

# 2012 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

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HB1115

12104018D

## HOUSE BILL NO. 1115

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 20-13, 20-21 through 20-24, 20-27, 20-28, 20-37.1, and 32.1-267 and to repeal §§ 20-25 and 20-26 of the Code of Virginia, relating to the solemnization of marriages in the Commonwealth; penalty.

Patrons—Englin and Kory

Referred to Committee for Courts of Justice

### Be it enacted by the General Assembly of Virginia:

1. That §§ 20-13, 20-21 through 20-24, 20-37.1 and 32.1-267 of the Code of Virginia are amended and reenacted as follows:

#### § 20-13. License and solemnization required.

To be a marriage valid and recognized under the laws of the Commonwealth, a marriage must not be an unlawful marriage, §§ 20-38 through 20-49, and Every marriage in this Commonwealth shall be under a license and solemnized in the manner herein provided.

§ 20-21. Clerk to furnish attorney for the Commonwealth list of licenses not returned by minister the person solemnizing the marriage.

It shall be the duty of every clerk issuing marriage licenses no later than March 31 of each year to furnish to the attorney for the Commonwealth of his county or city a list of all marriage licenses issued during the preceding calendar year that have not been returned by the minister or other person celebrating solemnizing the marriage.

§ 20-22. Attorney for the Commonwealth to ascertain before circuit court name of person minister failing to return certificates.

It shall be the duty of the attorney for the Commonwealth for each county and city, upon the receipt from the clerk of the list required by § 20-21, to have such person or persons as he may think proper summoned before the circuit court of his county or city to ascertain the name of the minister or other person celebrating solemnizing such marriage and failing to return the license and certificates to the clerk as required by § 32.1-267.

§ 20-23. Persons authorized to solemnize a marriage in the Commonwealth Order authorizing ministers to perform ceremony.

A. Any judge or justice of a court of record, any judge of a district court or any retired judge or justice of the Commonwealth or any active, senior or retired federal judge or justice who is a resident of the Commonwealth may solemnize a marriage anywhere in the Commonwealth without the necessity of bond or order of authorization.

B. Any circuit court judge of any county or city in this Commonwealth, may issue an order authorizing one or more persons, resident in the circuit in which the judge sits, to solemnize marriages in the Commonwealth. Any order made under this section may be rescinded at any time.

C. Any person authorized by the court to solemnize marriages shall, before acting, enter into bond in the penalty of \$500, with or without surety, as the court may direct.

When a minister of any religious denomination shall produce before the circuit court of any county or city in this Commonwealth, or before the judge of such court or before the clerk of such court at any time, proof of his ordination and of his being in regular communion with the religious society of which he is a reputed member, or proof that he holds a local minister's license and is serving as a regularly appointed pastor in his denomination, such court, or the judge thereof, or the clerk of such court at any time, may make an order authorizing such minister to celebrate the rites of matrimony in this Commonwealth. Any order made under this section may be rescinded at any time by the court or by the judge thereof.

#### § 20-24. Penalty for failure to certify record of marriage.

If any person minister, authorized to solemnize a celebrate rites of marriage under § 20-23, shall fail to comply with § 32.1-267, he shall be subject to forfeit twenty-five dollars.

#### § 20-27. Fee for solemnizing celebrating marriage.

Any person authorized under § 20-235 to celebrate the rites of solemnize a marriage valid and recognized in the Commonwealth shall be permitted to charge the parties a fee for the ceremony not to exceed \$50 for each ceremony. Additionally, such person shall be permitted to charge the parties travel expenses to and from the marriage site. If conveyance is by public transportation, reimbursement shall be at the actual cost thereof. If conveyance is by private transportation, reimbursement shall be at the

59 rate specified in the current general appropriations act of the Commonwealth. In either event, *a*  
60 *statement of the fee and expenses the actual cost of the ceremony together with travel expenses* shall be  
61 given to the parties at least three days prior to *the date on which the marriage is to be solemnized*  
62 *ceremony*.

63 **§ 20-28. Penalty for celebrating solemnizing a marriage without license.**

64 If any person knowingly *solemnize a marriage as provided in § 20-13* perform the ceremony of  
65 marriage without lawful license *issued pursuant to § 20-16*, or *solemnize a officiate in celebrating the*  
66 *rites of* marriage without being authorized by law to do so *pursuant to § 20-23*, he shall be confined in  
67 jail not exceeding one year, and fined not exceeding \$500.

68 **§ 20-37.1. Validation of certain marriages solemnized outside of Commonwealth.**

69 All marriages heretofore solemnized outside this Commonwealth by a ~~minister~~ person authorized to  
70 *celebrate the rites of solemnize a marriage* in this Commonwealth, under a license issued in this  
71 Commonwealth, and showing on the application therefor the place out of this Commonwealth where  
72 said marriage is to be performed, shall be valid as if such marriage had been performed in this  
73 Commonwealth.

74 **§ 32.1-267. Records of marriages; duties of officer issuing marriage license and person**  
75 ***solemnizing the marriage officiating at ceremony; blocking of social security number.***

76 A. For each marriage *solemnized* performed in the Commonwealth, a record showing personal data,  
77 including but not limited to age and race of the married parties, the marriage license, and the certifying  
78 statement of the facts of marriage shall be filed with the State Registrar as provided in this section.

79 B. The officer issuing a marriage license shall prepare the record based on the information obtained  
80 under oath or by affidavit from the parties to be married. The parties shall also include their social  
81 security numbers or other control numbers issued by the Department of Motor Vehicles pursuant to  
82 § 46.2-342 and affix their signatures to the application for such license.

83 C. Every person who *solemnizes a marriage officiates at a marriage ceremony* shall certify to the  
84 facts of marriage and file the record in duplicate with the officer who issued the marriage license within  
85 five days after the marriage *is solemnized ceremony*. In the event such *person officiant* dies or becomes  
86 incapacitated before completing the certificate of marriage, the official who issued the marriage license  
87 shall complete the certificate of marriage upon the order of the court to which is submitted proof that  
88 the marriage was performed.

89 D. Every officer issuing marriage licenses shall on or before the tenth day of each calendar month  
90 forward to the State Registrar a record of each marriage filed with him during the preceding calendar  
91 month.

92 E. The State Registrar shall furnish forms for the marriage license, marriage certificate, and  
93 application for marriage license used in the Commonwealth. Such forms shall be configured so as to  
94 cause the social security number or control number required pursuant to the provisions of subsection B  
95 to appear only on the application for marriage license retained by the officer issuing the marriage license  
96 and the copy of such license forwarded to the State Registrar pursuant to the provisions of subsection D.

97 F. Applications for marriage licenses filed on and after July 1, 1997, and marriage registers recording  
98 such applications, which have not been configured to prevent disclosure of the social security number or  
99 control number required pursuant to the provisions of subsection B of this section shall not be available  
100 for general public inspection in the offices of clerks of the circuit courts. The clerk shall make such  
101 applications and registers available for inspection only (i) upon the order of the circuit court within  
102 which such application was made or register is maintained, (ii) pursuant to a lawful subpoena duces  
103 tecum issued to the clerk, (iii) upon the written authorization of either of the applicants, or (iv) upon the  
104 request of a law-enforcement officer or duly authorized representative of the Division of Child Support  
105 Enforcement in the course of performing his official duties. Nothing in this subsection shall be construed  
106 to restrict public access to marriage licenses or to prohibit the clerk from making available to the public  
107 applications for marriage licenses and marriage registers stored in any electronic medium or other format  
108 that permits the blocking of the field containing the social security or control number required pursuant  
109 to the provisions of subsection B of this section, so long as access to such number is blocked.

110 **2. That §§ 20-25 and 20-26 of the Code of Virginia are repealed.**