



Scott Walker
Governor

Dennis G. Smith
Secretary

State of Wisconsin
Department of Health Services

DIVISION OF PUBLIC HEALTH
STATE VITAL RECORDS OFFICE
1 WEST WILSON STREET, ROOM 158
P O BOX 309
MADISON WI 53701-0309

608-266-1373
FAX: 608-255-2035
dhs.wi.gov/VitalRecords

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Marriage Officiant

There has been much discussion about who may officiate to perform weddings and how to complete the Marriage Certificate.

Wisconsin State Statute Chapter 765.16 provides that the following are authorized to be officiating persons:

- (1) Any ordained member of the clergy or any religious denomination or society who continues to be an ordained member of the clergy.
- (2) Any licentiate of a denominational body or an appointee of any bishop serving as the regular member of the clergy of any church of the denomination to which the member of the clergy belongs, if not restrained from so doing by the discipline of the church or denomination.
- (3) The 2 parties themselves, by mutual declaration that they take each other as husband and wife, in accordance with the customs, rules and regulations of any religious society, denomination or sect to which either of the parties may belong.

Note: Our Office has advised that county clerks present the self-marriage part of the statute as a question to the couple if they inquire about self-marriages. If either the bride or groom can answer "YES" that they do belong to a religious society, denomination or sect that believes and allows self-marriages then the couple may do this. (No proof is required, per Attorney General's opinion).

- (4) Any judge of a court of record or reserve judge appointed under s. 753.075.
- (5) Any circuit court commissioner appointed under ACR 75.02(1) or supplemental court commissioner appointed under s. 757.675(1).
- (6) Any municipal court judge.

The October 2005 Attorney General's opinion states, there is no longer any requirement that credentials be presented for filing. It goes on to say that the clerk is not required to, and not authorized to, validate whether the two parties themselves are acting in accordance with the customs, rules and regulations of any religious society, denomination or sect to which either may belong. It also states:

Ministers or clergy ordained or appointed through the "internet" may solemnize marriages if they meet the requirements either s. 765.16 or 765.17. The statute does not permit, and the Constitution of the United States may prohibit, inquiry into the method of ordination or appointment.

The AG's opinion mentions Wis. Stat. 765.30(1)(c), anyone who intentionally undertakes to solemnize a marriage in this state who is not duly authorized to do so, or any person who intentionally participates in or in any way aids or abets any false or fictitious marriage may be fined not less than \$100.00 not more than \$1,000.00 or imprisoned for more than two years or both.

Furthermore, Wis. Stat. 765.22 provides that no marriage hereafter contracted shall be void by reason of want of authority or jurisdiction in the officiating person solemnizing such marriage, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been legally joined in marriage.

Currently the AG's opinion is the advice we must use, at least until there is a court case or another AG's opinion. However, **requiring Officiants to complete the marriage certificate correctly is still very appropriate.** The title the Officiant indicates on the certificate should follow their religion or beliefs. They should refer to the religious denomination, sect or organization, including "internet" derived, they are representing to make the determination for title. The use of none, not applicable or fictitious Officiant titles such as Jedi Knight, etc. should not be accepted. Abbreviations should **not** be accepted.

If the bride and or groom question the legality of any Officiant they should be advised to seek legal counsel. Also, the bride and groom should be advised they may choose any Officiant they would like, however; if the marriage certificate is questioned by any agency (social security, motor vehicle, military, or an insurance company) the burden of proof is on them. The State Vital Records Office and the County Offices should not give legal advice.

Common sense needs to be exercised by the non-traditional marriage Officiants; they need to understand they are completing a legal document and it will be with the couple the rest of their lives.

No Abbreviations. (This is worth repeating) Officiants should not use abbreviations. Certificates with abbreviations will not be accepted. Rev. Mis, SCC, etc. could mean many different things. It is the responsibility of the couple and the Officiant to be clear on this very important legal document.

County Clerks have in their handbooks (Chapter X page 47, We have updated this in the manual) detailed instructions for the Officiant. We strongly recommend that this be given to the bride and groom to give to their chosen Officiant.

We have attached this portion of the handbook for your convenience.

Hopefully this answers the questions you have pertaining to marriage Officiants. Please review the following 2 pages, we have made changes.

County Clerks, Please handout the following 2 pages to the couple with instructions they give it to their Officiant.

John Kiesow
State Registrar
Wisconsin Vital Records

OFFICIANT INSTRUCTIONS FOR COMPLETING THE CERTIFICATE OF MARRIAGE

- Marriage, so far as its validity is concerned, is a civil contract, to which the consent of the parties capable in law of contracting is essential and which creates the legal status of husband and wife (s. 765.01, Wis. Stats.).
- A marriage contract is only valid once a license has been issued and mutual declarations have been made by the bride and groom before an authorized Officiant and in the physical presence of at least 2 competent adult witnesses. The certificate must also be complete and signed by all parties and received by the appropriate County Register of Deeds.
- Certificates of Marriage are permanent legal documents of great importance to the bride and groom. Certified copies of marriage certificates are required for many reasons; therefore, completeness and accuracy of information are essential.
- A clean, legible, correct, complete, in black ink and promptly filed certificate indicates recognition of the importance of this legal document.
- No erasures, cross-outs, or white-outs are permitted. Make no marks in the margins of the certificate. Do not place a seal on the certificate. Do not use a stamp.
- Do not make any changes or alterations on the certificates. A letter of correction should be used. If the certificate has already been submitted to the Register of Deeds, send the letter of correction directly to:

State Vital Records Office
P.O. Box 309
Madison, WI 53701-0309

- In Wisconsin, marriages may be performed by any of the following: Officiants:
 - (1) ordained clergy
 - (2) licentiate of a denominational body
 - (3) appointee of any bishop
 - (4) judge of a court of record
 - (5) reserve judge
 - (6) family court commissioner
 - (7) court commissioner
 - (8) municipal court judges
 - (9) tribal judges
- (10) by the two parties themselves, by mutual declarations, in accordance with the customs, rules and regulations of any religious society, denomination or sect to which either of said parties may belong. The word of the applicant is sufficient.
- (11) 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. The County Clerk may ask to see the letter of sponsorship.

Wis. Stat. 765.30(1)(c), anyone who intentionally undertakes to solemnize a marriage in this state who is not duly authorized to do so, or any person who intentionally participates in or in any way aids or abets any false or fictitious marriage may be fined not less than \$100.00 not more than \$1,000.00 or imprisoned for more than two years or both.

Furthermore, Wis. Stat. 765.22 provides that no marriage hereafter contracted shall be void by reason of want of authority or jurisdiction in the officiating person solemnizing such marriage, if the marriage is in other respects lawful and is consummated with the full belief on the part of the persons so married, or either of them, that they have been legally joined in marriage.

An October 2005 Attorney General's opinion states that the county clerk is not required to, and not authorized to, validate whether the two parties themselves are acting in accordance with the customs, rules and regulations of any religious society, denomination or sect to which either may belong.

NOTE: Federal judges may perform marriages in Wisconsin IF Wisconsin is in their district. A federal judge does not have jurisdiction for performing marriages in every state.

- An Officiant does not need to file his or her religious credentials with a government agency in order to perform marriages in the state.
- The State Vital Records Office does not have information as to the validity of any specific religious organization. Applicants and Officiant who have questions on the chosen Officiant's authority to perform marriages in Wisconsin should seek legal counsel.
- All Officiants must insure that the parties have a valid Wisconsin marriage license to marry before performing the ceremony. All Officiants must use the Certificate of Marriage form (DPH 5060) for any marriage performed in Wisconsin. The Officiant must mail the completed certificate to the Register of Deeds in the county where the ceremony occurred. It must be mailed within 3 days after the ceremony.
- **NOTE TO OFFICIANTS AND WITNESSES:** Information collected in the bottom portion of the marriage license (in the section marked "confidential") is for statistical use only (except as stated in the marriage application instructions) and may not be disclosed to other individuals without the consent of the bride and groom.

Officiant Portion Detailed Instructions (The numbers refer to the item number on the certificate)

• **ALL ENTRIES MUST BE IN BLACK INK, INCLUDING SIGNATURES**

19. DATE OF MARRIAGE (Month, Day, Year)

Enter the month, day, and year the marriage was performed. Please spell out or abbreviate the month instead of using a number. (For example: Jan. 4, 2003, not 01/04/03.)

20a. WHERE MARRIED - COUNTY

Print the name of the county where the marriage was performed. The county MUST be in Wisconsin.

20b. WHERE MARRIED - CITY, VILLAGE, OR TOWNSHIP

Print the city, village, or township where the ceremony occurred. Do not name unincorporated places. Place an "x" in the appropriate box for "City," "Village," or "Township."

NOTE: There are times when a couple will be married on a boat, on an airplane or air balloon. In that case, the place where they are married should be where the boat docked or where the air balloon or airplane landed after the ceremony.

21. OFFICIANT SIGNATURE

Sign in black ink. If there are two Officiants, both can sign. When the marriage is performed by the two parties themselves, both parties sign as Officiants and enter "self" in item 25a "Officiant Title."

NOTE: Be careful that the signature does not obscure other information or go beyond space provided.

22. & 24. WITNESS TO CEREMONY (Signature)

Two competent adult (at least 18 years old) witnesses must use black ink to sign their names in the spaces provided. There may be times when someone under 18 may also be a witness. They may sign as long as there are also 2 adult witnesses. Make sure each signature is distinct from each other. Be careful not to go outside of the space provided.

23. OFFICIANT NAME (Print or type.)

The Officiant must print or type his or her name. If the parties performed their own marriage, both names should be entered. If there are two Officiants, both names can be entered.

25a. **OFFICIANT TITLE** Please review carefully, there have been many returned licenses because of improper completion.

Enter only the title of the Officiant, not a name or the word Officiant, (e.g., Judge, Minister, Rabbi and for internet ordained individuals please use the title bestowed by the ordaining/appointing organization). Enter "Self" if self-marriage. DO NOT USE ABBREVIATIONS. The title you use on the certificate should follow your religion or beliefs. Contact your religious denomination, sect or organization you are representing to make the determination for title. The use of none, not applicable or fictitious Officiant titles such as Jedi Knight, etc. will not be accepted.

25b. OFFICIANT MAILING ADDRESS (Street, City, State, Zip Code) Enter the mailing address, including ZIP Code, of the person whose name appears in item 23. If there are two Officiants, both addresses may be entered. This address should identify where business mail is to be sent in the event that a Register of Deeds has a question about this record.