

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 316**

Introduced by Fredrickson, 20.

Read first time January 11, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to marriage; to amend sections 42-102, 42-103,
- 2 42-104, 42-106, 42-109, and 42-110, Reissue Revised Statutes of
- 3 Nebraska; to change terminology; to harmonize provisions; and to
- 4 repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-102, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 42-102 At the time of the marriage, the spouses ~~male~~ must be ~~of the~~  
4 ~~age of~~ seventeen years of age or older upward, and the female of the age  
5 ~~of seventeen years or upward. No person who is afflicted with a venereal~~  
6 ~~disease shall marry in this state.~~

7 Sec. 2. Section 42-103, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 42-103 Marriages are void (1) when either party has a spouse ~~husband~~  
10 ~~or wife~~ living at the time of the marriage, (2) when either party, at the  
11 time of marriage, is mentally incompetent to enter into the marriage  
12 relation, and (3) when the parties are related to each other as parent  
13 and child, grandparent and grandchild, siblings ~~brother and sister~~ of  
14 half or ~~as well as~~ whole blood, first cousins when of whole blood, uncle  
15 and niece or nephew, or ~~and~~ aunt and niece or nephew. This subdivision  
16 extends to children and relatives born out of wedlock as well as those  
17 born in wedlock.

18 Sec. 3. Section 42-104, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 42-104 (1) Prior to the solemnization of any marriage in this  
21 state, a license for that purpose shall be obtained from a county clerk  
22 in the State of Nebraska. ~~Applications for a marriage license made with~~  
23 ~~the county court prior to January 1, 1987, shall be processed and~~  
24 ~~licenses shall be issued by the county court according to the law and~~  
25 ~~procedures in effect on the date each application was made.~~ No marriage  
26 hereafter contracted shall be recognized as valid unless such license has  
27 been previously obtained and used within one year from the date of  
28 issuance and unless such marriage is solemnized by a person authorized by  
29 law to solemnize marriages.

30 (2) The application shall be accompanied by ~~Each party shall present~~  
31 satisfactory documentary proof of the following information for each

1 ~~spouse and shall swear or affirm to the application giving: (a)(1) Full~~  
2 ~~name; (b) of each applicant and residence; and (c) (2) the place, date,~~  
3 ~~and year of birth of each.~~

4 (3) Each party shall swear or affirm to the accuracy of the  
5 information in the application.

6 Sec. 4. Section 42-106, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 42-106 (1) When an application is made for a marriage license to  
9 the county clerk, the county clerk ~~he or she~~ shall, upon the granting of  
10 such license, state in the license the information contained in the  
11 application as provided in section 42-104. The license shall, prior to  
12 the issuing thereof, be entered of record in the office of the county  
13 clerk in a suitable book to be provided for that purpose.

14 (2) The forms for the application, license, and certificate of  
15 marriage shall be provided by the Department of Health and Human Services  
16 at actual cost as determined by the department. The forms for the  
17 application, license, and certificate of marriage shall refer to the  
18 parties using the designations Spouse 1 and Spouse 2.

19 Sec. 5. Section 42-109, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 42-109 In the solemnization of marriage no particular form shall be  
22 required, ~~except as provided in this section. The that the parties shall~~  
23 solemnly declare in the presence of the magistrate or minister and the  
24 attending witnesses, ~~that they take each other~~ in marriage. There as  
25 ~~husband and wife; and in any case there shall be at least two witnesses~~  
26 in addition to ~~, besides~~ the minister or magistrate present at the  
27 ceremony.

28 Sec. 6. Section 42-110, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 42-110 A ~~Whenever a marriage shall have been solemnized pursuant to~~  
31 ~~the provisions of sections 42-101 to 42-117, the minister or magistrate~~

1 who solemnized a marriage pursuant to sections 42-101 to 42-117 ~~the same~~  
2 shall, upon request, give to each of the parties, ~~on request,~~ a  
3 certificate signed by the minister or magistrate ~~under his hand,~~  
4 specifying the names, ages, and places of residence of the parties  
5 married, the names and residences of at least two witnesses who were  
6 present at such marriage, and the time and place thereof.

7       Sec. 7. Original sections 42-102, 42-103, 42-104, 42-106, 42-109,  
8 and 42-110, Reissue Revised Statutes of Nebraska, are repealed.