

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

## ENROLLED

SENATE BILL NO. 3

(By Mr. Jackson, Vice President,  
and Mr. Brotherton)

PASSED March 8, 1969

In Effect July 1, 1969 Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 3-17-69

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**ENROLLED**

**Senate Bill No. 3**

(By MR. JACKSON, MR. PRESIDENT, and MR. BROTHERTON)

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[Passed March 8, 1969; in effect July 1, 1969.]

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AN ACT to repeal sections seven, thirteen, nineteen and twenty-one, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections one, two, three, five, six, six-c, six-d, ten, eleven, twelve, twelve-a, twenty-two and twenty-three of said article one, relating to marriages, the age of consent, certain prohibited marriages, the necessity, issuance, content, form and recordation of marriage licenses, persons authorized to celebrate marriages, their qualifications, forfeiture of any such person's bond, marriage under the age of consent when the female is pregnant; and providing penalties.

*Be it enacted by the Legislature of West Virginia:*

That sections seven, thirteen, nineteen and twenty-one, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections one, two, three, five, six, six-c, six-d, ten, eleven, twelve, twelve-a, twenty-two and twenty-three of said article one, be amended and reenacted to read as follows:

**ARTICLE 1. MARRIAGE.**

**§48-1-1. Age of consent; exception in case of pregnancy.**

1 For marriage the age of consent of the male shall be  
2 eighteen years of age, and of the female sixteen years.  
3 If, however, the male or female, or both, be under the age  
4 of consent as aforesaid, and if a licensed physician shall  
5 certify in writing that he has examined said female and  
6 found her to be pregnant, and if consent be obtained from  
7 the parents, parent or guardian in the manner prescribed  
8 in section eight of this article, the judge of any court of  
9 record of the county, in which county an application for  
10 marriage license may otherwise be properly filed as pro-  
11 vided in this article, may direct the issuance of a marriage  
12 license by the clerk of the county court of such county. In

13 the absence or incapacity to act of the judges of all courts  
14 of record of the county in which the application is to be  
15 filed, the order may be made and directed to the clerk  
16 of the county court of such county by any judge of a court  
17 of record in any judicial circuit adjoining the circuit in  
18 which such county is located.

**§48-1-2. What relatives a man may not marry.**

1 No man shall marry his mother, grandmother, sister,  
2 daughter, granddaughter, half sister, aunt, brother's  
3 daughter, sister's daughter, first cousin, or double cousin.

**§48-1-3. What relatives a woman may not marry.**

1 No woman shall marry her father, grandfather, brother,  
2 son, grandson, half brother, uncle, brother's son, sister's  
3 son, first cousin, or double cousin.

**§48-1-5. Necessity of license.**

1 Every marriage in this state shall be solemnized under  
2 a license as provided in this article.

**§48-1-6. Application for license; requirements for issuance of  
license.**

1 Every license for marriage shall be issued by the clerk  
2 of the county court of the county in which the female to be

3 married usually resides; except that in the case of a female  
4 who is a nonresident of the state of West Virginia, the  
5 license shall be issued by the clerk of the county court  
6 of the county in which application is made. Such  
7 license shall be issued not sooner than three days after  
8 the filing with said clerk of a written application there-  
9 for. The day upon which such application is filed shall  
10 be counted as the first day, but two full days shall  
11 elapse after the day of such filing before the license shall  
12 be issued. Before any such license is issued each ap-  
13 plicant therefor shall file with the clerk a certificate or  
14 certificates from any physician duly licensed in the state,  
15 stating that each party thereto has been given such  
16 examination, including a standard serological test, as  
17 may be necessary for the discovery of syphilis, made not  
18 more than thirty days prior to the date on which such  
19 license is issued, and stating that in the opinion of the  
20 physician the person therein named either is not infected  
21 with syphilis or, if so infected, is not in the state of the  
22 disease which is or may later become communicable.  
23 Such examinations and tests as are required hereunder

24 may be given as provided by section nineteen, article  
25 four, chapter sixteen of this code.

26 The application for a marriage license shall contain  
27 a statement of the full names of both parties, their re-  
28 spective ages and their places of birth and residence. It  
29 shall be signed by both of the parties to the contem-  
30 plated marriage, under oath before the clerk of the county  
31 court or before a person authorized to administer oaths  
32 under the laws of this state. At the time of the execu-  
33 tion of such application, the clerk, or the person ad-  
34 ministering the oath to the applicants, shall require some  
35 evidence of the age of each of the applicants. Evidence  
36 of the age of each applicant may be in the form of a  
37 certified or photostatic copy of a birth certificate, a  
38 voter's registration certificate, an operator's or chauff-  
39 eur's license, an affidavit of both parents or legal guar-  
40 dian of the applicant or other good and sufficient evi-  
41 dence of such age. Where such an affidavit is relied upon  
42 as evidence of the age of an applicant, and one parent  
43 is dead, the affidavit of the surviving parent or of the  
44 guardian of the applicant shall suffice; if both parents

45 are dead, the affidavit of the guardian of the applicant  
46 shall suffice. If the parents of the applicant are living  
47 separate and apart, the affidavit of the parent having  
48 custody of the applicant shall suffice. Such application  
49 shall be recorded in the register of marriages provided  
50 for in section eleven of this article. The date of the  
51 filing of the application shall be noted in said register,  
52 which notation, or a certified copy thereof, shall be legal  
53 evidence of the facts therein contained.

54 To the extent otherwise provided by section six-c of  
55 this article, the provisions of this section shall not apply.  
56 No application for license shall be received nor any license  
57 issued on any Sunday, or before the hours of eight o'clock  
58 a. m. and after five o'clock p. m. on any week day, nor  
59 any application be received nor any license issued except  
60 in the office of such clerk.

**§48-1-6c. Issuance of license in case of emergency or extra-  
ordinary circumstances.**

1 In case of an emergency or extraordinary circum-  
2 stances, as shown by affidavit or other proof, a judge of  
3 any court of record of the county, in which county an ap-

4 plication for a marriage license is to be filed, may direct  
5 the clerk of the county court by order duly entered in  
6 the office of the clerk of said court of record, to issue  
7 such license at any time before the expiration of the  
8 three-day limit and to dispense with those requirements  
9 which relate to the filing with the licensing authority  
10 by either or both of the parties of the physician's cer-  
11 tificate and laboratory statement.

12 A certified copy of the order shall be attached to and  
13 filed with the application by the licensing authority who  
14 shall thereupon proceed with the issuance of the mar-  
15 riage license in accordance with the terms of the judge's  
16 order. In the absence or incapacity to act of the judges  
17 of all courts of record of the county in which the appli-  
18 cation is to be filed, the order may be made and directed  
19 to the clerk of the county court of such county by any  
20 judge of a court of record in any judicial circuit adjoin-  
21 ing the circuit in which such county is situated.

**§48-1-6d. Offenses and penalties.**

1 Any applicant for a marriage license, any physician or  
2 representative of a laboratory who shall knowingly mis-



3 represent any of the facts called for in the physician's  
4 statement or laboratory report, respectively; and any  
5 clerk of the county court or other licensing authority who  
6 shall make a false entry as to the date of application for a  
7 marriage license; and any clerk of the county court or  
8 other licensing authority who shall issue a marriage  
9 license prior to the end of the required three-day period  
10 or without the required physician's statement and labora-  
11 tory report (unless these shall have been dispensed with  
12 by judicial order pursuant to section six-c), or who shall  
13 issue such license despite his having reason to believe that  
14 any of the facts contained in said statement or report have  
15 been misrepresented, or shall issue a license on any Sun-  
16 day or after five o'clock p. m. and before eight o'clock a. m.  
17 on any week day, or who shall receive an application for  
18 such license or issue any such license in any place other  
19 than the office of such licensing authority, shall be guilty  
20 of a misdemeanor, and, upon conviction thereof, shall be  
21 punished by a fine of not less than two hundred nor more  
22 than one thousand dollars, or by confinement in jail for  
23 not less than three nor more than nine months, or by both

24 such fine and confinement in the discretion of the court; or  
25 if any clerk of the county court or other licensing author-  
26 ity shall otherwise knowingly issue a marriage license  
27 contrary to law, he shall be guilty of a misdemeanor, and,  
28 upon conviction thereof, shall be punished by a fine not  
29 exceeding five hundred dollars, or by confinement in jail  
30 not more than one year, or by both such fine and confine-  
31 ment in the discretion of the court.

**§48-1-10. Endorsement and return of licenses by persons  
solemnizing marriage; duties of clerk pertaining  
thereto.**

1 Every person solemnizing a marriage shall retain the  
2 license authorizing such marriage, and on or before the  
3 fifth day of each month shall forward to the county clerk  
4 issuing such license the original of all such licenses in  
5 his possession, with an endorsement thereon of the fact  
6 of such marriage and the time and place of celebrating  
7 the same. In the event that the marriage authorized by  
8 such license is not solemnized within sixty days from the  
9 date of its issuance, then such license shall become null  
10 and void. Should the county clerk not receive the said

11 original within sixty days after its issuance, he shall by  
12 certified mail notify each of the applicants of that fact.

**§48-1-11. Register of marriages.**

1 The county court of each county shall furnish to the  
2 clerk of such county court a suitable book to be used as a  
3 register of marriages, which such clerk shall keep in his  
4 office among his records, and in which he shall promptly  
5 enter a complete record of all matters which he is re-  
6 quired by this article to ascertain relative to the right of  
7 any person to obtain a marriage license, of each marriage  
8 license issued by him, and of the minister's, priest's,  
9 rabbi's, or judge's endorsement certifying that such  
10 marriage was solemnized. Such register of marriage  
11 shall be properly indexed by the clerk in the names of  
12 both parties to the marriage: *Provided, however, That*  
13 *if the license is issued by reason of the female being*  
14 *pregnant, such fact of pregnancy shall not be noted in the*  
15 *clerk's register of marriages.*

**§48-1-12. Persons authorized to celebrate marriages.**

1 Any minister, priest or rabbi over the age of twenty-one  
2 years, who has complied with the provisions of section

3 twelve-a of this article, or a judge of any court of record  
4 in this state, is authorized to celebrate the rites of mar-  
5 riage in all the counties of the state. No person, other  
6 than a minister, priest or rabbi, who has complied with  
7 the provisions of section twelve-a of this article, or a  
8 judge of any court of record in this state, shall here-  
9 after celebrate the rites of marriage in this state, any-  
10 thing in any act of the Legislature or of any court to the  
11 contrary, notwithstanding.

**§48-1-12a. Qualifications of minister, priest or rabbi for cele-  
brating marriages.**

1 When any minister, priest or rabbi shall, before the  
2 county court of any county in this state, or the clerk of  
3 any such court in vacation, produce proof that he is over  
4 the age of twenty-one, duly licensed by, and being in  
5 regular communion with the religious society of which he  
6 is a member, and give bond in the penalty of fifteen  
7 hundred dollars, with surety approved by such court or  
8 clerk thereof in vacation, such court or clerk may make  
9 an order authorizing him to celebrate the rites of mar-  
10 riage in all the counties of the state: *Provided, however,*

11 That any minister, priest or rabbi who gives proof be-  
12 fore the county court of any county in this state, or the  
13 clerk of any such court in vacation, of his ordination by  
14 his respective church, denomination or synagogue, shall  
15 be exempted from the giving of such bond.

**§48-1-22. Failure to endorse and return license; penalties.**

1 If any minister, priest or rabbi who shall have given  
2 bond in order to become authorized to celebrate marriages  
3 in this state shall wilfully fail to comply with the provi-  
4 sions of section ten of this article, the conditions of such  
5 bond shall be deemed to be thereby broken and such  
6 bond shall be forfeited as otherwise provided by law,  
7 and the license of any minister, priest or rabbi who shall  
8 wilfully fail to comply with the provisions of said section  
9 ten, whether he shall have given bond or not, to celebrate  
10 marriages shall be suspended for a period of not less than  
11 six months and not to exceed one year. It shall be the  
12 duty of the county clerk to whom the marriage license  
13 should have been returned to notify the prosecuting at-  
14 torney of such county of such failure to return such mar-  
15 riage license as provided in section ten of this article, and,

16 thereupon, it shall be the duty of such prosecuting  
17 attorney to institute proceedings before a judge of the  
18 circuit court of said county to suspend the license of any  
19 such minister, priest or rabbi to celebrate marriages, after  
20 reasonable notice of such proceedings has been given to  
21 such minister, priest or rabbi. Said court shall deter-  
22 mine all questions of law and fact.

**§48-1-23. Unlawful to solicit celebration of marriage, etc.**

1 It shall be unlawful for any minister, priest or rabbi  
2 to solicit in any manner the celebration of any marriage  
3 ceremony and it shall be unlawful for a minister, priest  
4 or rabbi, by giving or making directly or indirectly,  
5 any tip, gift, present, subscription, contribution, loan  
6 or anything of value, to reward any person who may  
7 accompany, bring, send or direct the holders of a  
8 marriage license to such minister, priest or rabbi.  
9 The penalty for a violation of the foregoing provisions  
10 shall be a revocation of the license of such minister,  
11 priest or rabbi to celebrate marriages and no such license  
12 shall thereafter be issued to him. It shall be the duty  
13 of the prosecuting attorney of the county wherein the

14 violation occurs, to institute proceedings before the  
15 judge of the circuit court of said county to revoke said  
16 license, after reasonable notice thereof has been given  
17 to said minister, priest or rabbi. Said court shall deter-  
18 mine all questions of law and fact.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompax  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

Howard Myers  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Hayd G. Jackson  
President of the Senate

Ivor F. Boiarsky  
Speaker House of Delegates

The within approved this the 17<sup>th</sup>  
day of March, 1969.

Arch H. Shreve Jr.  
Governor





PRESENTED TO THE  
GOVERNOR

Date 3/14/69

Time 2:20 p.m.