

HOUSE BILL NO. 136

INTRODUCED BY K. DUDIK

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A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE PREMARITAL BLOOD TEST FOR WOMEN; AMENDING SECTIONS 40-1-202, 40-1-203, AND 40-1-311, MCA; REPEALING SECTIONS 40-1-204, 40-1-205, 40-1-206, 40-1-207, 40-1-208, AND 40-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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.** Except as provided in 40-1-301, 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 18 years of age at the time the marriage license is effective or will have attained 16 years of age and has obtained judicial approval as provided in 40-1-213; and

(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 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 -- 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 subsection (2), shall file with the license issuer a medical certificate from a physician who is licensed to practice medicine and surgery in any state or United States territory or from any other person authorized by rule of the department to issue a medical certificate. The~~

1 certificate must state that the applicant has been given a blood test for rubella immunity, that the report of the test  
 2 results has been shown to the applicant tested, and that the other party to the proposed marriage contract has  
 3 examined the report.

4 ~~———(2) In lieu of a medical certificate, applicants for a marriage license may file an informed consent form  
 5 acknowledging receipt and understanding of written rubella immunity information and declining rubella immunity  
 6 testing. Filing of an informed consent form will effect a waiver of the requirement for a blood test for rubella  
 7 immunity. Informed consent must be recorded on a form provided by the department and must be signed by both  
 8 applicants. The informed consent form must include:~~

9 ~~———(a) the reasons for undergoing a blood test for rubella immunity;~~

10 ~~———(b) the information that the results would provide about the woman's rubella antibody status;~~

11 ~~———(c) the risks associated with remaining uninformed of the rubella antibody status, including the potential  
 12 risks posed to a fetus, particularly in the first trimester of pregnancy; and~~

13 ~~———(d) contact information indicating where applicants may obtain additional information regarding rubella  
 14 and rubella immunity testing.~~

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

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20 **Section 3.** Section 40-1-311, MCA, is amended to read:

21 **"40-1-311. Declaration of marriage without solemnization.** (1) Persons desiring to may consummate  
 22 a marriage by written declaration in this state without the solemnization provided for in 40-1-301 ~~shall, prior to~~  
 23 ~~executing the declaration, secure the medical certificate required by this chapter.~~ The declaration and the  
 24 certificate or the waiver provided for in 40-1-203 must be filed by the clerk of the district court in the county where  
 25 the contract was executed.

26 (2) A declaration of marriage must contain substantially the following:

27 (a) the names, ages, and residences of the parties;

28 (b) the fact of marriage;

29 (c) the name of father and maiden name of mother of both parties and address of each;

30 (d) a statement that both parties are legally competent to enter into the marriage contract.

1 (3) The declaration must be subscribed by the parties and attested by at least two witnesses and formally  
2 acknowledged before the clerk of the district court of the county.

3 (4) The fee for filing a declaration is \$53 and must be paid to the clerk at time of filing."  
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5 **NEW SECTION. Section 4. Repealer.** The following sections of the Montana Code Annotated are  
6 repealed:

7 40-1-204. Contents and form of medical certificate.

8 40-1-205. Certificates from other states or for military personnel -- when acceptable.

9 40-1-206. Premarital test -- approved laboratories -- rules.

10 40-1-207. Examination by health officer.

11 40-1-208. Penalties.

12 40-1-209. Expenses.  
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14 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.  
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16 **NEW SECTION. Section 6. Applicability.** [This act] applies to marriage licenses applied for on or after  
17 [the effective date of this act].  
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