WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED
SENATE BILL NO. 3

(By Mr. Jackson, Mr. President, and Mr. Rutledge)

PASSED March 8, 1969

In Effect July 1, 1969

FILED IN THE OFFICE
JOHN D. ROOKER, JR.
SECRETARY OF STATE
THIS DATE 3-12-69
ENROLLED

Senate Bill No. 3
(By Mr. Jackson, Mr. President, and Mr. Brotherton)

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

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article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections one, two, three, five, six, six-c, six-d, ten, eleven, twelve, twelve-a, twenty-two and twenty-three of said article one, be amended and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.

For marriage the age of consent of the male shall be eighteen years of age, and of the female sixteen years. If, however, the male or female, or both, be under the age of consent as aforesaid, and if a licensed physician shall certify in writing that he has examined said female and found her to be pregnant, and if consent be obtained from the parents, parent or guardian in the manner prescribed in section eight of this article, the judge of any court of record of the county, in which county an application for marriage license may otherwise be properly filed as provided in this article, may direct the issuance of a marriage license by the clerk of the county court of such county. In
the absence or incapacity to act of the judges of all courts of record of the county in which the application is to be filed, the order may be made and directed to the clerk of the county court of such county by any judge of a court of record in any judicial circuit adjoining the circuit in which such county is located.

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

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

§48-1-5. Necessity of license.

1 Every marriage in this state shall be solemnized under 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 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
may be given as provided by section nineteen, article four, chapter sixteen of this code.

The application for a marriage license shall contain a statement of the full names of both parties, their respective ages and their places of birth and residence. It shall be signed by both of the parties to the contemplated marriage, under oath before the clerk of the county court or before a person authorized to administer oaths under the laws of this state. At the time of the execution of such application, the clerk, or the person administering the oath to the applicants, shall require some evidence of the age of each of the applicants. Evidence of the age of each applicant may be in the form of a certified or photostatic copy of a birth certificate, a voter's registration certificate, an operator's or chauffeur's license, an affidavit of both parents or legal guardian of the applicant or other good and sufficient evidence of such age. Where such an affidavit is relied upon as evidence of the age of an applicant, and one parent is dead, the affidavit of the surviving parent or of the guardian of the applicant shall suffice; if both parents
are dead, the affidavit of the guardian of the applicant shall suffice. If the parents of the applicant are living separate and apart, the affidavit of the parent having custody of the applicant shall suffice. Such application shall be recorded in the register of marriages provided for in section eleven of this article. The date of the filing of the application shall be noted in said register, which notation, or a certified copy thereof, shall be legal evidence of the facts therein contained.

To the extent otherwise provided by section six-c of this article, the provisions of this section shall not apply.

No application for license shall be received nor any license issued on any Sunday, or before the hours of eight o'clock a. m. and after five o'clock p. m. on any week day, nor any application be received nor any license issued except in the office of such clerk.

§48-1-6c. Issuance of license in case of emergency or extraordinary circumstances.

In case of an emergency or extraordinary circumstances, as shown by affidavit or other proof, a judge of any court of record of the county, in which county an ap-
application for a marriage license is to be filed, may direct
the clerk of the county court by order duly entered in
the office of the clerk of said court of record, to issue
such license at any time before the expiration of the
three-day limit and to dispense with those requirements
which relate to the filing with the licensing authority
by either or both of the parties of the physician’s cer-
tificate and laboratory statement.
A certified copy of the order shall be attached to and
filed with the application by the licensing authority who
shall thereupon proceed with the issuance of the mar-
riage license in accordance with the terms of the judge’s
order. In the absence or incapacity to act of the judges
of all courts of record of the county in which the appli-
cation is to be filed, the order may be made and directed
to the clerk of the county court of such county by any
judge of a court of record in any judicial circuit adjoin-
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-
represent any of the facts called for in the physician's statement or laboratory report, respectively; and any clerk of the county court or other licensing authority who shall make a false entry as to the date of application for a marriage license; and any clerk of the county court or other licensing authority who shall issue a marriage license prior to the end of the required three-day period or without the required physician's statement and laboratory report (unless these shall have been dispensed with by judicial order pursuant to section six-c), or who shall issue such license despite his having reason to believe that any of the facts contained in said statement or report have been misrepresented, or shall issue a license on any Sunday or after five o'clock p.m. and before eight o'clock a.m. on any week day, or who shall receive an application for such license or issue any such license in any place other than the office of such licensing authority, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than two hundred nor more than one thousand dollars, or by confinement in jail for not less than three nor more than nine months, or by both
such fine and confinement in the discretion of the court; or
if any clerk of the county court or other licensing author-
ity shall otherwise knowingly issue a marriage license
contrary to law, he shall be guilty of a misdemeanor, and,
upon conviction thereof, shall be punished by a fine not
exceeding five hundred dollars, or by confinement in jail
not more than one year, or by both such fine and confine-
ment in the discretion of the court.

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

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

§48-1-11. Register of marriages.

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

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

Any minister, priest or rabbi over the age of twenty-one
years, who has complied with the provisions of section
twelve-a of this article, or a judge of any court of record in this state, is authorized to celebrate the rites of marriage in all the counties of the state. No person, other than a minister, priest or rabbi, who has complied with the provisions of section twelve-a of this article, or a judge of any court of record in this state, shall hereafter celebrate the rites of marriage in this state, anything in any act of the Legislature or of any court to the contrary, notwithstanding.

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

When any minister, priest or rabbi shall, before the county court of any county in this state, or the clerk of any such court in vacation, produce proof that he is over the age of twenty-one, duly licensed by, and being in regular communion with the religious society of which he is a member, and give bond in the penalty of fifteen hundred dollars, with surety approved by such court or clerk thereof in vacation, such court or clerk may make an order authorizing him to celebrate the rites of marriage in all the counties of the state: Provided, however,
11 That any minister, priest or rabbi who gives proof before the county court of any county in this state, or the clerk of any such court in vacation, of his ordination by his respective church, denomination or synagogue, shall 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 bond in order to become authorized to celebrate marriages in this state shall wilfully fail to comply with the provisions of section ten of this article, the conditions of such bond shall be deemed to be thereby broken and such bond shall be forfeited as otherwise provided by law, and the license of any minister, priest or rabbi who shall wilfully fail to comply with the provisions of said section ten, whether he shall have given bond or not, to celebrate marriages shall be suspended for a period of not less than six months and not to exceed one year. It shall be the duty of the county clerk to whom the marriage license should have been returned to notify the prosecuting attorney of such county of such failure to return such marriage license as provided in section ten of this article, and,
thereupon, it shall be the duty of such prosecuting
attorney to institute proceedings before a judge of the
circuit court of said county to suspend the license of any
such minister, priest or rabbi to celebrate marriages, after
reasonable notice of such proceedings has been given to
such minister, priest or rabbi. Said court shall deter-
mine all questions of law and fact.

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

It shall be unlawful for any minister, priest or rabbi
to solicit in any manner the celebration of any marriage
ceremony and it shall be unlawful for a minister, priest
or rabbi, by giving or making directly or indirectly,
any tip, gift, present, subscription, contribution, loan
or anything of value, to reward any person who may
accompany, bring, send or direct the holders of a
marriage license to such minister, priest or rabbi.
The penalty for a violation of the foregoing provisions
shall be a revocation of the license of such minister,
priest or rabbi to celebrate marriages and no such license
shall thereafter be issued to him. It shall be the duty
of the prosecuting attorney of the county wherein the
violation occurs, to institute proceedings before the 
judge of the circuit court of said county to revoke said 
license, after reasonable notice thereof has been given 
to said minister, priest or rabbi. Said court shall deter-
mine all questions of law and fact.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William T. Mongar
Chairman Senate Committee

Clayton & Hareidon
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

Wm. E. Myer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Floyd B. Johnson
President of the Senate

John T. Barbara
Speaker House of Delegates

The within approved this the 17th day of March, 1969.

Arch B. Shamir Jr.
Governor
PRESENTED TO THE GOVERNOR

Date 3/14/69
Time 2:20 p.m.