

Wisconsin County Clerks Association

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Minimum age of 18 to perform a marriage & Eliminating “Letters of Sponsorship” for all officiants

The WCCA supports this common sense reform bill for the following reasons:

1. Establish a minimum age for officiants:

At present, Wisconsin has no statutory minimum age requirement to perform a marriage.

- County clerks are concerned about minors becoming ordained (most likely Internet ordained) and performing marriages, which we believe:
 - Generally erodes the institution of marriage in Wisconsin
 - Increases the likelihood of administrative errors, such as the license being improperly filled out or improperly filed, if it's filed at all.
- A marriage is a legally binding contract, and it should be treated with the seriousness that the event entails.
- We believe 18 should be the minimum age to perform a marriage.

2. Eliminate Letters of Sponsorship for out-of-state clergy

Presently, statutes require a higher level of scrutiny for out-of-state clergy than for unaffiliated officiants.

765.17 NONRESIDENT OFFICIATING PERSON; SPONSORSHIP. Any clergyman, licentiate or appointee named in s. 765.16 who is not a resident of this state may solemnize marriages in this state if he or she possesses at the time of the marriage a letter of sponsorship from a clergyman of the same religious denomination or society who has a church in this state under his or her ministry.

In other words, the requirement for what is known as a “letter of sponsorship” is only applied to out-of-state religious officiants, but **no such requirement is applied to unaffiliated out-of-state officiants.**

Furthermore, a letter of sponsorship **can't** be required for unaffiliated officiants because of the 2005 AG Opinion stating that, **“the statute does not permit, and the Constitution**

of the United States may prohibit, inquiry into the method of ordination or appointment. See *United States v. Ballard*, 322 U.S. 78 (1944).”

Other considerations and information related to this topic:

Growth of Internet ordination: The number of Internet ordained ministers and the number of ceremonies performed by them has grown exponentially since 2004. Becoming Internet ordained is as easy as going to a website, paying a small fee, and printing a certificate. On at least one, frequently used website, there are little to no requirements to become ordained.

County clerks are unable to ask for the credentials of an officiant: In 32 Op. Att’y Gen. 105 (1943), the Attorney General opined that the “Spiritual Assembly of the Bahais,” an organization who didn’t ordain ministers or priests or have licentiates or bishops’ appointees, and thus the officiants didn’t have any “credentials,” was still able to perform marriage ceremonies in Wisconsin. The opinion also noted that “[t]here is no requirement for the filing of credentials and there is no authority on part of the clerk of a circuit court to accept such credentials for filing.” 32 Op. Att’y Gen. at 106.

County clerks are not authorized to determine validity of officiants: In a 2005 Attorney General opinion to the Crawford County Corporation Counsel on behalf of the Wisconsin County Clerks Association, the Attorney General noted that, “there is no longer any requirements that credentials be presented for filing, and no authority for the clerk to issue a certificate (to the officiant), **the clerk is not required to, and not authorized to, determine whether a listed officiant is authorized to be an officiating person.**”

State of Wisconsin guidance places the onus to determine the legality of the officiant on the couple: Recommended language from the State Vital Records Office on what county clerks should say to couples regarding Internet ordinations states, “Neither our office nor the State Vital Records Office is able to confirm the legality of a religious officiant. If you have a question about the legality of the officiant you have chosen, you may want to seek legal counsel.”