,
25 Chapter 65, Section 7, as amended) is amended to read:

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1 "40-1-17. APPLICATION--LICENSE--CERTIFICATE--FORM.-- [~~Sec.~~
2 ~~17.~~] To insure a uniform system of records of all marriages
3 [~~hereafter~~] contracted and the better preservation of [~~said~~
4 ~~record~~] the records for future reference, the form of
5 application, license and certificate [~~provided herein~~] shall be
6 substantially as [~~follows~~] provided in Section 40-1-18 NMSA
7 1978, each blank to be numbered consecutively corresponding
8 with the page number of the record book in the clerk's office
9 [~~All such blanks to be provided free of cost by the county for~~
10 ~~public use~~]; provided that the medical evaluation language
11 shall not be printed on the application until such time as the
12 secretary of health issues new rules pursuant to Section
13 40-1-11 NMSA 1978."

14 SECTION 6. REPEAL.--Section 40-1-5 NMSA 1978 (being Laws
15 1862-1863, p. 64, as amended) is repealed.

16 SECTION 7. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2011.

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