20104581D

1 **HOUSE BILL NO. 863**
2 Offered January 8, 2020
3 Prefiled January 7, 2020
4 *A BILL to amend and reenact §§ 20-16, 20-25, 20-26, 20-28, 20-33, and 32.1-267 of the Code of*
5 *Virginia and to repeal §§ 20-21, 20-22, 20-24, and 20-37 of the Code of Virginia, relating to*
6 *persons other than ministers who may celebrate rites of marriage; filing of the marriage record.*
7 ——————
Patron—Levine
8 ——————
9 Referred to Committee for Courts of Justice
10 ——————
11 **Be it enacted by the General Assembly of Virginia:**
12 **1. That §§ 20-16, 20-25, 20-26, 20-28, 20-33, and 32.1-267 of the Code of Virginia are amended and**
13 **reenacted as follows:**
14 **§ 20-16. Issuance of marriage licenses and marriage certificates.**
15 The clerk issuing any marriage license shall require the parties contemplating marriage to state, under
16 oath, the information required to complete the application for marriage license. The parties shall be able
17 to designate themselves on the application for marriage license as spouse, bride, or groom. The clerk
18 shall provide the parties with two copies of the marriage certificate to be completed by the marriage
19 officiant, who shall return the completed certificates to the clerk after the marriage ceremony of the
20 parties *or confirm that a party to the marriage has done so.* The clerk shall retain one copy of the
21 completed marriage certificate and provide the other copy to the State Registrar of Vital Records. The
22 clerk may provide the parties with a commemorative marriage certificate and the parties may request a
23 certified copy of the official marriage certificate as provided in Article 7 (§ 32.1-270 et seq.) of Chapter
24 7 of Title 32.1. For the purposes of this section any statement made by such applicant, under oath,
25 concerning the information to be entered on the application for marriage license is hereby declared to be
26 a material matter or thing in any prosecution for perjury for any violation of this section.
27 **§ 20-25. Persons other than ministers who may perform rites.**
28 ~~Upon petition filed with the clerk and payment of applicable clerk's fees, any circuit court judge may~~
29 ~~issue an order authorizing one or more persons resident in the circuit in which the judge sits to celebrate~~
30 ~~the rites of marriage in the Commonwealth. Any person so authorized shall, before acting, enter into~~
31 ~~bond in the penalty of $500, with or without surety, as the court may direct. Any order made under this~~
32 ~~section may be rescinded at any time. No oath shall be required of a person authorized to celebrate the~~
33 ~~rites of marriage, nor shall such person be considered an officer of the Commonwealth by virtue of such~~
34 ~~authorization.~~
35 ~~Any judge or justice of a court of record, any judge of a district court, any retired judge or justice of~~
36 ~~the Commonwealth, and any active, senior, or retired federal judge or justice who is a resident of the~~
37 ~~Commonwealth may~~ *The marriage license application shall allow the parties to the marriage to*
38 *designate an officiant to celebrate the rites of such marriage. No officiant so designated shall be a party*
39 *to the marriage or younger than 18 years of age. A license issued with such designation shall serve as*
40 *authorization for the named officiant to* celebrate the rites of marriage anywhere in the Commonwealth
41 without the necessity of bond or order of authorization.
42 **§ 20-26. Marriage between members of religious society having no minister.**
43 Marriages between persons belonging to any religious society which has no ordained minister, may
44 be solemnized by the persons and in the manner prescribed by and practiced in any such society. One
45 person chosen by the society shall be responsible for completing the certification of marriage in the
46 same manner as a minister or other person authorized to perform marriages~~; such person chosen by the~~
47 ~~society for this purpose shall be required to execute a bond in the penalty of $500, with surety~~. No oath
48 shall be required of a person authorized to celebrate the rites of marriage, nor shall such person be
49 considered an officer of the Commonwealth by virtue of such authorization.
50 **§ 20-28. Penalty for celebrating marriage without license.**
51 If any person knowingly perform the ceremony of marriage without lawful license, or officiate in
52 celebrating the rites of marriage without being authorized by law to do so, he shall be ~~confined in jail~~
53 ~~not exceeding one year, and~~ fined *an amount* not exceeding $500.
54 **§ 20-33. Penalty for clerk issuing license contrary to law.**
55 If any clerk of a court knowingly issue a marriage license contrary to law, he shall be ~~confined in~~
56 ~~jail not exceeding one year, and~~ fined *an amount* not exceeding $500.
57 **§ 32.1-267. Records of marriages; duties of officer issuing marriage license and person**
58 **officiating at ceremony; blocking of social security number.**

59   A. For each marriage performed in the Commonwealth, a record showing personal data, including
60 but not limited to age and race of the married parties, the marriage license, and the certifying statement
61 of the facts of marriage shall be filed with the State Registrar as provided in this section.
62   B. The officer issuing a marriage license shall prepare the record based on the information obtained
63 under oath or by affidavit from the parties to be married. The parties shall also include their social
64 security numbers or other control numbers issued by the Department of Motor Vehicles pursuant to
65 § 46.2-342 and affix their signatures to the application for such license.
66   C. Every person who officiates at a marriage ceremony shall certify to the facts of marriage ~~and~~. *The*
67 *officiant or a party to the marriage shall* file the record in duplicate with the officer who issued the
68 marriage license within five days after the ceremony. In the event such officiant dies or becomes
69 incapacitated before completing the certificate of marriage, the official who issued the marriage license
70 shall complete the certificate of marriage upon the order of the court to which is submitted proof that
71 the marriage was performed.
72   D. Every officer issuing marriage licenses shall on or before the tenth day of each calendar month
73 forward to the State Registrar a record of each marriage filed with him during the preceding calendar
74 month.
75   E. The State Registrar shall furnish forms for the marriage license, marriage certificate, and
76 application for marriage license used in the Commonwealth. Such forms shall be configured so as to
77 cause the social security number or control number required pursuant to the provisions of subsection B
78 to appear only on the application for marriage license retained by the officer issuing the marriage license
79 and the copy of such license forwarded to the State Registrar pursuant to the provisions of subsection D.
80   F. Applications for marriage licenses filed on and after July 1, 1997, and marriage registers recording
81 such applications, which have not been configured to prevent disclosure of the social security number or
82 control number required pursuant to the provisions of subsection B of this section shall not be available
83 for general public inspection in the offices of clerks of the circuit courts. The clerk shall make such
84 applications and registers available for inspection only (i) upon the order of the circuit court within
85 which such application was made or register is maintained, (ii) pursuant to a lawful subpoena duces
86 tecum issued to the clerk, (iii) upon the written authorization of either of the applicants, or (iv) upon the
87 request of a law-enforcement officer or duly authorized representative of the Division of Child Support
88 Enforcement in the course of performing his official duties. Nothing in this subsection shall be construed
89 to restrict public access to marriage licenses or to prohibit the clerk from making available to the public
90 applications for marriage licenses and marriage registers stored in any electronic medium or other format
91 that permits the blocking of the field containing the social security or control number required pursuant
92 to the provisions of subsection B of this section, so long as access to such number is blocked.
93 **2. That §§ 20-21, 20-22, 20-24, and 20-37 of the Code of Virginia are repealed.**