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**AB-583 Remote marriage license issuance and solemnization.** (2021-2022)

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**Assembly Bill No. 583**

**CHAPTER 620**

An act to amend, repeal, and add Sections 359 and 501 of, and to add and repeal Part 5 (commencing with Section 550) of Division 3 of, the Family Code, relating to marriage, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 583, Davies. Remote marriage license issuance and solemnization.

Existing law requires applicants to be married to first appear together in person before the county clerk to obtain a marriage license. Existing law does not require a particular form for the ceremony to solemnize a marriage, but requires the parties to declare, in the physical presence of the person solemnizing their marriage and necessary witnesses, that they take each other as spouses. Existing law requires the person solemnizing the marriage to return an endorsed marriage license to the county recorder of the county in which the license was issued. Existing law authorizes a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of the marriage to enter into that marriage by the appearance of an attorney-in-fact. Existing law also authorizes a county clerk to issue a marriage license to the person solemnizing the marriage if either or both of the parties to be married are physically unable to appear in person before the county clerk, certain documentation requirements are met, and there is a sufficient reason for this procedure that includes proof of hospitalization, incarceration, or any other reason proved to the satisfaction of the county clerk. Existing executive orders delineate temporary procedures for obtaining a marriage license and solemnizing a marriage via videoconference, as specified.

This bill would authorize, until January 1, 2024, a county clerk to issue a marriage license, including a confidential marriage license, or solemnize or witness a marriage ceremony using remote technology, as defined, except for the marriage of a minor. The bill would prescribe the procedures and requirements for marriage license applications, marriage license issuance, and the witnessing or solemnizing of the marriage ceremony using remote technology, including the requirement that the couple be in the same physical location in the State of California while using remote technology to solemnize their marriage. The bill would authorize a county clerk to require a couple to complete an affidavit affirming that they and each individual participating in a marriage solemnization using remote technology are physically present within the State of California, as required. The bill would prescribe signature and transmission procedures relating to remote marriage licenses, including authorizing transmission by United States mail, fax, or electronic means, as specified. The bill would authorize a county clerk to provide guidance relating to marriage license applications, marriage license issuance, and the witnessing or solemnizing of the marriage ceremony when the guidance relates to the use of their remote technology. The bill would also make a conforming change.

This bill would declare that it is to take effect immediately as an urgency statute.

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** Section 359 of the Family Code is amended to read:

**359.** (a) Except as provided in Sections 420 and 426, or Part 5 (commencing with Section 550), applicants to be married shall first appear together in person before the county clerk to obtain a marriage license.

(b) The contents of the marriage license are provided in Part 1 (commencing with Section 102100) of Division 102 of the Health and Safety Code.

(c) The issued marriage license shall be presented to the person solemnizing the marriage by the parties to be married.

(d) The person solemnizing the marriage shall complete the solemnization sections on the marriage license, and shall cause to be entered on the marriage license the printed name, signature, and mailing address of at least one, and no more than two, witnesses to the marriage ceremony.

(e) The marriage license shall be returned by the person solemnizing the marriage to the county recorder of the county in which the license was issued within 10 days after the ceremony.

(f) As used in this division, "returned" means presented to the appropriate person in person, or postmarked, before the expiration of the specified time period.

(g) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

### **SEC. 2.** Section 359 is added to the Family Code, to read:

**359.** (a) Except as provided in Sections 420 and 426, applicants to be married shall first appear together in person before the county clerk to obtain a marriage license.

(b) The contents of the marriage license are provided in Part 1 (commencing with Section 102100) of Division 102 of the Health and Safety Code.

(c) The issued marriage license shall be presented to the person solemnizing the marriage by the parties to be married.

(d) The person solemnizing the marriage shall complete the solemnization sections on the marriage license, and shall cause to be entered on the marriage license the printed name, signature, and mailing address of at least one, and no more than two, witnesses to the marriage ceremony.

(e) The marriage license shall be returned by the person solemnizing the marriage to the county recorder of the county in which the license was issued within 10 days after the ceremony.

(f) As used in this division, "returned" means presented to the appropriate person in person, or postmarked, before the expiration of the specified time period.

(g) This section shall become operative on January 1, 2024.

### **SEC. 3.** Section 501 of the Family Code is amended to read:

**501.** (a) Except as provided in Section 502 or Part 5 (commencing with Section 550), a confidential marriage license shall be issued by the county clerk upon the personal appearance together of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code.

(b) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

### **SEC. 4.** Section 501 is added to the Family Code, to read:

**501.** (a) Except as provided in Section 502, a confidential marriage license shall be issued by the county clerk upon the personal appearance together of the parties to be married and their payment of the fees required by Sections 26840.1 and 26840.8 of the Government Code and any fee imposed pursuant to the authorization of Section 26840.3 of the Government Code.

(b) This section shall become operative on January 1, 2024.

**SEC. 5.** Part 5 (commencing with Section 550) is added to Division 3 of the Family Code, to read:

**PART 5. Remote Marriage License Issuance and Solemnization**

**550.** Notwithstanding any other law, including, but not limited to, Section 420, a county clerk may issue a marriage license, including a confidential marriage license, or solemnize or witness a marriage ceremony under state law using remote technology pursuant to this part, except for a marriage of a minor, as set forth in Sections 302 to 304, inclusive, or any successor provisions.

**552.** A couple seeking a marriage license or solemnization pursuant to this part shall present, in the manner requested by the county clerk, a copy of a valid government-issued photo identification to verify their identity and any additional documentary proof requested by the county clerk.

**554.** (a) Each member of the couple shall be physically located in the State of California while using remote technology to obtain a marriage license pursuant to this part.

(b) (1) Each member of the couple shall be in the same physical location in the State of California while using remote technology to solemnize their marriage pursuant to this part.

(2) The person solemnizing the marriage, any necessary witnesses, and the county clerk shall all be physically located in the State of California, but may be at separate physical locations from each other and the couple solemnizing their marriage.

(c) The county clerk may require a couple to complete an affidavit, in a form provided by the county clerk, affirming that they and each individual participating in a marriage solemnization using remote technology are physically present within the State of California in compliance with this part.

**556.** (a) At the discretion of the county clerk, a couple applying for a marriage license using remote technology may sign their marriage license electronically or by original wet signature. The couple shall transmit a signed, legible copy of their marriage license by United States mail, fax, or electronic means directly to the county clerk, in the manner required by the county clerk.

(b) At the discretion of the county clerk, a marriage license issued using the procedure described in this part may be transmitted to the applicants by United States mail, fax, or electronic means.

(c) Before the solemnization of a marriage pursuant to this part, one or both of the parties to be married shall transmit the marriage license by United States mail, fax, or electronic means to the person solemnizing the marriage and any necessary witnesses, in the manner required by the county clerk.

(d) At the discretion of the county clerk, the person solemnizing the marriage or any necessary witnesses may sign the marriage license electronically or by original wet signature and transmit the signed marriage license by United States mail, fax, or electronic means, in the manner required by the county clerk.

(e) A county clerk who witnesses a marriage solemnized by someone other than the county clerk using remote technology may apply an electronic signature to the marriage license as a witness, and transmit the signed license to the person solemnizing the marriage by United States mail, fax, or electronic means.

**558.** A county clerk may provide guidance relating to marriage license applications, marriage license issuance, and the witnessing or solemnizing of the marriage ceremony when the guidance relates to the use of their remote technology pursuant to this part.

**560.** For purposes of this part, "remote technology" means audiovideo technology that is provided by a county clerk and allows the couple, or the couple and others participating in a marriage solemnization, as applicable, to appear together from the same physical location and directly interact with each other and the county clerk.

**562.** This part shall remain in effect only until January 1, 2024, and as of that date is repealed.

**SEC. 6.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To maintain public health and safety precautions by ensuring a consistent authorization for county clerks to provide remote marriage license issuance and solemnization as California continues to adjust restrictions caused by the novel coronavirus (COVID-19) and prepares for the foreseeable impacts on mobility caused by ongoing wildfires, it is necessary for this act to take effect immediately.