

GENERAL INFORMATION ABOUT MARRYING IN WISCONSIN AND INSTRUCTIONS FOR THE BRIDE, GROOM AND OFFICIANT

(Laws regarding marriage are contained in Wisconsin Statutes, Chapter 765. The following is a summary and explanation of those laws and guidelines for properly applying for, completing and filing a marriage license/certificate.)

IMPORTANT FACTS ABOUT YOUR MARRIAGE LICENSE

Restrictions on Obtaining a License to Marry in Wisconsin:

Age

You must be 18 years of age or older to marry without parental consent.

If you are 16 or 17 years old, you may marry with written consent from your custodial parent(s)/legal guardian.

If you are younger than 16, you may not marry in Wisconsin, even if you have your parent's written consent.

Previous Marriage

If your last marriage ended by divorce, **you cannot marry in Wisconsin until 6 months after the date of final decree of your divorce. This is true even if:**

You do not live in Wisconsin

You were not divorced in Wisconsin

There is no provision for waiving the 6-month waiting period for any cause.

You may marry on the 6-month anniversary date of your final divorce date (example: for a divorce granted January 4, you may marry on July 4 of that year).

The 6-month waiting period does not apply if your last marriage ended by the death of your spouse or by an annulment granted by a court.

Marrying a Relative

If you are first cousins, you may marry only if the bride is at least 55 years old or if one of you provides a signed statement from a physician attesting that either the bride or the groom is **permanently** sterile.

If you are closer than first cousins, you cannot marry in Wisconsin (even if you are only related by "half blood" or by adoption).

For example, you cannot marry your half brother or sister, your adoptive brother or sister, or a half brother or sister of one of your parents.

If you are "first cousins once removed," you are considered to be second cousins and you do not require proof of sterility to marry.

For example: you may marry your first cousin's son or daughter.

Currently Married

If you are currently legally married, you cannot obtain a license to marry anyone, including your current spouse (even if you are "reaffirming" your marriage vows to each other).

NOTE: Wisconsin law does not recognize "common law" marriages.

Obtaining Your Marriage License:

General

You cannot marry in Wisconsin until you complete an Application for Marriage License and obtain a license to marry from a County Clerk. **You should contact the appropriate County Clerk FAR IN ADVANCE of your planned wedding date for specific instructions and information on fees.** If you are a Wisconsin Tribal enrollee, you may contact your tribal court clerk and ask if that office issues marriage licenses.

The 2008 fee is \$75.00 for a marriage license issued by the Burnett County Clerk.

Other information needed when applying for a marriage license: date and location of ceremony (county and city, village or township), and the name, title, address and telephone number of the officiant performing the ceremony.

The marriage license is valid for 30 days after the date of issuance.

The license **cannot** be used to marry outside of Wisconsin.

There is a 6-day waiting period from the day you apply for your marriage license to the day it is issued to you. This waiting period may be waived at the discretion of the County Clerk, after payment of a \$10.00 waiver fee.

County Clerk offices are not open on Saturday, Sunday or on county holidays.

You may apply for a marriage license without parental/guardian consent if you will be 18 before you marry. The license cannot be issued to you until you are 18 (or on the first working day after you turn 18, if your birthday falls on a weekend or holiday).

You may apply for a marriage license prior to the 6-month anniversary date of your divorce but you cannot marry before the 6-month anniversary date. The license cannot be issued to you until the 6-month anniversary date (or on the first working day after the anniversary date, if that date falls on a weekend or holiday).

You should both sign the marriage license at the County Clerk's office. Your signatures attest that all of the information has been transcribed correctly from the application form, that all of the information is true, to the best of your knowledge and belief, and that you are legally free to marry. **The signature should be in your pre-married name.**

Residency Issues

If one or both of you are Wisconsin residents, you must obtain your marriage license from the County Clerk in the county in which one of you resides. The marriage ceremony may take place in any county in Wisconsin.

If both of you are out-of-state residents, you must obtain your license from the County Clerk in the county in which you marry.

Documents You Will Need

You must provide a variety of documents listed below to apply for a marriage license. Some of these documents may be located out of state and may take time to obtain. You should apply for certified copies of these documents well in advance of your wedding. We recommend that you make application for these documents at least two (2) months prior to applying for the marriage license.

You must present an official **certified**¹ copy of your birth certificate. The birth certificate is the gold standard for proof of legal name, date and place of birth. It also shows the legal spelling of your parents' names. Hospital-issued "birth records" or church-issued baptismal papers are **not** acceptable proof.

You need to show proof of identity and legal residence. A valid picture ID (i.e., driver's license or passport) showing the applicant's residence address is acceptable. If the address is incorrect, also bring a utility bill, credit card statement, etc. showing the correct address.

¹ A Certified copy of a vital record is issued by a state or local vital records registrar. It has a raised seal, a certification statement and signature, and a filing date and certificate number. Photocopies or faxed copies of certified copies are not acceptable.

If you were legally married before, you must show proof of how your **last** marriage ended.

For a divorce or an annulment, you must provide:

- A **certified** copy of your divorce/annulment certificate purchased from the State Vital Records Office.
- or
- A **court stamped** copy of your **signed** divorce/annulment decree, which specifies the actual date, the divorce was granted.

For a death, you must provide:

- A **certified** copy of your late spouse's death certificate.

If you are first cousins, you must provide a signed statement from a physician stating that one of you is **permanently** sterile (unless the bride is 55 years old or older).

If either of you are underage (16 or 17), you must provide a properly completed parental/guardian consent form. That form is available from the County Clerk's office.

You must provide your Social Security Number (**if you have been assigned a Social Security Number**). Social Security Numbers are collected under federal requirements listed in 42USC 666(a)(5) and under state law [s. 765.09 (3), Wis. Statutes]. The numbers are collected for child support enforcement programs and may only be released for that purpose. You may marry in Wisconsin if you do not have a Social Security Number, but you cannot refuse to provide your Social Security Number if you have one. You do not have to show your card.

Confidentiality

The County Clerk must, by law, keep a public marriage docket showing the names of marriage license applicants. The docket is designed to alert interested parties if an illegal marriage application has been made (i.e., if an applicant is underage or is still legally married to someone else). The County Clerk must keep the docket for at least 10 years.

The docket does **not** contain confidential information such as street addresses, phone numbers, social security numbers, race or education information.

Information on file with the County Clerk such as addresses and phone numbers may be provided to law enforcement in connection with an investigation or service of a warrant per s. 765.20(2), Wis. Statutes.

The local registrar does **not** keep information in the confidential section of your marriage license.

The State Vital Records Office only releases information concerning race, education and prior marriages in statistical tables only, with **no personal identifiers**.

IMPORTANT FACTS ABOUT YOUR OFFICIANT AND WITNESSES

Who May Legally Officiate at Your Wedding

The following individuals may perform marriage ceremonies in Wisconsin:

- 1) Any Wisconsin clergy person who is ordained or licensed by a specific religious organization to perform marriages for that denominational body. Note: There is no state registry of credentialed marriage officiants in Wisconsin.
- 2) A judge (municipal, county, tribal, reserve) of a court of record in Wisconsin or a federal judge, if that judge has jurisdiction in Wisconsin.
- 3) Any Wisconsin court commissioner.
- 4) An out-of-state clergy person **if that officiant has a letter of sponsorship from a clergy person in Wisconsin**. The letter must state that the sponsor knows of this officiant and believes that the officiant is authorized to perform marriages by that religious organization.
- 5) **If one or both of the parties actually belong to a religious society or denomination that authorizes self-marriage in its customs and rules**, the two parties themselves, by mutual declarations. NOTE: There are very few religions that allow this practice.

The following individuals may **NOT** perform marriage ceremonies in Wisconsin unless that person is authorized to perform marriages (see categories listed above):

- 1) A ship's captain (including a captain on the Great Lakes or on the Mississippi River).
- 2) An out-of-state officiant who does not have a letter of sponsorship.
- 3) The two parties themselves unless at least one of the parties actually belongs to a religion that allows self-marriage (without a religious officiant present).
- 4) A friend or relative that is not authorized by a religious denomination to perform marriages.
- 5) A former clergy person who is no longer authorized by a religious denomination to perform marriages.

Note: Wisconsin law does not permit a "one-day" license for anyone the couple wishes to perform the marriage.

Legal Requirements for the Marriage Ceremony

You must have a valid Wisconsin marriage license issued prior to your marriage ceremony to legally marry in this state.

You must both **physically appear** before the officiant and the witnesses to take your vows (proxy marriage ceremonies and marriage via phone or internet connection are not legal in Wisconsin).

You must have at least two (2) competent adult witnesses (18 years of age or older) physically at the ceremony. The officiant cannot be one of the witnesses.

More than two (2) persons (but no more than four) may sign the marriage certificate as witnesses to the ceremony as long as the signatures are distinct from one another and at least two (2) persons signing are competent adults, 18 years old or older.

All portions of the marriage document **must be completed in black ink**. Once all parties complete the marriage license (after the ceremony), it becomes the certificate of marriage.

The officiant must send the completed certificate to the Register of Deeds in the county where the marriage ceremony takes place within three (3) calendar days after the marriage.

If the marriage certificate is not completed in black ink, if signatures are missing or if the certificate contains cross-outs, whiteout, correction tape or write-overs, it cannot be filed.

Important Facts about Your Marriage Certificate

General

A certified copy of a marriage certificate is a valuable document that is universally accepted as proof of your marriage. You will need to provide a **certified copy** of your marriage certificate to change your name on your identity documents (Social Security Card, driver's license, passport), to be added to insurance coverage, and other legal transactions.

It is illegal to keep your original and/or to make copies of it. Your officiant must file the document within three (3) days of the ceremony in the Register of Deeds Office in the county of marriage.

The best way to insure that your marriage certificate has been filed and contains correct information is to purchase a copy right away. You may purchase certified copies of your marriage certificate from the Register of Deeds in the county where you marry or from the State Vital Records Office. **For marriages performed in Burnett County, contact the Register of Deeds by telephone at 715-349-2183; in person at the Burnett County Government Center – Room 140 or by mail at: 7410 County Road K, #103, Siren, WI 54872.**

If your marriage certificate is not filed within 365 days of the date of your marriage, **you are still legally married**, but the certificate cannot be filed and you will not be able to obtain certified copies of it to prove your marriage took place. If this happens and for some reason you need a certified copy of your marriage certificate, you will have to go to court to obtain a "court-ordered delayed" marriage certificate or an "affirmation of marriage." This is an expensive and time-consuming procedure.

You have one year to correct any mistakes on the marriage certificate without fees or court process. After 365 days have passed, any change will require a court order and a fee.

Specific Rules for Filing the Marriage Certificate

The marriage certificate is a legal document and must be completed according to strict regulations. Errors on your marriage certificate can cause legal problems. Therefore, it is essential that this document is completed accurately and legibly and that it is filed promptly. The following rules apply to your marriage certificate:

There can be no unauthorized alterations on the marriage certificate (no white-out, no erasures, and no cross-outs).

All entries on the marriage certificate, including signatures, must be in **black ink** to insure legible photocopies and clear images for microfilming. The Register of Deeds **will not** accept a marriage certificate if it is prepared in other than black ink or if it contains erasures, whiteout or alterations. It will be returned and a new, properly completed record will be required.

If there are missing signatures, the certificate cannot be filed. **Important reminder for the bride and groom: SIGN THE LICENSE BEFORE THE CEREMONY.**

The officiant **may not** place a seal on the marriage certificate. If the seal obscures the information on the form, it will be rejected.

Correcting Erroneous Information on Your Marriage Certificate

Review your marriage license carefully as soon as you receive it and immediately report any errors to the County Clerk so that a new license can be issued before the wedding, if possible.

If your marriage certificate contains cross-outs, whiteout or erasures, it will not be accepted for filing and you may have to pay for a replacement copy to be issued and re-signed.

If you notice an error on the certificate after the ceremony, **do not make the correction on the certificate.** Instead, do the following:

If the error is in the portion of the certificate labelled "Officiant", have the officiant file the certificate with the Register of Deeds along with a letter signed by that officiant, explaining the error and what the correct information should be.

If the officiant has already filed the certificate at the county office, he or she should send the signed letter of correction to the Register of Deeds or to the State Vital Records Office.

If the error is in the portions of the certificate labelled "License" or "Confidential Information", contact the County Clerk who issued the license. That office must issue the correction letter for these items.

Corrections can only be made to your marriage certificate in the first year (365 days) from the date of your marriage. After that time, a court order is necessary to correct the certificate.

An item on your marriage certificate can only be corrected once. If a subsequent correction is requested for that item, a court order is required.

Important Information if You Are Changing Your Last Name by Marriage

The marriage certificate **does not** show the names you will be using after your marriage.

By common practice, most agencies will accept a certified copy of a marriage certificate as proof of name change after marriage if you choose a standard change (i.e., one spouse taking the other spouse's last name, hyphenating both names or using both names without a hyphen). For non-standard name change (i.e., combining parts of both names), you may have to show more proof to the requesting agency.

If you are changing your name due to the marriage, you should contact Social Security immediately after the marriage. You must have a certified copy of your marriage certificate to show them.

After Social Security has made the name change, you may contact DMV to have your driver's license changed.

Important Information for Wisconsin Residents about Marrying Out of State

General

Wisconsin law prohibits Wisconsin residents from marrying out of state for the purpose of avoiding Wisconsin marriage restrictions (such as the 6-month post-divorce waiting period). Such marriages are "null and void" according to s. 765.04 (1-3), Wis. Statutes.

You cannot use a Wisconsin marriage license to marry outside of the state.

You cannot file an out of state marriage certificate in a vital records office in Wisconsin.

Marrying Outside the U. S.

If you plan to marry outside the U. S., you may need additional documentation of your eligibility to marry:

1. Some countries require a "proof of eligibility to marry" document. If this is true for your situation, you should talk to a County Clerk about obtaining a Proof of Eligibility to Marry form.
2. Some countries require a document proving that you are not currently married. You can obtain an Application for Proof of No Marriage Certificate in the State of Wisconsin (DPH 5260) by mail: State Vital Records Office, P.O. Box 309, Madison, WI 53701-0309; or by fax: 608-255-2035.

NOTE: Your foreign marriage certificate cannot be filed in the Wisconsin vital records system. Therefore, you will need to take measures to safeguard your marriage certificate. We provide the following advice to Wisconsin residents who marry outside the U. S.:

1. If your marriage certificate is in English, obtain multiple certified copies of your marriage certificate before you leave the country where you married. You should consider keeping at least one copy in a safe place (like a safe-deposit box).
2. If your marriage certificate is not in English, obtain multiple certified copies and have the certificates legally translated (a professional translator signs a statement attesting to the accuracy of the translation in the presence of a notary). Keep the documents in a safe place (like a safe-deposit box).

Legal Penalties for Violating Wisconsin Marriage License Laws (s. 765.30, Wis. Statutes)

- (1) Not less than \$200 nor more than \$1,000 or imprisoned for not more than 2 years or both for:
 - a. Marrying outside the state for the purpose of avoiding Wisconsin laws
- (2) Not less than \$100 nor more than \$1,000 or imprisoned for not more than 2 years or both for:
 - a. Making certain false statements to obtain a license to marry
 - b. Issuing a marriage license illegally (County Clerk)
 - c. Wilfully and knowingly performing a marriage without statutory authority to perform marriages in the state (see the list of authorized officiants)
 - d. Being a party to performing a fictitious marriage ceremony for fraudulent purposes
- (3) Not less than \$100 nor more than \$500 or imprisoned for not more than 6 months or both for:
 - a. Unlawfully solemnizing a marriage (by the officiant or by the two parties themselves)
- (4) Not less than \$10 nor more than \$200 or imprisoned for not more than 3 months or both for:
 - a. Failing to file a marriage certificate (the officiant must mail the certificate to the Register of Deeds within 3 days of the marriage ceremony per s. 69.16, Wis. Statutes.)
 - b. Failing to keep a public marriage docket (County Clerk)