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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2021 Senate Bill 293**

**Senate Amendment 1**

### 2021 SENATE BILL 293

The bill modifies various requirements relating to applying for, issuing, and using a marriage license.

#### Residency and Use Requirements

Current law generally requires 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 authorizes a marriage ceremony to be performed in any county in Wisconsin. However, if neither party is a Wisconsin resident, a marriage license must be obtained from the county clerk of the county in which the marriage ceremony will be performed, and the ceremony may be performed only in the county in which the marriage license was issued.

The bill eliminates the residency requirements under current law, 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 current law, no marriage license may be issued within five days of application for the marriage license. However, the county clerk has the discretion to issue a marriage license within less than five days after application if the applicant pays an additional fee up to \$25. Once issued, the marriage license authorizes a marriage ceremony to be performed within 30 days of issuance.

The bill 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. The bill also increases from 30 to 60 days the period for which a license authorizes a marriage ceremony to be performed.

#### Social Security Number

Under current law, both the marriage license application and the marriage license worksheet must contain the Social Security number of each party, along with other information. Consistent with other current law provisions, the bill clarifies that this requirement applies only when a party has a Social Security number.

#### Proof of Identification

Current 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.

The bill clarifies that the clerk has the discretion to determine whether a document is unobtainable. The bill further specifies that if, in lieu of a birth record, an applicant presents a passport, license, or identification that meets the requirements of the federal Real ID Act of 2005, a permanent resident card, or naturalization paper, the clerk must consider such documentation to be satisfactory documentary proof of identification. The bill 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**

Current 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. The bill requires the presence of only one competent adult witness, other than the officiating person, if one of the parties is in active U.S. military service.

## **Return of Marriage Document**

Current law requires that, within three days after the date of the marriage, the marriage document be returned to the register of deeds of the county in which the marriage was performed, either by the officiating person, or, if the ceremony was performed without an officiating person, one or both of the parties to the marriage. Under the bill, the marriage document may be returned to the register of deeds of any county in Wisconsin.

## **SENATE AMENDMENT 1**

The amendment clarifies the types of military service that, if applicable, allow a marriage to be solemnized in the presence of one competent adult witness, rather than two. Specifically, under the amendment, 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.

## **BILL HISTORY**

Senator Kooyenga offered Senate Amendment 1 on May 4, 2021. On July 21, 2021, the Senate Committee on Insurance, Licensing and Forestry recommended adoption of the amendment and passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

MSK:jal