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ROBERT L. COWLES

**Wisconsin State Senator
2nd Senate District**

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January 28, 2014

Testimony on Assembly Bill 429

Assembly Bill 429 addresses a number of concerns raised about the rules of who may officiate over a marriage in the State of Wisconsin. The Wisconsin County Clerks Association (WCCA) specifically makes two changes that clerks feel will the laws that govern those who preside over a marriage more practical.

Primarily, the state of Wisconsin has no statutory minimum age requirement for those who can perform a marriage. While this may seem at first an unusual statutory change, this bill will safeguard against administrative errors, improper marriage license filings, falsified documents, and unfiled licenses. Some may feel that minors who become ordained online and perform marriages erodes at the institution of marriage; marriage being a legal binding contract, should be treated seriously and the proper documentation and importance should be implicit in the event's details.

Additionally, the other change made in this bill eliminates letters of sponsorship for out-of-state clergy. Current law requires out-of state clergy to get a "letter of sponsorship" from a clergy member of the same faith in the state of Wisconsin.

The problem with this is that many online or unaffiliated faiths do not appoint or license clergy at all or in this state, therefore one cannot get a "letter of sponsorship", nor do they need one. A 2005 Attorney General Opinion stated that a clerk is not required nor authorized to determine the authorization of an officiant.

This bill eliminates this requirement across the board and allows the process for choosing an out-of-state officiant less burdensome for both county clerks and clergy.

I'd like to than the Wisconsin County Clerks Association for bringing this legislation to my attention.

Wisconsin County Clerks Association

President - Kathy Brandt, Marinette County

Legislative Committee Chair – Jamie Aulik, Manitowoc County

Legislative Committee Vice-chair – Joe Czarnezki, Milwaukee County

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Minimum age of 18 to perform a marriage & Eliminating “Letters of Sponsorship” for all officiants

The WCCA supports AB-429 for the following reasons:

1. Establish a minimum age for officiants:

At present, Wisconsin has no statutory minimum age requirement to perform a marriage.

- County clerks are concerned about minors becoming ordained (most likely Internet ordained) and performing marriages, which we believe:
 - Generally erodes the institution of marriage in Wisconsin
 - Increases the likelihood of administrative errors, such as the license being improperly filled out or improperly filed, if it's filed at all.
- A marriage is a legally binding contract, and it should be treated with the seriousness that the event entails.
- We believe 18 should be the minimum age to perform a marriage.

2. Eliminate Letters of Sponsorship for out-of-state clergy

Presently, statutes require a higher level of scrutiny for out-of-state clergy than for unaffiliated officiants.

765.17 NONRESIDENT OFFICIATING PERSON; SPONSORSHIP. Any clergyman, licentiate or appointee named in s. 765.16 who is not a resident of this state may solemnize marriages in this state if he or she possesses at the time of the marriage a letter of sponsorship from a clergyman of the same religious denomination or society who has a church in this state under his or her ministry.

In other words, the requirement for what is known as a “letter of sponsorship” is only applied to out-of-state religious officiants, but **no such requirement is applied to unaffiliated out-of-state officiants.**

Furthermore, a letter of sponsorship **can't** be required for unaffiliated officiants because of the 2005 AG Opinion stating that, **“the statute does not permit, and the Constitution of the United States may prohibit, inquiry into the method of ordination or appointment.** See United States v. Ballard, 322 U.S. 78 (1944).”

Other considerations and information related to this topic:

Growth of Internet ordination: The number of Internet ordained ministers and the number of ceremonies performed by them has grown exponentially since 2004. Becoming Internet ordained is as easy as going to a website, paying a small fee, and printing a certificate. On at least one, frequently used website, there are little to no requirements to become ordained.

County clerks are unable to ask for the credentials of an officiant: In 32 Op. Att’y Gen. 105 (1943), the Attorney General opined that the “Spiritual Assembly of the Bahais,” an organization who didn’t ordain ministers or priests or have licentiates or bishops’ appointees, and thus the officiants didn’t have any “credentials,” was still able to perform marriage ceremonies in Wisconsin. The opinion also noted that “[t]here is no requirement for the filing of credentials and there is no authority on part of the clerk of a circuit court to accept such credentials for filing.” 32 Op. Att’y Gen. at 106.

County clerks are not authorized to determine validity of officiants: In a 2005 Attorney General opinion to the Crawford County Corporation Counsel on behalf of the Wisconsin County Clerks Association, the Attorney General noted that, “there is no longer any requirements that credentials be presented for filing, and no authority for the clerk to issue a certificate (to the officiant), **the clerk is not required to, and not authorized to, determine whether a listed officiant is authorized to be an officiating person.**

State of Wisconsin guidance places the onus to determine the legality of the officiant on the couple: Recommended language from the State Vital Records Office on what county clerks should say to couples regarding Internet ordinations states, “Neither our office nor the State Vital Records Office is able to confirm the legality of a religious officiant. If you have a question about the legality of the officiant you have chosen, you may want to seek legal counsel.”



INTERGOVERNMENTAL RELATIONS
Milwaukee County

TO: Members, Assembly Committee on State Affairs and Government Operations
FROM: Jamie Kuhn, Government Affairs Liaison – County Board
Eric Peterson, Government Affairs Liaison -- County Executive
DATE: Tuesday, January 28, 2014
RE: **Milwaukee County Support for AB 429 Marriage Officiant Changes**

On behalf of Milwaukee County, we urge your support of AB 429 which makes common sense changes to the laws regarding officiants of marriages in our state. The current laws are cumbersome for some persons who are asked to officiate at weddings and also allow minors to perform weddings as agents of the state.

The bill will require officiants at weddings to be at least 18 years old, which is the requirement for those getting married. With "internet ordination" available, many young adults and children can easily be ordained and legally wed two parties over 18 years old. Also, current law requires an ordained person from outside Wisconsin, who is asked to perform a wedding in state, to obtain a letter of sponsorship from their judicatory or denominational body. The bill removes the letter of sponsorship requirement.

This bill will eliminate a burdensome requirement for marriage officiants and clarify the laws surrounding these matters. Milwaukee County urges your support of this legislation.

Thank you.