



2013 ASSEMBLY BILL 429

October 17, 2013 – Introduced by Representatives T. LARSON, THIESFELDT, TITTL, BERNIER, BEWLEY, BILLINGS, BORN, DOYLE, ENDSLEY, KESTELL, KLEEFISCH, MURPHY, MURTHA, NASS, A. OTT, PETERSEN, PETRYK, RIPP and VRUWINK, cosponsored by Senators COWLES, LEHMAN, SCHULTZ and WIRCH. Referred to Committee on State Affairs and Government Operations.

1 **AN ACT** *to repeal* 765.17; *to renumber and amend* 765.16 (except 765.16
2 (title)); *to amend* 59.79 (5), 765.14, 765.23 and 765.30 (4) (a); and *to create*
3 765.16 (2m) of the statutes; **relating to:** requirements for persons officiating
4 at a marriage.

Analysis by the Legislative Reference Bureau

Under current law, the following persons may officiate at a marriage: 1) an ordained member of the clergy; 2) a licentiate of a denominational body or an appointee of a bishop serving as the regular member of the clergy of any church of the denomination to which the member of the clergy belongs; 3) the two marrying parties themselves, by mutual declaration that they take each other as husband and wife; 4) a judge, reserve judge, or municipal judge; and 5) a circuit court commissioner. If a person listed under 1) or 2) above is not a state resident, the person may officiate at a marriage in this state if the person has a letter of sponsorship from a member of the clergy of the same religious denomination or society who has a church in this state under his or her ministry.

This bill provides that, except for the two parties themselves, who may be under age 18 under certain circumstances, any person who officiates at a marriage must be at least 18 years old. The bill also eliminates the requirement for a letter of

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sponsorship if the person officiating is a person listed under 1) or 2) above and not a state resident.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.79 (5) of the statutes is amended to read:

2 59.79 (5) FEE FOR CERTAIN MARRIAGE CEREMONIES. Enact an ordinance imposing
3 a fee to be paid in advance to the clerk for each marriage ceremony performed by a
4 judge or a circuit or supplemental court commissioner specified in s. 765.16 (5) (1m)
5 (e) in the courthouse, safety building, or children’s court center during hours when
6 any office in those public buildings is open for the transaction of business. The
7 amount of the fee shall be determined by the board.

8 **SECTION 2.** 765.14 of the statutes is amended to read:

9 **765.14 Form of marriage document when solemnized by parties.** If the
10 marriage is to be solemnized by the parties without an officiating person, as provided
11 by s. 765.16 (3) (1m) (c), the marriage document shall contain all those items and
12 notations as required by s. 765.13.

13 **SECTION 3.** 765.16 (except 765.16 (title)) of the statutes is renumbered 765.16
14 (1m), and 765.16 (1m) (f), as renumbered, is amended to read:

15 765.16 (1m) (f) Any municipal court judge.

16 **SECTION 4.** 765.16 (2m) of the statutes is created to read:

17 765.16 (2m) An officiating person under sub. (1m) (a), (b), (d), (e), or (f) must
18 be at least 18 years old.

19 **SECTION 5.** 765.17 of the statutes is repealed.

20 **SECTION 6.** 765.23 of the statutes is amended to read:

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1 **765.23 Immaterial irregularities otherwise.** No marriage hereafter
2 contracted shall be void either by reason of the marriage license having been issued
3 by a county clerk not having jurisdiction to issue the same; or by reason of any
4 informality or irregularity of form in the application for the marriage license or in
5 the marriage license itself, or the incompetency of the witnesses to such marriage;
6 or because the marriage may have been solemnized in a county other than the county
7 prescribed in s. 765.12, or more than 30 days after the date of the marriage license,
8 if the marriage is in other respects lawful and is consummated with the full belief
9 on the part of the persons so married, or either of them, that they have been lawfully
10 joined in marriage. Where a marriage has been celebrated in one of the forms
11 provided for in s. 765.16 (1m), and the parties thereto have immediately thereafter
12 assumed the habit and repute of husband and wife, and having continued the same
13 uninterruptedly thereafter for the period of one year, or until the death of either of
14 them, it shall be deemed that a marriage license has been issued as required by ss.
15 765.05 to 765.24 and 767.803.

16 **SECTION 7.** 765.30 (4) (a) of the statutes is amended to read:

17 765.30 (4) (a) *Penalty for failure to file marriage certificate.* Every officiating
18 person, or persons marrying without the presence of an officiating person, as
19 provided by s. 765.16 ~~(3)~~ (1m) (c), who neglect or refuse to transmit the original
20 marriage certificate, solemnized by the officiating person or the persons marrying,
21 to the register of deeds of the county in which the marriage was performed within
22 3 days after the date of the marriage.

23 **SECTION 8. Initial applicability.**

