

TITLE 32
DOMESTIC RELATIONS

CHAPTER 4
MARRIAGE LICENSES, CERTIFICATES, AND RECORDS

32-401. MARRIAGE LICENSE -- CONTENTS. The county recorder of any county in this state shall have authority to issue marriage licenses to any parties applying for the same who may be entitled under the laws of this state to contract matrimony, authorizing the marriage of such parties, which licenses shall be substantially in the following form:

Know all men by this certificate that any regularly ordained minister of the gospel, authorized by the rites and usages of the church or denomination or religious body of which he may be a member, or any judge or competent officer to whom this may come, he not knowing of any lawful impediment thereto, is hereby authorized and empowered to solemnize the rites of matrimony between...., of.... of the county of...., and the state of...., and...., of.... of the county of...., state of...., and to certify the same to said parties, or either of them, under his hand and seal, in his ministerial or official capacity, and thereupon he is required to return his certificate in form following as hereto annexed.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at...., this.... day of.....,.....

.... Recorder.

[(32-401) 1895, p. 166, sec. 1; reen. 1899, p. 278, sec. 1; am. R.C. & C.L., sec. 2629; C.S., sec. 4609; I.C.A., sec. 31-401; am. 2002, ch. 32, sec. 11, p. 50; am. 2012, ch. 20, sec. 16, p. 69.]

32-402. CERTIFICATE AND RETURN. The form of certificate annexed to said license, and therein referred to, shall be as follows:

I,....., a....., residing at...., in the county of...., in the state of Idaho, do certify that, in accordance with the authority on me conferred by the above license, I did on this.... day of...., in the year...., at...., in the county of...., in the state of Idaho, solemnize the rights of matrimony between...., of...., in the county of...., of the state of...., and...., of...., of the county of...., of the state of...., in the presence of.... and.....

Witness my hand and seal at the county aforesaid, this.... day of.....,.....

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

....

The license and certificate, duly executed by the minister or officer who shall have solemnized the marriage authorized, shall be returned by him to the office of the recorder who issued the same, within thirty (30) days from the date of solemnizing the marriage therein authorized; and a neglect to make such return shall be deemed a misdemeanor, and the person whose duty it shall be to make such return, who shall neglect to make such return within the time above specified, shall, upon conviction thereof, be punished by a fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) to be assessed by any court having jurisdiction.

[(32-402) 1895, p. 166, sec. 2; reen. 1899, p. 278, sec. 2; reen. R.C. & C.L., sec. 2630; C.S., sec. 4610; I.C.A., sec. 31-402; am. 2002, ch. 32, sec. 12, p. 51; am. 2012, ch. 20, sec. 17, p. 70.]

32-403. APPLICATION FOR AND ISSUANCE OF LICENSE. (1) Every county recorder who shall have personal knowledge of the competency of the parties for whose marriage a license is applied for, shall issue such license upon payment or tender to him of his legal fee therefor; and if such recorder does not know of his own knowledge that the parties are competent under the laws of the state to contract matrimony, he shall take the affidavit in writing of the person or persons applying for such license, and of other persons as he may see proper, and of any persons whose testimony may be offered; and if it appears from the affidavit so taken that the parties for whose marriage the license in question is demanded are legally competent to marry, the recorder shall issue such license, and the affidavits so taken shall be his warrant against any fine or forfeiture for issuing such license. Provided, however, that in the event either of the parties for whose marriage the license in question is applied for is under the age of eighteen (18) years, the recorder shall not issue such license except upon compliance with the consent and proof of age requirements set forth in section [32-202](#), Idaho Code.

(2) Every application for a marriage license shall include the social security numbers of the parties applying for the license.

(a) The requirement that an applicant provide a social security number shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

- (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
- (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
- (iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

[(32-403) 1895, p. 166, sec. 3; reen. 1899, p. 278, sec. 3; reen. R.C. & C.L., sec. 2631; C.S., sec. 4611; am. 1931, ch. 149, sec. 1, p. 251; I.C.A., sec. 31-403; am. 1933, ch. 8, sec. 1, p. 8; am. 1967, ch. 326, sec. 2, p. 955; am. 1972, ch. 49, sec. 1, p. 88; am. 1982, ch. 356, sec. 1, p. 904; am. 1998, ch. 248, sec. 1, p. 809; am. 1999, ch. 334, sec. 1, p. 909.]

32-404. ADMINISTRATION OF OATHS. The county recorder shall have power to administer all oaths required or provided for in this chapter, and if any person in any such affidavit shall wilfully and corruptly swear falsely to any material fact as to the competency of any person for whose marriage the license in question refers, or concerning the procuring or issuing of which such affidavit may be made, shall be guilty of perjury, and, upon conviction thereof, shall be punished as provided by statute in other cases of perjury.

[(32-404) 1895, p. 166, sec. 4; reen. 1899, p. 278, sec. 4; reen. R.C. & C.L., sec. 2632; C.S., sec. 4612; I.C.A., sec. 31-404.]

32-405. MINISTER OR OFFICER MAY SOLEMNIZE MARRIAGE. Any authorized minister or officer to whom any such license, duly issued, may come, not having personal knowledge of the incompetency of either party therein named to contract matrimony, may lawfully solemnize matrimony between them.

[(32-405) 1895, p. 166, sec. 5; reen. 1899, p. 278, sec. 5; reen. R.C. & C.L., sec. 2633; C.S., sec. 4613; I.C.A., sec. 31-405.]

32-406. SOLEMNIZATION WITHOUT LICENSE -- PENALTY. If any such minister or officer shall presume to solemnize any marriage between parties without such a license, or with knowledge that either party is legally incompetent to contract matrimony as is provided for by the laws of this state, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than \$200.00 before any court having jurisdiction.

[(32-406) 1895, p. 166, sec. 6; reen. 1899, p. 278, sec. 6; reen. R.C. & C.L., sec. 2634; C.S., sec. 4614; I.C.A., sec. 31-406.]

32-407. RECORD OF RETURN OF LICENSE. The recorder shall record all such returns of marriage licenses in a book to be kept for that purpose, within one (1) month after receiving the same. If any recorder shall neglect or refuse to record within the said time any return to him made, he shall forfeit \$100.00, to be recovered, with costs, by any person who will prosecute for the same.

[(32-407) 1895, p. 166, sec. 7; reen. 1899, p. 278, sec. 7; reen. R.C. & C.L., sec. 2635; C.S., sec. 4615; I.C.A., sec. 31-407.]

32-408. FEES FOR ISSUING LICENSE. The recorder of each county of this state shall be entitled to a fee as provided by section [31-3205](#), Idaho Code, for each license issued, which fee he shall demand and receive from the person applying for the same, and he may refuse to issue any such license until such fee is paid to him. Said fee shall include the payment for the service of taking affidavit, filing affidavit and recording the license upon its return from the minister or officer solemnizing the marriage for which it was issued.

[(32-408) 1895, p. 166, sec. 8; reen. 1899, p. 278, sec. 8; reen. R.C., sec. 2636; am. 1911, ch. 137, sec. 1, p. 430; reen. C.L., sec. 2636; C.S., sec. 4616; I.C.A., sec. 31-408; am. 1965, ch. 133, sec. 1, p. 261; am. 1984, ch. 29, sec. 2, p. 51.]

32-409. MARRIAGE BOOKS AS EVIDENCE. The books of marriages and copies of entries therein, certified by the recorder under his official seal, shall be evidence in all courts.

[(32-409) 1866, p. 71, sec. 10; 1895, p. 166, sec. 9; reen. 1899, p. 278, sec. 9; reen. R.C. & C.L., sec. 2637; C.S., sec. 4617; I.C.A., sec. 31-409.]

32-410. PENALTY FOR FALSE RETURN. If any person, authorized to solemnize marriage, shall wilfully make a false return of any marriage or pretended marriage to the recorder; or, if the recorder shall wilfully record

a false return of any marriage, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than \$100.00, and by imprisonment for not less than three (3) months.

[(32-410) 1895, p. 166, sec. 10; reen. 1899, p. 278, sec. 10; reen. R.C. & C.L., sec. 2638; C.S., sec. 4618; I.C.A., sec. 31-410.]

32-411. DISPOSITION OF PENALTIES. All fines and penalties accruing under the provisions of this chapter shall be paid into the county treasury for the use of the common schools in the county where the offense was committed.

[(32-411) 1895, p. 166, sec. 11; reen. 1899, p. 278, sec. 11; reen. R.C. & C.L., sec. 2639; C.S., sec. 4619; I.C.A., sec. 31-411.]

32-415. VIOLATIONS A MISDEMEANOR. Any person who misrepresents any fact required to be stated on the certificate form or other form required by this act, or any licensing officer who issues a marriage license without having received the certificate forms or an order from the court as provided by this chapter, or who has reason to believe that any of the facts thereon have been so misrepresented, and shall nevertheless issue a marriage license, or any person who otherwise fails to comply with the provisions of this act shall be guilty of a misdemeanor.

[(32-415) 1943, ch. 42, sec. 6, p. 83; am. and redesignated 1979, ch. 57, sec. 5, p. 151.]