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# Wisconsin Legislative Council

## ACT MEMO

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### **2021 Wisconsin Act 84** [2021 Assembly Bill 270]

### **Marriage Requirements**

2021 Wisconsin Act 84 modifies requirements relating to applying for, issuing, and using a marriage license, as well as other requirements related to marriage solemnization.

## **RESIDENCY AND USE REQUIREMENTS**

Prior law generally required that a marriage license be obtained from the clerk of the county in which one of the parties to the marriage has resided for at least 30 days. Once issued, the marriage license authorized a marriage ceremony to be performed in any county in Wisconsin. However, if neither party is a Wisconsin resident, a marriage license must have been obtained from the county clerk of the county in which the marriage ceremony will be performed, and the ceremony could be performed only in the county in which the marriage license was issued.

Act 84 eliminates these residency requirements, and instead allows a marriage license to be obtained from the clerk of any county in Wisconsin and further allows the license to authorize performance of a marriage ceremony in any county.

## **TIME PERIODS**

Under prior law, a marriage license could not be issued within five days of application for the marriage license. However, the county clerk had the discretion to issue a marriage license within less than five days after application if the applicant paid an additional fee up to \$25. Once issued, the marriage license authorized a marriage ceremony to be performed within 30 days of issuance.

Act 84 decreases the waiting period between the application and issuance of a marriage license from five days to three days, and maintains the clerk's discretion to issue a marriage license within less than three days, if the applicant pays the additional fee. Act 84 also increases from 30 to 60 days the period for which a license authorizes a marriage ceremony to be performed.

## **SOCIAL SECURITY NUMBER**

Prior law required that both the marriage license application and the marriage license worksheet contain each party's Social Security number, along with other information. Consistent with other current law provisions, Act 84 clarifies that this requirement applies only when a party has a Social Security number.

## **PROOF OF IDENTIFICATION**

State law requires that each applicant for a marriage license exhibit to the clerk a certified copy of a birth record, and also submit a copy of any judgment or death record affecting the applicant's marital status. If any applicable birth record, death record, or judgment is unobtainable, an applicant may present other satisfactory documentary proof of the requisite facts in lieu of the birth record, death

record, or judgment. If the clerk is not satisfied with the documentary proof presented, the clerk must submit the presented proof to a judge or a court of record in the county of application for an opinion as to the document's sufficiency.

Act 84 specifies that the clerk has discretion to determine whether a document is unobtainable. Under the act, a clerk must consider the following documentation to be satisfactory document proof of the requisite facts, if presented by an applicant in lieu of a birth record: (1) passport; (2) a license or identification that complies with the federal Real ID Act of 2005; (3) a permanent resident card; or (4) naturalization paper. Act 84 also requires a clerk to notify applicants of the right to request judicial review of the material submitted as proof of identification for an opinion as to its sufficiency, and further requires the clerk to seek such judicial review upon request by an applicant.

## **WITNESSES**

State law generally requires that a marriage be solemnized by the parties mutually declaring to be joined in marriage before an authorized officiating person and in the presence of at least two competent adult witnesses other than the officiating person. Under Act 84, a marriage may be solemnized in the presence of only one competent adult witness, other than the officiating person, if one of the parties is serving on active duty in the U.S. Armed Forces or in forces incorporated in the U.S. Armed Forces, in a reserve unit of the U.S. Armed Forces, or in the National Guard.

## **RETURN OF MARRIAGE DOCUMENT**

Prior law required that, within three days after the date of the marriage, the officiating person (or, if the ceremony was performed without an officiating person, one or both of the parties to the marriage) return the marriage document to the register of deeds of the county in which the marriage was performed. Act 84 allows the marriage document to be returned to the register of deeds of any county in Wisconsin.

**Effective date:** July 1, 2022. The act identifies specific provisions that first apply to marriage license applications received, marriage licenses issued, and marriages solemnized on July 1, 2022.

AO:jal