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SENATE BILL NO. 40

Offered January 13, 2016

Prefiled December 15, 2015

A *BILL to amend and reenact §§ 20-14, 20-15, 20-16, 20-20, 20-21, 20-22, 32.1-252, and 32.1-267 of the Code of Virginia, relating to issuance of marriage licenses; conscience clause; State Registrar of Vital Records.*

Patron—Carrico

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-14, 20-15, 20-16, 20-20, 20-21, 20-22, 32.1-252, and 32.1-267 of the Code of Virginia are amended and reenacted as follows:

§ 20-14. By whom license to be issued.

Every license for a marriage shall be issued by the clerk or deputy clerk of a circuit court of any county or city. If from any cause neither the clerk nor his deputy is able to issue the license, it may be issued by the judge of the circuit court of such county, or city, who shall make return thereof to the clerk as soon as there may be one. *The clerk or deputy clerk shall not be required to issue a marriage license if such clerk has an objection to the issuance of such license on personal, ethical, moral, or religious grounds. If the clerk or deputy clerk declines to issue a marriage license on such grounds, the parties contemplating marriage may be issued a license by the State Registrar of Vital Records pursuant to subdivision A 12 of § 32.1-252.*

§ 20-15. Tax on license.

On each marriage license issued under § 20-14, there is hereby levied a license tax of \$20, which tax shall be collected by the clerk *or the Commissioner of Motor Vehicles on behalf of the State Registrar of Vital Records* when the license is issued and accounted for as in the case of other state taxes collected by him. Ten dollars of this license tax shall be allocated to the Virginia Department of Social Services for the purpose of providing services to victims of domestic violence.

§ 20-16. Issuance of marriage licenses and marriage certificates.

The clerk *or the Commissioner of Motor Vehicles on behalf of the State Registrar of Vital Records* issuing any marriage license shall require the parties contemplating marriage to state, under oath, the information required to complete the application for marriage license. The parties shall be able to designate themselves on the application for marriage license as spouse, bride, or groom. The clerk shall provide the parties with two copies of the marriage certificate to be completed by the marriage officiant, who shall return the completed certificates to the clerk after the marriage ceremony of the parties. The clerk shall retain one copy of the completed marriage certificate and provide the other copy to the State Registrar of Vital Records. The clerk may provide the parties with a commemorative marriage certificate and the parties may request a certified copy of the official marriage certificate as provided in Article 7 (§ 32.1-270 et seq.) of Chapter 7 of Title 32.1. For the purposes of this section, any statement made by such applicant, under oath, concerning the information to be entered on the application for marriage license is hereby declared to be a material matter or thing in any prosecution for perjury for any violation of this section.

§ 20-20. Clerk or Registrar to file license and certificate; indexing names of parties; certified copies as evidence.

The clerk to whom the license and certificate are returned, shall file and preserve the original in his office, and make an index of the names of both of the parties married. *In the case of a marriage license issued by the State Registrar of Vital Records, the license and certificate shall be returned to the State Registrar and a copy of each shall be sent to the clerk of the county or city in which the marriage was solemnized.*

When the certificates of such person celebrating such marriage are returned to the clerk *or the State Registrar*, and recorded as provided in this section and § 32.1-267, copies of the same properly certified by the clerk lawfully having the custody thereof or properly certified by the State Registrar of Vital ~~Statistics~~ Records shall be prima facie evidence of the facts therein set forth in all courts of this Commonwealth.

§ 20-21. Clerk or Registrar to furnish attorney for the Commonwealth list of licenses not returned by minister.

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

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during the preceding calendar year that have not been returned by the minister or other person celebrating the marriage. *In the case of a marriage license issued by the State Registrar of Vital Records, the State Registrar shall furnish a list of all unreturned marriage licenses to the Attorney General.*

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

It shall be the duty of the attorney for the Commonwealth for each county and city *or the Attorney General*, upon the receipt from the clerk *or the State Registrar of Vital Records* 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 *or, in the case of the Attorney General, the Circuit Court of the City of Richmond* to ascertain the name of the minister or other person celebrating such marriage and failing to return the license and certificates to the clerk as required by § 32.1-267.

§ 32.1-252. State Registrar; duties; delegations.

A. The State Registrar, under the supervision of the Commissioner, shall:

1. Administer the provisions of this chapter and the regulations of the Board in a manner that will ensure the uniform and efficient administration of the system of vital records.

2. Direct and supervise the system of vital records and be custodian of its records.

3. Direct, supervise and control the activities of all persons when pertaining to the operation of the system of vital records.

4., 5. [Repealed.]

6. Conduct training programs to promote uniformity of policy and procedures throughout the Commonwealth in matters pertaining to the system of vital records.

7. Inspect vital records which have been sealed as provided by law whenever such inspection will facilitate the administration of this chapter without violating the confidentiality of such records.

8. Perform such other duties as may be required by law.

9. Develop, furnish and distribute, in accordance with the regulations of the Board, forms as required by this chapter and such other means for transmission of data as may be necessary for the purpose of complete and accurate reporting and registration.

10. Develop and provide a means for obtaining a social security number in conjunction with the issuance of a birth certificate.

11. Develop, furnish and distribute a surrogate consent and report form as described in § 20-162.

12. *Issue marriage licenses pursuant to § 20-14 and, with the assistance of the Commissioner of Motor Vehicles, develop a process by which such licenses may be requested and issued at any local Department of Motor Vehicles location that provides certified copies of vital records pursuant to § 32.1-272.*

B. The State Registrar may delegate functions and duties vested in him to designated assistants and to county, city and special registrars as he deems necessary or expedient.

C. The Department of Motor Vehicles, when issuing a certified copy of a vital record, shall be subject to the State Registrar's rules, regulations, and audit requirements, including the provisions of this chapter.

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

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

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

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

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

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

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