

IN THE SENATE

SENATE BILL NO. 1025

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO MARRIAGE; AMENDING SECTION 31-3205, IDAHO CODE, TO REMOVE A PRO-  
2 VISION REGARDING A MARRIAGE LICENSE AND TO MAKE A TECHNICAL CORRECTION;  
3 AMENDING SECTION 32-201, IDAHO CODE, TO REMOVE PROVISIONS REGARDING A  
4 MARRIAGE LICENSE AND TO PROVIDE FOR THE FILING OF A MARRIAGE CERTIFI-  
5 CATE; AMENDING SECTION 32-202, IDAHO CODE, TO REMOVE PROVISIONS RE-  
6 GARDING A MARRIAGE LICENSE AND TO PROVIDE FOR VALID MARRIAGE CONTRACTS;  
7 AMENDING SECTION 32-302, IDAHO CODE, TO REMOVE A PROVISION REGARDING A  
8 MARRIAGE LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
9 32-306, IDAHO CODE, TO REVISE A PROVISION REGARDING A CERTIFICATE OF  
10 MARRIAGE, TO PROVIDE FOR THE FORM OF THE CERTIFICATE, AND TO PROVIDE  
11 FOR CERTAIN DUTIES REGARDING A CERTIFICATE; AMENDING CHAPTER 3, TITLE  
12 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-306A, IDAHO CODE,  
13 TO PROVIDE FOR THE RECORDING OF MARRIAGE CERTIFICATES AND TO PROVIDE A  
14 PENALTY; REPEALING SECTION 32-401, IDAHO CODE, RELATING TO A MARRIAGE  
15 LICENSE AND CONTENTS; REPEALING SECTION 32-402, IDAHO CODE, RELATING  
16 TO A CERTIFICATE AND RETURN; REPEALING SECTION 32-403, IDAHO CODE, RE-  
17 LATING TO APPLICATION FOR AND ISSUANCE OF A LICENSE; REPEALING SECTION  
18 32-404, IDAHO CODE, RELATING TO ADMINISTRATION OF OATHS; REPEALING SEC-  
19 TION 32-405, IDAHO CODE, RELATING TO A MINISTER OR OFFICER MAY SOLEMNIZE  
20 A MARRIAGE; REPEALING SECTION 32-406, IDAHO CODE, RELATING TO SOLEM-  
21 NIZATION WITHOUT A LICENSE AND A PENALTY; REPEALING SECTION 32-407,  
22 IDAHO CODE, RELATING TO A RECORD OF A RETURN OF A LICENSE; REPEALING  
23 SECTION 32-408, IDAHO CODE, RELATING TO FEES FOR ISSUING A LICENSE;  
24 AMENDING SECTION 32-415, IDAHO CODE, TO REVISE A PROVISION REGARDING A  
25 VIOLATION; AMENDING SECTION 39-262, IDAHO CODE, TO REVISE PROVISIONS  
26 REGARDING MARRIAGE CERTIFICATES; REPEALING SECTION 39-263, IDAHO CODE,  
27 RELATING TO MARRIAGE LICENSE FEES; AMENDING THE HEADING FOR CHAPTER  
28 4, TITLE 32, IDAHO CODE, TO REMOVE REFERENCE TO MARRIAGE LICENSES;  
29 AMENDING SECTION 39-5210, IDAHO CODE, TO REVISE A PROVISION REGARDING  
30 ELIGIBLE PROJECTS; AMENDING SECTION 39-5212, IDAHO CODE, TO REVISE A  
31 PROVISION REGARDING ALLOCATION OF FUNDS; AMENDING SECTION 39-5213,  
32 IDAHO CODE, TO REVISE A PROVISION REGARDING CERTAIN FEES; AND DECLARING  
33 AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
34

35 Be It Enacted by the Legislature of the State of Idaho:

36 SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby  
37 amended to read as follows:

38 31-3205. RECORDER'S FEES. (1) The county recorder is allowed and may  
39 receive for his services the following fees to be paid him by the party  
40 procuring his services:

41 (a) Except as otherwise set forth in this section, for recording every  
42 instrument, paper or notice, for the first page ..... \$10.00

1 For each additional page ..... \$3.00  
2 (b) For recording each of the following types of instruments, provided  
3 such instrument is thirty (30) pages or less:  
4 (i) Deeds, grants and transfers of title to real prop-  
5 erty ..... \$15.00  
6 (ii) Trust deeds or mortgages of real property, including fixture  
7 filings, security agreements and assignments of leases and rents  
8 if contained within the same instrument for recording .... \$45.00  
9 (iii) Reconveyances of trust deeds, reconveyances of trust deeds  
10 that include a substitution of trustee if contained within the  
11 same instrument for recording, and releases of mortgages . \$15.00  
12 (iv) Substitution of a trustee ..... \$10.00  
13 (v) Powers of attorney ..... \$25.00  
14 For each additional page beyond thirty (30) pages for an instrument  
15 listed in this paragraph ..... \$3.00  
16 (c) For electronic copies (as defined in subsection (2) of this sec-  
17 tion) requested on a recurring basis, for each page or image ..... 5¢  
18 (d) For copies of any record or paper, for each page ..... \$1.00  
19 (e) For each certificate under seal, when required ..... \$1.00  
20 (f) For release or assignment where more than one (1) document is re-  
21 leased or assigned in the same instrument, for each additional release  
22 or assignment ..... \$1.00  
23 (g) For recording every town plat or map, for the first one hundred  
24 (100) lots or less ..... \$11.00  
25 For each additional lot ..... 5¢  
26 (h) For taking acknowledgments, including seal ..... \$1.00  
27 (i) For filing a survey, for each page ..... \$5.00  
28 (j) For making a copy of a survey or highway right-of-way plat ... \$4.00  
29 (k) For ~~issuing marriage license, filing, recording, and indexing the~~  
30 ~~certificate of marriage and taking and filing affidavits required in~~  
31 ~~issuance of the license~~ ..... \$11.00  
32 (l) For administering an oath, including jurat ..... \$1.00  
33 And certifying the same when required, an additional fee of ..... \$1.00  
34 (m) For comparing and certifying a prepared copy of a file or record in  
35 his office, for each page ..... 50¢  
36 (n) For each certificate under seal, an additional fee of ..... \$1.00  
37 (2) Electronic copies shall include copies provided via internet down-  
38 load, on a compact disc, zip disc, floppy disc, or other electronic means.  
39 The county recorder shall provide electronic copies if the record is main-  
40 tained in electronic form and if the person specifically requests an elec-  
41 tronic copy.  
42 (3) For duplication of recorded documents in paper, microfilm or micro-  
43 fiche format requested on a recurring basis in excess of one hundred (100)  
44 pages, the fee shall be negotiated between the county recorder and the pur-  
45 chaser of records. The fee shall not exceed the costs to the county recorder  
46 for the retrieval and duplication of the record. These negotiated fees shall  
47 be recommended by the county recorder and approved by the board of county  
48 commissioners. Any existing agreements for duplication of paper, microfilm  
49 or microfiche documents in excess of one hundred (100) pages are hereby rat-

1 ified and approved. Any negotiated fees shall remain in effect until such  
2 time as either party requests a review of the fee.

3 (4) All instruments delivered to the county recorder for record shall  
4 be recorded rather than filed with the exception of plats, surveys, corner  
5 records, and instruments under the uniform commercial code.

6 (5) For all other services as recorder, not enumerated herein, the fee  
7 shall be as fixed in the statute requiring the service or the same fee as al-  
8 lowed the clerk of the district court for like service.

9 (6) A page shall not exceed fourteen (14) inches in length nor eight and  
10 one-half (8 1/2) inches in width. Each page shall be typewritten or be in  
11 legible writing. The recording fee to be charged for maps, sketches, draw-  
12 ings or other instruments except plats larger than the size permitted in this  
13 subsection for a page shall be two cents (2¢) per square inch.

14 SECTION 2. That Section 32-201, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 32-201. WHAT CONSTITUTES MARRIAGE -- NO COMMON-LAW MARRIAGE AFTER  
17 JANUARY 1, 1996. (1) Marriage is a personal relation arising out of a civil  
18 contract between a man and a woman, to which the consent of parties capable of  
19 making it is necessary. Consent alone will not constitute marriage; it must  
20 be followed by ~~the issuance of a license and~~ a solemnization and the filing  
21 of a marriage certificate with the county recorder in the county in which the  
22 solemnization took place as authorized and provided by law. Marriage cre-  
23 ated by a mutual assumption of marital rights, duties or obligations shall  
24 not be recognized as a lawful marriage.

25 (2) The provisions of subsection (1) of this section requiring ~~the is-~~  
26 ~~suance of a license and~~ a solemnization shall not invalidate any marriage  
27 contract in effect prior to January 1, 1996, created by consenting parties  
28 through a mutual assumption of marital rights, duties or obligations.

29 SECTION 3. That Section 32-202, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 32-202. PERSONS WHO MAY MARRY. Any unmarried male of the age of eigh-  
32 teen (18) years or older, and any unmarried female of the age of eighteen (18)  
33 years or older, and not otherwise disqualified, are capable of consenting  
34 to and consummating marriage. A minor under eighteen (18) and not less than  
35 sixteen (16) years of age may not contract marriage with a person of the age  
36 of majority where there is an age difference of three (3) years or greater be-  
37 tween them. No marriage license contract for a minor under the age of eigh-  
38 teen (18) and not less than sixteen (16) years of age shall be ~~issued~~ valid  
39 where there is such an age difference between the parties. Provided that if  
40 the male party to the contract is under the age of eighteen (18) and not less  
41 than sixteen (16) years of age, or if the female party to the contract is un-  
42 der the age of eighteen (18) and not less than sixteen (16) years of age, ~~the~~  
43 license a marriage contract shall not be ~~issued~~ valid except upon the consent  
44 in writing duly acknowledged and sworn to by the father, mother, or guardian  
45 of any such person if there be either, and provided further, that no such  
46 ~~license may contract shall be issued valid~~, if the male be under eighteen  
47 (18) and not less than sixteen (16) years of age and the female under eigh-

1 teen (18) and not less than sixteen (16) years of age, unless each party to  
 2 the contract submits to the county recorder his or her original birth cer-  
 3 tificate, or certified copy thereof or other proof of age acceptable to the  
 4 county recorder. Where the female is under the age of sixteen (16), or the  
 5 male is under the age of sixteen (16), ~~the license~~ a marriage contract shall  
 6 not be ~~issued~~ valid.

7 SECTION 4. That Section 32-302, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 32-302. DUTY OF PERSON OFFICIATING. All persons herein authorized to  
 10 solemnize marriages must ~~first require the presentation of the marriage li-~~  
 11 ~~ense and must~~ ascertain and be assured of:

- 12 1. (1) The identity of the parties.  
 13 2. (2) Their real and full names and places of residence.  
 14 3. (3) That they are of sufficient age to be capable of contracting mar-  
 15 riage.  
 16 4. (4) If either the male or the female is under the age of eighteen  
 17 (18), the consent of the father, mother or guardian, if any such, is given,  
 18 or that such underaged person has been previously but is not at the time mar-  
 19 ried; and that the parties applying for the rites of marriage, and making  
 20 such contract, have a legal right so to do.

21 SECTION 5. That Section 32-306, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 32-306. CERTIFICATE TO PARTIES. (1) When a marriage has been solem-  
 24 nized the person solemnizing the same must give to each of the parties, ~~if~~  
 25 ~~required,~~ a certificate thereof.

26 (2) The form of certificate shall be as follows:  
 27 I, . . . . , a . . . . , residing at . . . . , in the county of . . . . , in the  
 28 state of Idaho, do certify that, I did on this . . . . day of . . . . ,  
 29 in the year . . . . , at . . . . , in the county of . . . . , in the state of  
 30 Idaho, solemnize the rights of matrimony between . . . . , of . . . . , in  
 31 the county of . . . . , of the state of . . . . , and . . . . , of . . . . , in the  
 32 county of . . . . , of the state of . . . . , in the presence of . . . . and  
 33 . . . . .  
 34 Witness my hand and seal at the county aforesaid, this . . . . day  
 35 of . . . . , . . . . .

36 In the presence of . . . . . . . . . . [Seal]

37 (3) The certificate, duly executed by the minister or officer who shall  
 38 have solemnized the marriage, shall be filed by him to the office of the  
 39 recorder of the county wherein the solemnization occurred within thirty (30)  
 40 days from the date of solemnizing the marriage.

41 SECTION 6. That Chapter 3, Title 32, Idaho Code, be, and the same is  
 42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 43 ignated as Section 32-306A, Idaho Code, and to read as follows:

44 32-306A. RECORD OF RETURN OF MARRIAGE CERTIFICATE. The recorder shall  
 45 record all returns of marriage certificates in a book to be kept for that pur-

1 pose, within one (1) month after receiving the certificate. If any recorder  
2 fails or refuses to record any such marriage certificate within one (1) month  
3 of receipt, he shall be subject to a fine of one hundred dollars (\$100) and  
4 any associated costs.

5 SECTION 7. That Section [32-401](#), Idaho Code, be, and the same is hereby  
6 repealed.

7 SECTION 8. That Section [32-402](#), Idaho Code, be, and the same is hereby  
8 repealed.

9 SECTION 9. That Section [32-403](#), Idaho Code, be, and the same is hereby  
10 repealed.

11 SECTION 10. That Section [32-404](#), Idaho Code, be, and the same is hereby  
12 repealed.

13 SECTION 11. That Section [32-405](#), Idaho Code, be, and the same is hereby  
14 repealed.

15 SECTION 12. That Section [32-406](#), Idaho Code, be, and the same is hereby  
16 repealed.

17 SECTION 13. That Section [32-407](#), Idaho Code, be, and the same is hereby  
18 repealed.

19 SECTION 14. That Section [32-408](#), Idaho Code, be, and the same is hereby  
20 repealed.

21 SECTION 15. That Section 32-415, Idaho Code, be, and the same is hereby  
22 amended to read as follows:

23 32-415. VIOLATIONS A MISDEMEANOR. Any person who misrepresents any  
24 fact required to be stated on the certificate form or other form required by  
25 this act, ~~or any licensing officer who issues a marriage license without hav-~~  
26 ~~ing received the certificate forms or an order from the court as provided by~~  
27 ~~this chapter, or who has reason to believe that any of the facts thereon have~~  
28 ~~been so misrepresented, and shall nevertheless issue a marriage license,~~  
29 or any person who otherwise fails to comply with the provisions of this act  
30 shall be guilty of a misdemeanor and, upon conviction thereof, shall be pun-  
31 ished by a fine of not less than fifty dollars (\$50.00) and not more than two  
32 hundred dollars (\$200) before any court having jurisdiction.

33 SECTION 16. That Section 39-262, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 39-262. REGISTRATION OF MARRIAGE -- MARRIAGE CERTIFICATES FILED. Ev-  
36 ery person who performs a marriage ceremony shall prepare and sign a certifi-  
37 cate of marriage in duplicate, one (1) of which shall be given to the par-  
38 ties and the other filed by said person ~~within ten (10) days after the cer-~~  
39 ~~emony~~ with the county recorder. Every county recorder shall forward to the  
40 state registrar on or before the 15th day of each calendar month the certifi-

1 cates of marriage which were filed with said recorder during the preceding  
 2 calendar month. The form of certificate of marriage shall be prescribed by  
 3 the board, in accordance with the provisions of sections ~~32-401 and 32-402~~  
 4 32-306, Idaho Code. No certificate shall be deemed complete until every item  
 5 of information required shall have been provided or its omission satisfacto-  
 6 rily accounted for.

7 SECTION 17. That Section 39-263, Idaho Code, be, and the same is hereby  
 8 repealed.

9 SECTION 18. That the Heading for Chapter 4, Title 32, Idaho Code, be,  
 10 and the same is hereby amended to read as follows:

11 CHAPTER 4  
 12 ~~MARRIAGE LICENSES, CERTIFICATES, AND RECORDS~~

13 SECTION 19. That Section 39-5210, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 39-5210. ELIGIBLE PROJECTS. To be eligible for domestic violence  
 16 grants pursuant to this chapter, a project must provide a safe house or  
 17 refuge and a crisis line, except in the case of a project providing services  
 18 to batterers. No funds may be granted to batterer programs from the domestic  
 19 violence project account, which are derived from ~~marriage license or divorce~~  
 20 fees. Other services which may be provided include, but are not limited to:

- 21 (1) Counseling;  
 22 (2) Educational services for community awareness, for prevention of  
 23 domestic violence and for the care, treatment and rehabilitation of parties  
 24 to domestic violence;  
 25 (3) Support groups;  
 26 (4) Assistance in obtaining legal, medical, psychological or voca-  
 27 tional services.

28 SECTION 20. That Section 39-5212, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 39-5212. DOMESTIC VIOLENCE PROJECT ACCOUNT. There is hereby created  
 31 in the state operating fund the domestic violence project account. Moneys  
 32 received from the fees imposed by section 39-5213, Idaho Code, and section  
 33 39-6312, Idaho Code, shall be credited to the account and shall be perpetu-  
 34 ally appropriated to the council on domestic violence and victim assistance  
 35 for grants for domestic violence projects and to meet the costs of maintain-  
 36 ing the operation of the council.

37 Eligible projects shall be given priority by the council based upon an  
 38 allocation of funds to projects in the ~~seven (7)~~ substate administrative re-  
 39 gions established pursuant to ~~section 39-104, Idaho Code,~~ in the proportion  
 40 that ~~marriage licenses~~ divorce actions are filed in each region.

41 SECTION 21. That Section 39-5213, Idaho Code, be, and the same is hereby  
 42 amended to read as follows:

1           39-5213. FEE IMPOSED. (1) In addition to the fee due to the county  
2 recorder of each county of this state under the provisions of section  
3 31-3205, Idaho Code, for the issuance filing, recording, and indexing of a  
4 certificate of marriage license, the recorder shall collect ~~upon presenta-~~  
5 ~~tion of proper identification by the applicants~~ an additional fee of fifteen  
6 dollars (\$15.00) for each ~~license issued~~ such certificate, which additional  
7 fee shall be remitted to the state treasurer for credit to the "domestic vio-  
8 lence project account" created in section 39-5212, Idaho Code.

9           (2) In addition to any other fee imposed for filing an action for di-  
10 vorce in the district court, there shall be collected a fee of twenty dollars  
11 (\$20.00) for each divorce action, separately identified, which additional  
12 fee shall be remitted to the state treasurer for credit to the domestic vio-  
13 lence project account created in section 39-5212, Idaho Code.

14           SECTION 22. An emergency existing therefor, which emergency is hereby  
15 declared to exist, this act shall be in full force and effect on and after  
16 July 1, 2023.