

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 796

97TH GENERAL ASSEMBLY

2014

5669S.01T

AN ACT

To repeal section 451.040, RSMo, and to enact in lieu thereof one new section relating to marriage licenses, with an existing penalty provision, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 451.040, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 451.040, to read as follows:

451.040. 1. Previous to any marriage in this state, a license for that
2 purpose shall be obtained from the officer authorized to issue the same, and no
3 marriage contracted shall be recognized as valid unless the license has been
4 previously obtained, and unless the marriage is solemnized by a person
5 authorized by law to solemnize marriages.

6 2. Before applicants for a marriage license shall receive a license, and
7 before the recorder of deeds shall be authorized to issue a license, the parties to
8 the marriage shall present an application for the license, duly executed and
9 signed in the presence of the recorder of deeds or their deputy. **If an applicant**
10 **is unable to sign the application in the presence of the recorder of**
11 **deeds as a result of the applicant's incarceration or because the**
12 **applicant has been called or ordered to active military duty out of the**
13 **state or country, the recorder of deeds may issue a license if:**

14 (1) **An affidavit or sworn statement is submitted by the**
15 **incarcerated or military applicant on a form furnished by the recorder**
16 **of deeds which includes the necessary information for the recorder of**
17 **deeds to issue a marriage license under this section. The form shall**
18 **include, but not be limited to, the following:**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **(a) The names of both applicants for the marriage license;**

20 **(b) The date of birth of the incarcerated or military applicant;**

21 **(c) An attestation by the incarcerated or military applicant that**
22 **both applicants are not related;**

23 **(d) The date the marriage ended if the incarcerated or military**
24 **applicant was previously married;**

25 **(e) An attestation signed by the incarcerated or military**
26 **applicant stating in substantial part that the applicant is unable to**
27 **appear in the presence of the recording of deeds as a result of the**
28 **applicant's incarceration or because the applicant has been called or**
29 **ordered to active military duty out of the state or country, which will**
30 **be verified by the professional or official who directs the operation of**
31 **the jail or prison or the military applicant's military officer, or such**
32 **professional's or official's designee, and acknowledged by a notary**
33 **public commissioned by the state of Missouri at the time of verification.**
34 **However, in the case of an applicant who is called or order to active**
35 **military duty outside Missouri, acknowledge may be obtained by a**
36 **notary public who is duly commissioned by a state other than Missouri**
37 **or by notarial services of a military officer in accordance with the**
38 **Uniform Code of Military Justice at the time of verification;**

39 **(2) The completed marriage license application of the**
40 **incarcerated or military applicant is submitted which includes the**
41 **applicant's Social Security number; except that, in the event the**
42 **applicant does not have a Social Security number, a sworn statement**
43 **by the applicant to that effect; and**

44 **(3) A copy of a government-issued identification for the**
45 **incarcerated or military applicant which contains the applicant's**
46 **photograph. However, in such case the incarcerated applicant does not**
47 **have such an identification because the jail or prison to which he or**
48 **she is confined does not issue an identification with a photo his or her**
49 **notarized application shall satisfy this requirement.**

50 **3.** Each application for a license shall contain the Social Security number
51 of the applicant, provided that the applicant in fact has a Social Security number,
52 or the applicant shall sign a statement provided by the recorder that the
53 applicant does not have a Social Security number. The Social Security number
54 contained in an application for a marriage license shall be exempt from
55 examination and copying pursuant to section 610.024. After the receipt of the

56 application the recorder of deeds shall issue the license, unless one of the parties
57 withdraws the application. The license shall be void after thirty days from the
58 date of issuance.

59 [3.] 4. Any person violating the provisions of this section shall be deemed
60 guilty of a misdemeanor.

61 [4.] 5. Common-law marriages shall be null and void.

62 [5.] 6. Provided, however, that no marriage shall be deemed or adjudged
63 invalid, nor shall the validity be in any way affected for want of authority in any
64 person so solemnizing the marriage pursuant to section 451.100, if consummated
65 with the full belief on the part of the persons, so married, or either of them, that
66 they were lawfully joined in marriage.

Section B. Because immediate action is necessary to protect and uphold
2 the sanctity of marriage, the enactment of section 451.040 is deemed necessary
3 for the immediate preservation of the public health, welfare, peace, and safety,
4 and the enactment of section 451.040 is hereby declared to be an emergency act
5 within the meaning of the constitution, and the enactment of section 451.040
6 shall be in full force and effect upon its passage and approval.

Bill ✓

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