

California Law - Family Code - DIVISION 3 MARRIAGE - PART 3 - SECTION 400

(a) Although marriage is a personal relation arising out of a civil, and not a religious, contract, a marriage may be solemnized by a priest, minister, rabbi, or authorized person of any religious denomination who is 18 years of age or older. A person authorized by this subdivision shall not be required to solemnize a marriage that is contrary to the tenets of his or her faith. Any refusal to solemnize a marriage under this subdivision, either by an individual or by a religious denomination, shall not affect the tax-exempt status of any entity. (b) Consistent with Section 94.5 of the Penal Code and provided that any compensation received is reasonable, including payment of actual expenses, a marriage may also be solemnized by any of the following persons: (1) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state. (2) A judge or magistrate who has resigned from office. (3) Any of the following judges or magistrates of the United States: (A) A justice or retired justice of the United States Supreme Court. (B) A judge or retired judge of a court of appeals, a district court, or a court created by an act of the United States Congress the judges of which are entitled to hold office during good behavior. (C) A judge or retired judge of a bankruptcy court or a tax court. (D) A United States magistrate or retired magistrate. (c) Except as provided in subdivision (d), a marriage may also be solemnized by any of the following persons who are 18 years of age or older: (1) A Member of the Legislature or constitutional officer of this state or a Member of Congress of the United States who represents a district within this state, or a former Member of the Legislature or constitutional officer of this state or a former Member of Congress of the United States who represented a district within this state. (2) A person that holds or formerly held an elected office of a city, county, or city and county. (3) A city clerk of a charter city or serving in accordance with subdivision (b) of Section 36501 of the Government Code, while that person holds office. (d) (1) A person listed in subdivision (c) shall not accept compensation for solemnizing a marriage while holding office. (2) A person listed in subdivision (c) shall not solemnize a marriage pursuant to this section if they have been removed from office due to committing an offense or have been convicted of an offense that involves moral turpitude, dishonesty, or fraud.

California Law - Family Code - DIVISION 3 MARRIAGE - PART 1 - SECTION 300

300. (a) Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as

authorized by this division, except as provided by Section 425 and Part 4 (commencing with Section 500). (b) For purposes of this part, the document issued by the county clerk is a marriage license until it is registered with the county recorder, at which time the license becomes a marriage certificate.

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301. An unmarried male of the age of 18 years or older, and an unmarried female of the age of 18 years or older, and not otherwise disqualified, are capable of consenting to and consummating marriage.

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302. (a) An unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage upon obtaining a court order granting permission to the underage person or persons to marry. (b) The court order and written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person shall be filed with the clerk of the court, and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

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303. If it appears to the satisfaction of the court by application of a minor that the minor requires a written consent to marry and that the minor has no parent or has no parent capable of consenting, the court may make an order consenting to the issuance of a marriage license and granting permission to the minor to marry. The order shall be filed with the clerk of the court and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

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304. As part of the court order granting permission to marry under Section 302 or 303, the court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary. The parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

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305. Consent to and solemnization of marriage may be proved under the same general rules of evidence as facts are proved in other cases.

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306. Except as provided in Section 307, a marriage shall be licensed, solemnized, and authenticated, and the authenticated marriage license shall be returned to the county recorder of the county where the marriage license was issued, as provided in this part. Noncompliance with this part by a nonparty to the marriage does not invalidate the marriage.

California Law - Family Code - DIVISION 3 MARRIAGE - PART 1 - SECTION 306.5

306.5. (a) Parties to a marriage shall not be required to have the same name. Neither party shall be required to change his or her name. A person's name shall not change upon marriage unless that person elects to change his or her name pursuant to subdivision (b). (b) (1) One party or both parties to a marriage may elect to change the middle or last names, or both, by which that party wishes to be known after solemnization of the marriage by entering the new name in the spaces provided on the marriage license application without intent to defraud. (2) A person may adopt any of the following last names pursuant to paragraph (1): (A) The current last name of the other spouse. (B) The last name of either spouse given at birth. (C) A name combining into a single last name all or a segment of the current last name or the last name of either spouse given at birth. (D) A hyphenated combination of last names. (3) A person may adopt any of the following middle names pursuant to paragraph (1): (A) The current last name of either spouse. (B) The last name of either spouse given at birth. (C) A hyphenated combination of the current middle name and the current last name of the person or spouse. (D) A hyphenated combination of the current middle name and the last name given at birth of the person or spouse. (4) (A) An election by a person to change his or her name pursuant to paragraph (1) shall serve as a record of the name change. A certified copy of a marriage certificate containing the new name, or retaining the former name, shall constitute proof that the use of the new name or retention of the former name is lawful. (B) A certified copy of a marriage certificate shall be accepted as identification establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. (C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a

marriage outside of this state. (D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code. (5) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate may not be amended to add a new name or change the name adopted pursuant to paragraph (1). An amendment may be issued to correct a clerical error in the new name fields on the marriage license. In this instance, the amendment must be signed by one of the parties to the marriage and the county clerk or his or her deputy, and the reason for the amendment must be stated as correcting a clerical error. A clerical error as used in this part is an error made by the county clerk, his or her deputy, or a notary authorized to issue confidential marriage licenses, whereby the information shown in the new name field does not match the information shown on the marriage license application. This requirement shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure. (c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure. (d) This section shall become operative on January 1, 2009.

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307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of solemnizing marriage or entering the marriage relation, if all of the following requirements are met: (a) The parties to the marriage sign and endorse on the form prescribed by the State Department of Public Health, showing all of the following: (1) The fact, time, and place of entering into the marriage. (2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony. (3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true. (b) The License and Certificate of Non-Clergy Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 10 days after the ceremony.

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308. (a) A marriage contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state. (b) Notwithstanding any other provision of law, a marriage between two persons of the same sex contracted outside this state that would be valid by the laws of the jurisdiction in which the marriage was contracted is valid in this state if the marriage was contracted prior to November 5, 2008. (c) Notwithstanding any other provision of law, two persons of the same sex who contracted a marriage on or after November 5, 2008, that would be valid by the laws of the jurisdiction in which the marriage was contracted shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from the California Constitution, the United States Constitution, statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses with the sole exception of the designation of "marriage."

California Law - Family Code - DIVISION 3 MARRIAGE - PART 1 - SECTION 308.5

308.5. Only marriage between a man and a woman is valid or recognized in California.

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309. If either party to a marriage denies the marriage, or refuses to join in a declaration of the marriage, the other party may proceed, by action pursuant to Section 103450 of the Health and Safety Code, to have the validity of the marriage determined and declared.

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310. Marriage is dissolved only by one of the following: (a) The death of one of the parties. (b) A judgment of dissolution of marriage. (c) A judgment of nullity of marriage.

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received is reasonable, including payment of actual expenses, a marriage may also be solemnized by any of the following persons: (1) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state. (2) A judge or magistrate who has resigned from office. (3) Any of the following judges or magistrates of the United States: (A) A justice or retired justice of the United States Supreme Court. (B) A judge or retired judge of a court of appeals, a district court, or a court created by an act of the United States Congress the judges of which are entitled to hold office during good behavior. (C) A judge or retired judge of a bankruptcy court or a tax court. (D) A United States magistrate or retired magistrate. (c) Except as provided in subdivision (d), a marriage may also be solemnized by any of the following persons who are 18 years of age or older: (1) A Member of the Legislature or constitutional officer of this state or a Member of Congress of the United States who represents a district within this state, or a former Member of the Legislature or constitutional officer of this state or a former Member of Congress of the United States who represented a district within this state. (2) A person that holds or formerly held an elected office of a city, county, or city and county. (3) A city clerk of a charter city or serving in accordance with subdivision (b) of Section 36501 of the Government Code, while that person holds office. (d) (1) A person listed in subdivision (c) shall not accept compensation for solemnizing a marriage while holding office. (2) A person listed in subdivision (c) shall not solemnize a marriage pursuant to this section if they have been removed from office due to committing an offense or have been convicted of an offense that involves moral turpitude, dishonesty, or fraud.