

## CHAPTER 380

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**CHILDREN AND DOMESTIC MATTERS**

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**HOUSE BILL 19-1316**

BY REPRESENTATIVE(S) Hansen and Landgraf, Arndt, Beckman, Buckner, Buentello, Caraveo, Carver, Duran, Geitner, Hooton, Larson, Liston, McKean, Mullica, Pelton, Sandridge, Singer, Soper, Van Winkle, Will, Wilson, Benavidez, Bird, Cutter, Esgar, Exum, Froelich, Galindo, Garnett, Gray, Herod, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Roberts, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Weissman; also SENATOR(S) Winter and Cooke, Bridges, Fenberg, Moreno, Priola, Tate, Zenzinger.

**AN ACT**

**CONCERNING MODERNIZING MARRIAGE LAWS RELATED TO MINORS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **amend** 14-2-106 as follows:

**14-2-106. License to marry.** (1) (a) When a marriage LICENSE application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the county clerk and recorder and has paid the marriage license fee of seven dollars, a fee of twenty dollars to be transmitted by the county clerk and recorder to the state treasurer and credited by the treasurer to the Colorado domestic abuse program fund created in section 39-22-802 (1), ~~C.R.S.~~, and an additional amount established pursuant to section 25-2-121, ~~C.R.S.~~, such amount to be credited to the vital statistics records cash fund pursuant to section 25-2-121, ~~C.R.S.~~, the county clerk shall issue a license to marry and a marriage certificate form upon being furnished:

(I) Satisfactory proof that each party to the marriage will have attained the age of eighteen years at the time the marriage license becomes effective; or, if over the age of sixteen years but has not attained the age of eighteen years, has ~~the consent of both parents or guardian or, if the parents are not living together, the parent who has legal custody or decision-making responsibility concerning such matters or with whom the child is living or~~ judicial approval, as provided in section 14-2-108; ~~or, if under the age of sixteen years, has both the consent to the marriage of both parents or guardian or, if the parents are not living together, the parent who has legal~~

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

custody or decision-making responsibility concerning such matters or with whom the child is living and judicial approval, as provided in section 14-2-108; and

(II) Satisfactory proof that the marriage is not prohibited, as provided in section 14-2-110.

~~(III) Repealed.~~

~~(b) Violation of paragraph (a)(I) of this subsection (1) shall make~~ SUBSECTION (1)(a)(I) OF THIS SECTION MAKES the marriage voidable.

~~(c) (Deleted by amendment, L. 2000, p. 1571, § 8, effective July 1, 2000.)~~

(2) Repealed.

**SECTION 2.** In Colorado Revised Statutes, 14-2-108, **amend** (1) and (2) as follows:

**14-2-108. Judicial approval.** (1) The juvenile court, as defined in section 19-1-103 (17), ~~C.R.S.~~, after a reasonable effort has been made to notify the parents or ~~guardian~~ LEGAL GUARDIANS of each underage party, may order the county clerk and recorder PURSUANT TO SUBSECTION (2) OF THIS SECTION to issue a marriage license and a marriage certificate form

~~(a) to a party aged sixteen or seventeen years who has no parent or guardian, or who has no parent capable of consenting to his marriage, or whose parent or guardian has not consented to his marriage; or~~ OF AGE.

~~(b) To a party under the age of sixteen years who has the consent to his or her marriage of both parents, if capable of giving consent, or his or her guardian or, if the parents are not living together, the parent who has legal custody or decision-making responsibility concerning such matters or with whom the child is living.~~

(2) (a) ~~A license shall be ordered to be issued~~ THE COURT MAY ORDER THE COUNTY CLERK AND RECORDER TO ISSUE A MARRIAGE LICENSE under subsection (1) of this section only if the court finds, AFTER REVIEWING THE REPORT OF THE GUARDIAN AD LITEM APPOINTED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, that the underage party is capable of assuming the responsibilities of marriage and the marriage would serve ~~his~~ THE UNDERAGE PARTY'S best interests. Pregnancy alone does not establish that the best interests of the party would be served.

(b) (I) PRIOR TO ORDERING THE ISSUANCE OF A MARRIAGE LICENSE TO AN UNDERAGE PARTY, THE COURT SHALL APPOINT A GUARDIAN AD LITEM FOR THE UNDERAGE PARTY AND DIRECT THE GUARDIAN AD LITEM TO INVESTIGATE THE BEST INTERESTS OF THE UNDERAGE PARTY AND TO FILE A REPORT WITH THE COURT ADDRESSING THE FACTORS SET FORTH IN SUBSECTION (2)(b)(II) OF THIS SECTION AND STATING A POSITION AS TO WHETHER THE ISSUANCE OF A MARRIAGE LICENSE TO THE UNDERAGE PARTY IS IN THE UNDERAGE PARTY'S BEST INTERESTS.

(II) THE COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:

(A) THE WISHES OF THE UNDERAGE PARTY;

(B) THE VIEW OF THE PARENTS OR LEGAL GUARDIANS OF THE UNDERAGE PARTY, IF KNOWN;

(C) THE ABILITY OF THE UNDERAGE PARTY TO ASSUME THE RESPONSIBILITIES OF MARRIAGE;

(D) THE CIRCUMSTANCES SURROUNDING THE MARRIAGE; AND

(E) THE ABILITY OF THE UNDERAGE PARTY TO MANAGE THE UNDERAGE PARTY'S FINANCIAL, PERSONAL, SOCIAL, EDUCATIONAL, AND NONFINANCIAL AFFAIRS INDEPENDENT OF THE UNDERAGE PARTY'S INTENDED SPOUSE BOTH DURING THE MARRIAGE OR UPON DISSOLUTION OF THE MARRIAGE.

**SECTION 3.** In Colorado Revised Statutes, 14-2-109, **amend** (2)(a)(IV) as follows:

**14-2-109. Solemnization and registration of marriages - proxy marriage.**

(2) (a) The requirements for applying for a marriage license for a proxy marriage are the following:

(IV) ~~Notwithstanding the requirements of section 14-2-106 (1)(a)(I),~~ Both parties to the proxy marriage are eighteen years of age or older.

**SECTION 4.** In Colorado Revised Statutes, **add** 14-2-109.3 as follows:

**14-2-109.3. Rights of underage married persons.** (1) IN ADDITION TO ANY RIGHTS ESTABLISHED IN LAW, A MARRIED PERSON WHO HAS NOT ATTAINED EIGHTEEN YEARS OF AGE HAS THE FOLLOWING RIGHTS:

(a) THE RIGHT TO ESTABLISH A DOMICILE SEPARATE FROM THE MARRIED PERSON'S PARENTS;

(b) THE RIGHT TO FILE MOTIONS AND PETITIONS WITH A COURT IN THE MARRIED PERSON'S NAME AND ON THE MARRIED PERSON'S OWN BEHALF;

(c) THE RIGHT TO ENTER INTO ENFORCEABLE CONTRACTS, INCLUDING BUT NOT LIMITED TO LEASES FOR HOUSING; AND

(d) THE RIGHT TO CONSENT TO AND MAKE DECISIONS CONCERNING THE MARRIED PERSON'S OWN MEDICAL CARE.

**SECTION 5.** In Colorado Revised Statutes, 14-2-105, **amend** (1)(a) as follows:

**14-2-105. Marriage license and marriage certificate.** (1) The executive director of the department of public health and environment shall prescribe the form for an application for a marriage license, which must include the following information:

(a) Name, sex, address, LAST FOUR DIGITS OF THE social security number, AND

date and place of birth of each party to the proposed marriage, ~~and for such purpose~~ WHICH proof of IDENTITY AND date of birth may be by a birth certificate, a driver's license, A PASSPORT, or other comparable evidence;

**SECTION 6.** In Colorado Revised Statutes, 19-1-111, **add** (2)(d) as follows:

**19-1-111. Appointment of guardian ad litem.** (2) The court may appoint a guardian ad litem in the following cases:

(d) FOR AN UNDERAGE PARTY SEEKING A MARRIAGE LICENSE, AS PROVIDED IN SECTION 14-2-108 (2).

**SECTION 7. Appropriation.** For the 2019-20 state fiscal year, \$59,850 is appropriated to the judicial department for use by the office of the child's representative. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

- (a) \$2,250 for operating expenses; and
- (b) \$57,600 for court-appointed counsel.

**SECTION 8. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Sections 1, 2, and 6 of this act apply to applications for marriage licenses submitted on or after the applicable effective date of this act.

Approved: May 31, 2019