

ISSUANCE OF MARRIAGE LICENSE WITHOUT PUBLICITY

Act 180 of 1897

AN ACT to provide for the issuance of marriage licenses and certificates without publicity in certain cases; and to provide criminal and civil penalties for violation of this act.

History: 1897, Act 180, Eff. Aug. 30, 1897;—Am. 1983, Act 199, Imd. Eff. Nov. 7, 1983.

The People of the State of Michigan enact:

551.201 Issuance of marriage license without publicity; conditions; application; notice; consent; exceptions; order.

Sec. 1. (1) When a person desires to keep the exact date of his or her marriage to a person of the opposite sex a secret, the judge of probate may issue, without publicity, a marriage license to any person making application, under oath, if there is good reason expressed in the application and determined to be sufficient by the judge of probate.

(2) The judge of probate may marry, without publicity, persons under marriageable age, as provided in section 3 of Act No. 128 of the Public Acts of 1887, being section 551.103 of the Michigan Compiled Laws, if the application for the license is accompanied by 1 of the following:

(a) A written request of all of the biological or adopting living parents of both parties, and their guardian or guardians if either or both of the parents are dead.

(b) A written request of the parents or guardians of the party under marriageable age if only 1 party to the marriage is under the marriageable age.

(3) If the noncustodial parent has been given notice of the request for consent by personal service or registered mail at his or her last known address and the noncustodial parent fails to enter an objection within 5 days after receipt of notice, then the consent shall be required only of a parent to whom custody of a child has been awarded by a court. The consent shall not be required of a parent confined under sentence in a state or federal penal institution or confined in a mental hospital under adjudication of legal incapacity by a court of competent jurisdiction or upon the return of process by the sheriff of the county in which the parent was last known to reside made not less than 5 nor more than 14 days after issuance of the process certifying that after diligent search the parent cannot be found within the county.

(4) The judge of probate may authorize an order nunc pro tunc regarding the date to appear on the marriage license.

History: 1897, Act 180, Eff. Aug. 30, 1897;—CL 1897, 8612;—Am. 1899, Act 232, Eff. Sept. 23, 1899;—CL 1915, 11387;—CL 1929, 12717;—Am. 1939, Act 251, Eff. Sept. 29, 1939;—CL 1948, 551.201;—Am. 1957, Act 209, Eff. Sept. 27, 1957;—Am. 1967, Act 175, Imd. Eff. June 30, 1967;—Am. 1983, Act 199, Imd. Eff. Nov. 7, 1983.

551.202 Application for marriage license; form; fee; performing marriage ceremony; permit; record; marriage certificate; execution of papers in duplicate; delivery of marriage certificate to parties.

Sec. 2. Each application made under this act for a marriage license shall be in the usual form and shall be accompanied by a fee of \$3.00, \$2.00 of which the judge of probate shall keep for services rendered, and \$1.00 of which the judge of probate shall forward to the state registrar for deposit in the state general fund. The judge of probate, upon the filing of an application under this act, shall perform the marriage ceremony. If the applicant or either of the parties to the marriage desires to have the marriage ceremony performed by some person competent to perform the marriage ceremony other than the judge of probate, the judge of probate shall issue a written permit to the person designated by the applicant or contracting party directing that person to perform the marriage ceremony. The party so designated, if competent to perform the marriage ceremony under the laws of this state, may perform the marriage ceremony, but a record shall not be made of the marriage, except the record made by the judge of probate under this act. Upon the performance of the marriage ceremony, the party performing it shall return the marriage certificate to the judge of probate, who shall attach the license and certificate to the application. The papers described in this section shall be executed in duplicate, and the person performing the marriage ceremony shall deliver a certificate of the marriage to the parties.

History: 1897, Act 180, Eff. Aug. 30, 1897;—CL 1897, 8613;—Am. 1899, Act 232, Eff. Sept. 23, 1899;—Am. 1909, Act 312, Eff. Sept. 1, 1909;—Am. 1911, Act 224, Eff. Aug. 1, 1911;—CL 1915, 11388;—CL 1929, 12718;—CL 1948, 551.202;—Am. 1979, Act 133, Imd. Eff. Oct. 30, 1979;—Am. 1983, Act 199, Imd. Eff. Nov. 7, 1983.

551.203 Private file of papers; forwarding duplicate to state registrar; recordation of filing in

private register; inspection of files and records; request and identification; court order; petition to unseal marriage record; court order; findings; petition by surviving party; forwarding copy of license and marriage certificate to county clerk; access.

Sec. 3. (1) The judge of probate shall file a complete set of all papers in each case in a private file, and, within 10 days after the marriage, shall forward a duplicate to the state registrar. The state registrar shall file the duplicate in a private file and record the filing in a private register. Except as provided in subsections (2) and (3), the file in the probate court, and the duplicate and record in the state department of health and human services, shall be open to inspection only upon the written request and proper proof of identification of 1 or both of the partners to the marriage, or upon the written order of a judge of the circuit court of this state, and only for the use designated in the order. The order shall be made only upon the written request of the person or persons who were married under this act, or if necessary for the protection of property rights arising from or affected by the marriage.

(2) Except as provided in subsection (3), after both parties to a marriage made private under this act are over 18 years of age, both parties may petition the court to unseal the record of their marriage. If the court receives a petition under this subsection or subsection (3), the court shall enter an order to unseal the record of the marriage upon finding all of the following:

- (a) The petitioners were married without publicity under section 1.
- (b) The petitioners are both over 18 years of age at the time of filing the petition.
- (c) Both of the petitioners wish to unseal the record of the marriage.

(3) If a party to a marriage made private under this act is deceased and the surviving party is 18 years of age or older, the surviving party may petition the court to unseal the record of the marriage.

(4) Upon entering an order under subsection (2), the court shall forward a copy of the license and certificate of marriage to the county clerk in the county in which the license was issued. If the court unseals a record of a marriage under this section, the court shall forward a copy of the record to the state registrar.

(5) Access to a record of marriage unsealed under subsection (2) or (3) is the same as access to a vital record provided under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

History: 1897, Act 180, Eff. Aug. 30, 1897;—CL 1897, 8614;—Am. 1899, Act 232, Eff. Sept. 23, 1899;—CL 1915, 11389;—CL 1929, 12719;—CL 1948, 551.203;—Am. 1979, Act 133, Imd. Eff. Oct. 30, 1979;—Am. 2017, Act 200, Eff. Mar. 15, 2018.

551.204 Privileged communications; violation of confidence as misdemeanor; publicity as misdemeanor; penalties; libel action; neglecting to make proper return; section inapplicable to license unsealed under section 3(2) or (3).

Sec. 4. (1) Except as provided in subsection (2), all knowledge of facts that come to the judge of probate, state registrar or an agent or employee of the state registrar, the physician endorsing the application, or a witness to the marriage under the license issued under this act is privileged communications. A violation of confidence by the judge of probate, state registrar or an agent or employee of the state registrar, the physician, or a witness is a misdemeanor, punishable by a fine of not less than \$25.00, nor more than \$100.00, plus the costs of prosecution, and, in default of the payment, imprisonment for not more than 3 months. An editor, publisher, or proprietor of a newspaper or publication within this state giving publicity to a license or marriage performed under this act is guilty of a misdemeanor punishable by a fine of not less than \$50.00, nor more than \$100.00, plus the costs of prosecution, and, in default of the payment, imprisonment for not more than 30 days. In addition, the editor, publisher, or proprietor is liable in an action of libel to the parties married under the license. If the judge of probate performing the marriage ceremony under a license issued under this act neglects to make proper return, the judge shall be fined, in addition to penalties prescribed by the laws of this state, not more than \$50.00.

(2) This section does not apply to a license that is unsealed under section 3(2) or (3).

History: 1897, Act 180, Eff. Aug. 30, 1897;—CL 1897, 8615;—CL 1915, 11390;—CL 1929, 12720;—CL 1948, 551.204;—Am. 1979, Act 133, Imd. Eff. Oct. 30, 1979;—Am. 2017, Act 200, Eff. Mar. 15, 2018.