

SENATE BILL NO. 132

INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ~~AN EXEMPTION TO~~ FOR INFORMED CONSENT AND
A WAIVER OF THE REQUIREMENT FOR A RUBELLA BLOOD TEST AS A CONDITION OF OBTAINING A
MARRIAGE LICENSE; AND AMENDING SECTIONS 40-1-202, 40-1-203, 40-1-205, 40-1-206, AND 40-1-208,
MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-1-202, MCA, is amended to read:

"40-1-202. License issuance. When a marriage application has been completed and signed by both
parties to a prospective marriage and at least one party has appeared before the clerk of the district court and
paid the marriage license fee of \$53, the clerk of the district court shall issue a license to marry and a marriage
certificate form upon being furnished:

(1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time
the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as
provided in 40-1-213;

(2) satisfactory proof that the marriage is not prohibited; and

(3) a certificate of the results of any medical examination required by the laws of this state ~~or a statement~~
~~indicating that the applicants waived the medical examination after being informed of the reasons for the~~
~~examination and the potential risks of foregoing the examination.~~ OR A WAIVER OF THE MEDICAL CERTIFICATE
REQUIREMENT AS PROVIDED IN 40-1-203."

Section 2. Section 40-1-203, MCA, is amended to read:

"40-1-203. Proof of age and medical certificate required -- ~~medical certificate exemption~~ WAIVER
OF MEDICAL CERTIFICATE REQUIREMENT. (1) Before a person authorized by law to issue marriage licenses may
issue a marriage license, each applicant for a license shall provide a birth certificate or other satisfactory evidence
of age and, if the applicant is a minor, the approval required by 40-1-213. Each female applicant, unless
exempted on medical grounds by rule of the department of public health and human services or as provided in

1 subsection (2), shall file with the license issuer a medical certificate from a physician who is licensed to practice
2 medicine and surgery in any state or United States territory or from any other person authorized by rule of the
3 department to issue a medical certificate. The certificate must state that the applicant has been given a ~~standard~~
4 ~~serological blood test for rubella immunity~~, that the report of the ~~test results of the serological test~~ has been shown
5 to the applicant tested, and that the other party to the proposed marriage contract has examined the report of the
6 ~~serological test~~.

7 ~~(2) In lieu of a medical certificate, applicants for a marriage license may file a waiver of the blood test for~~
8 ~~rubella immunity. The waiver must be signed by both parties to the marriage license application and must indicate~~
9 ~~that the female applicant is declining the rubella blood test after the applicants were informed by a physician or~~
10 ~~other person authorized by rule of the department of the following information: AN INFORMED CONSENT FORM~~
11 ~~ACKNOWLEDGING RECEIPT AND UNDERSTANDING OF WRITTEN RUBELLA IMMUNITY INFORMATION AND DECLINING RUBELLA~~
12 ~~IMMUNITY TESTING. FILING OF AN INFORMED CONSENT FORM WILL EFFECT A WAIVER OF THE REQUIREMENT FOR A BLOOD~~
13 ~~TEST FOR RUBELLA IMMUNITY. INFORMED CONSENT MUST BE RECORDED ON A FORM PROVIDED BY THE DEPARTMENT AND~~
14 ~~MUST BE SIGNED BY BOTH APPLICANTS. THE INFORMED CONSENT FORM MUST INCLUDE:~~

15 ~~(a) the reasons for undergoing a blood test for rubella immunity;~~
16 ~~(b) the information that the results would provide about the woman's rubella antibody status; and~~
17 ~~(c) the risks associated with remaining uninformed of the rubella antibody status, including the potential~~
18 ~~risks posed to a fetus, particularly in the first trimester of pregnancy; AND~~

19 ~~(D) CONTACT INFORMATION INDICATING WHERE APPLICANTS MAY OBTAIN ADDITIONAL INFORMATION REGARDING~~
20 ~~RUBELLA AND RUBELLA IMMUNITY TESTING.~~

21 ~~(2)(3)~~ A person who by law is able to obtain a marriage license in this state is also able to give consent
22 to any examinations, ~~and tests, or waivers~~ required ~~or allowed~~ by this section. In submitting the blood specimen
23 to the laboratory, the physician or other person authorized to issue a medical certificate shall designate that it is
24 a premarital test."

25
26 **Section 3.** Section 40-1-205, MCA, is amended to read:

27 **"40-1-205. Certificates from other states or for military personnel -- when acceptable.** Certificate
28 forms provided by other states having comparable laws will be accepted for persons who have received a
29 ~~standard serological rubella blood~~ test outside of Montana. Certificates provided by the United States armed
30 forces will be accepted for military personnel if ~~such the~~ certificates are signed by a medical officer commissioned

1 in the United States armed forces or United States public health service and the certificates state the
2 examinations are ~~standard serological~~ rubella blood tests."

3
4 **Section 4.** Section 40-1-206, MCA, is amended to read:

5 **"40-1-206. Premarital test -- approved laboratories -- rules.** ~~(1) For the purpose of 40-1-203 through~~
6 ~~40-1-209, a standard serological test is a test for rubella immunity that is approved by the department of public~~
7 ~~health and human services.~~

8 ~~(2)(1)~~ (1) The ~~standard serological~~ rubella blood test is acceptable for the purposes of 40-1-203 through
9 40-1-209 only if it is approved by the department of public health and human services and performed by one of
10 the following:

11 (a) the laboratory of the department of public health and human services;

12 (b) a laboratory approved by the department of public health and human services;

13 (c) a laboratory operated by any other state; or

14 (d) a laboratory operated by the United States public health service or the United States armed forces.

15 ~~(3)(2)~~ (2) The ~~standard serological~~ test may be made on request at the laboratory of the department of public
16 health and human services.

17 ~~(4)(3)~~ (3) The department of public health and human services shall adopt reasonable rules for:

18 (a) reports to be submitted by any laboratory making tests and the manner of furnishing the reports to
19 the certifying physician and the state; and

20 (b) exemptions, on medical grounds, from the premarital ~~serological~~ rubella blood test."

21
22 **Section 5.** Section 40-1-208, MCA, is amended to read:

23 **"40-1-208. Penalties.** (1) An applicant for a marriage license, a physician or other person authorized
24 by rule of the department of public health and human services to issue a medical certificate, or a person in charge
25 of or authorized to make reports or statements for a laboratory who misrepresents the person's identity or any
26 of the facts called for by the certificate form prescribed by 40-1-203 through 40-1-205; a licensing officer who
27 issues a marriage license without having received the certificate form, if required, or who has reason to believe
28 that any of the facts on the certificate form have been misrepresented and nevertheless issues a marriage
29 license; or any person who otherwise fails to comply with the provisions of 40-1-203 through 40-1-209 is guilty
30 of a misdemeanor and upon conviction shall be punished by a fine of not more than \$100.

1 (2) Medical certificates, laboratory statements or reports, ~~and applications,~~ and waivers referred to in
2 40-1-203 through 40-1-209 are confidential and may not be divulged to or open to inspection by any person other
3 than state or local health officers or their representatives. A person who divulges the information or opens to
4 inspection the certificates, statements, reports, ~~or applications,~~ or waivers, without authority, to any person not
5 entitled to the material by law is guilty of a misdemeanor and upon conviction shall be punished by a fine of not
6 more than \$100."

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