

# SB0110S01

~~{Omitted text}~~ shows text that was in SB0110S01 but was omitted in SB0110S02

inserted text shows text that was not in SB0110S01 but was inserted into SB0110S02

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## Marriage Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor:

# LONG TITLE

### General Description:

This bill modifies provisions relating to **the validity of a** marriage.

### Highlighted Provisions:

This bill:

- ▶ {requires at least one party to a marriage to be physically present in the state at the time of the marriage;}
- ▶ {provides that a marriage solemnized on or after May 6, 2026, is prohibited and void if:}
  - {the marriage is solemnized remotely through electronic means;}
  - {both individuals marrying are not residents of the state; and}
  - {the individuals marrying are not located in the same location in the state when the marriage is solemnized;}
- ▶ provides that a marriage that is not properly solemnized is {invalid unless} valid only if an individual files a petition for a court {or administrative order} to legally {recognized} recognize the marriage before May {6, 2026; and} 5, 2027.
- ▶ {makes technical and conforming changes.}

## SB0110S01 compared with SB0110S02

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

~~{81-2-302, as renumbered and amended by Laws of Utah 2024, Chapter 366}~~

~~{81-2-303, as renumbered and amended by Laws of Utah 2024, Chapter 366}~~

~~{81-2-403, as renumbered and amended by Laws of Utah 2024, Chapter 366}~~

**81-2-408, as renumbered and amended by Laws of Utah 2024, Chapter 366**

~~{81-4-104, as renumbered and amended by Laws of Utah 2024, Chapter 366}~~

#### REPEALS AND REENACTS:

~~{81-2-408, as renumbered and amended by Laws of Utah 2024, Chapter 366}~~

*Be it enacted by the Legislature of the state of Utah:*

~~{Section 1. Section 81-2-302 is amended to read: }~~

#### **81-2-302. Marriage licenses -- Use within state -- Expiration.**

(1) A marriage may not be solemnized in this state without a license issued by the county clerk of any county of this state.

(2)

(a) A license issued within this state by a county clerk may only be used within this state.

(b) A license is considered used within this state if the officiant and at least one of the parties to the marriage is physically present in the state at the time of solemnization of the marriage.

(3) A marriage is considered solemnized if:

(a) the parties to the marriage have a valid marriage license;

(b) each party to the marriage willingly, and without duress, declares their intent to enter into the marriage;

(c) each party to the marriage has filed all required affidavits with the county clerk that issued the marriage license as required under Subsection [81-2-303(4)(a)] 81-2-303(5)(a);

(d) an officiant pronounces the parties as married; and

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(e) at least two individuals 18 years old or older witness the declarations of intent and the pronouncement.

(4) A license that is not used within 32 days after the day on which the license is issued is invalid.

~~{Section 2. Section 81-2-303 is amended to read: }~~

### **81-2-303. Application for marriage license -- Contents.**

(1) A county clerk may issue a marriage license only after[:]

[(a)] an application is filed with the county clerk's office, requiring the following information:

[(i)] (a) the full names of the applicants, including the maiden or bachelor name of each applicant;

[(ii)] (b) the social security numbers of the applicants, unless an applicant has not been assigned a number;

[(iii)] (c) the current address of each applicant;

[(iv)] (d) the date and place of birth, including the town or city, county, state or country, if possible;

[(v)] (e) the names of the applicants' respective parents, including the maiden name of a mother;

[(vi)] (f) the birthplaces of the applicants' respective parents, including the town or city, county, state or country, if possible; and

[(vii)] (g) the age, legal name, and identity of each applicant is verified.

(2) A power of attorney may not be used to secure a marriage license on behalf of a party to a marriage.

(3)

(a) If one or both of the applicants is a minor, the county clerk shall provide each minor with a standard petition on a form provided by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 81-2-304.

(b) The form described in Subsection (3)(a) shall include:

(i) all information described in Subsection (1);

(ii) a place for the parent or legal guardian to indicate the parent or legal guardian's relationship to the minor in accordance with Subsection 81-2-304(1)(a);

(iii) an affidavit for the parent or legal guardian to acknowledge the penalty described in Section 81-2-304 signed under penalty of perjury;

(iv) an affidavit for each applicant regarding the accuracy of the information contained in the marriage application signed under penalty of perjury; and

(v) a place for the clerk to sign that indicates that the following have provided documentation to support the information contained in the form:

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- 86 (A) each applicant; and  
87 (B) the minor's parent or legal guardian.  
88 (4)  
(a) The social security numbers obtained under the authority of this section may not be recorded on the marriage license and are not open to inspection as a part of the vital statistics files.  
91 (b) The ~~[Department of Health and Human Services,]~~Office of Vital Records and Statistics shall, upon request, supply the social security numbers to the ~~[Department of Health and Human Services,]~~Office of Recovery Services.  
94 (c) The Office of Recovery Services may not use a social security number obtained under the authority of this section for any reason other than the administration of child support services.  
97 (5)  
(a) A county clerk may not issue a marriage license until the county clerk receives:  
98 (i) an affidavit from each party applying for the marriage license, stating that there is no lawful reason preventing the marriage; and  
100 (ii) if one of the parties will not be physically present in the state at the time of solemnization of the marriage, an affidavit from each party applying for the marriage license, stating that the party consents to personal jurisdiction of the state, and of the county issuing the marriage license, for the purposes of filing a divorce or annulment of the marriage.  
105 (b) A county clerk shall file and preserve each affidavit provided under this section.  
106 (c) A party who makes an affidavit described in Subsection ~~[(4)(a)]~~ (5)(a), or a subscribing witness to the affidavit, who falsely swears in the affidavit is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.  
110 (6) A county clerk who knowingly issues a marriage license for any prohibited marriage is guilty of a class A misdemeanor.

112 {Section 3. ~~Section 81-2-403 is amended to read:~~ }

### 113 **81-2-403. Marriages prohibited and void.**

- 114 (1) ~~[The following marriages are prohibited and declared void:]~~ A marriage is prohibited and void if:  
116 (a) ~~[when]~~there is a spouse living from whom the individual marrying has not been divorced;  
118 (b) except as provided in Subsection (2), the individual marrying is under 18 years old;~~[-or]~~  
120 ~~[(e) between a divorced individual and any individual other than the one from whom the divorce was secured until:]~~

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[~~(i) the divorce decree becomes absolute; and~~  
[~~(ii) if an appeal is taken, until after the affirmance of the divorce decree.]~~  
(c)  
(i) the marriage is between a divorced individual and an individual other than the divorced individual's spouse in the divorce action; and  
(ii)  
(A) the divorce decree is not final; or  
(B) if an appeal is taken, the divorce decree has not been affirmed; or  
(d) except as provided in Subsection (3):  
(i) the marriage is solemnized remotely through electronic means;  
(ii) both of the individuals marrying are not residents of the state; and  
(iii) the two individuals marrying are not in the same physical location within the state when the marriage is solemnized.  
(2) A marriage of an individual under 18 years old is not void if the individual:  
(a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile court authorization in accordance with Section 81-2-304; or  
(b) lawfully marries before May 14, 2019.  
(3) A marriage described in Subsection (1)(d) is not void if the marriage:  
(a) was solemnized before May 6, 2026; and  
(b) is otherwise lawful.

### Section 1. Section 81-2-408 is amended to read:

#### **81-2-408. Validity of marriage not solemnized or solemnized before an unauthorized individual.**

[~~(1) A marriage that is not solemnized according to this chapter is legal and valid if a court or administrative order establishes that the marriage arises out of a contract between two individuals who:~~  
(a) ~~are of legal age and capable of giving consent;~~  
(b) ~~are legally capable of entering a solemnized marriage under the provisions of this chapter;~~  
(c) ~~have cohabited;~~  
(d) ~~mutually assume marital rights, duties, and obligations; and~~  
(e) ~~who hold themselves out as and have acquired a uniform and general reputation as spouses.]~~

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- (1) Before May 5, 2027, an individual may file a petition with a court to validate and make legal a marriage that is not solemnized in accordance with this chapter.
- (2) On a filing of a petition described in Subsection (1), the court may enter an order validating and making legal a marriage that is not solemnized in accordance with this chapter if the court establishes that the marriage arises out of a contract between two individuals:
- (a) of legal age and capable of giving consent;
  - (b) legally capable of entering a solemnized marriage under the provisions of this chapter;
  - (c) who have cohabited;
  - (d) who mutually assume marital rights, duties, and obligations; and
  - (e) who hold themselves out as and have acquired a uniform and general reputation as spouses.
- ~~[(2)]~~ (3)
- (a) ~~[A petition for an unsolemnized marriage shall be filed.]~~ An individual may only file the petition described in Subsection (1) during the relationship described in Subsection ~~[(1)]~~ (2), or within one year following the termination of that relationship.
- (b) Evidence of a marriage recognizable under this section may be:
- (i) manifested in any form; and
  - (ii) proved under the same general rules of evidence as facts in other cases.
- ~~(4)~~ On and after May 5, 2027, an individual may not file a petition described in Subsection (1).
- ~~[(3)]~~ (5)
- (a) A marriage solemnized before an individual professing to have authority to perform marriages may not be invalidated for lack of authority if consummated in the belief of the parties or either party that the person had authority and that the parties have been lawfully married.
- (b) Except as otherwise explicitly provided by law, Subsection ~~[(3)(a)]~~ (5)(a) may not be construed to validate a marriage that:
- (i) is prohibited or void under Section 81-2-403; or
  - (ii) fails to meet the requirements of Section 81-2-302, as validated by a court with jurisdiction.

Section 4. Section **81-2-408** is repealed and reenacted to read:

**81-2-408. Validity of marriage not solemnized or solemnized before an unauthorized individual.**

A marriage that is not solemnized in accordance with this chapter is invalid unless a court or administrative order legally recognized the marriage before May 6, 2026.

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{Section 5. Section ~~81-4-104~~ is amended to read: }

### **81-4-104. Temporary separation order.**

- (1) An individual may file an action for a temporary separation order, without filing a petition for divorce, by filing a petition for temporary separation and motion for temporary orders if:
  - (a) the individual is lawfully married to the individual from whom the separation is sought; and
  - (b)
    - (i) both parties are residents of the state for at least 90 days before the day on which the action is filed; or
    - (ii) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection ~~[81-2-303(4)(a)(ii)]~~ 81-2-303(5)(a)(ii).
- (2) The temporary orders are valid for one year after the day on which the hearing for the order is held or until one of the following occurs:
  - (a) a petition for divorce is filed and consolidated with the petition for temporary separation; or
  - (b) the case is dismissed.
- (3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.
- (4)
  - (a) If the parties to the temporary separation action have a minor child, the parties shall attend the divorce orientation course described in Section 81-4-105:
    - (i) for the petitioner, within 60 days after the day on which the petition is filed; and
    - (ii) for the respondent, within 30 days after the day on which the respondent is served.
  - (b) If the parties to the temporary separation action do not have a minor child, the parties may choose to attend the divorce orientation course described in Section 81-4-105.
  - (c) The clerk of the court shall provide notice to a petitioner of the divorce orientation course requirement.
  - (d) A petition shall include information regarding the divorce orientation course requirement when the petition is served on the respondent.
- (5) For a party that is unable to pay the costs of the divorce orientation course, and before the court enters a decree of divorce in the action, the court shall:
  - (a) make a final determination of indigency; and

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(b) order the party to pay the costs of the divorce orientation course if the court determines the party is not indigent.

(6)

(a) Except for a temporary restraining order under [~~Rule 65A of the~~]Utah Rules of Civil Procedure, Rule 65A, a party may file, but the court may not hear, a motion for an order related to the temporary separation petition until the moving party completes the divorce orientation course.

(b) It is an affirmative defense in a temporary separation action that a party has not completed the divorce orientation course and the action may not continue until a party has complied with the divorce orientation course.

(7)

(a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the divorce orientation course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the temporary separation action to proceed.

(8) The petitioner shall serve the petition for a temporary separation order in accordance with the Utah Rules of Civil Procedure.

(9) If a party files for divorce within one year after the day on which the petition for temporary separation is filed, the filing fee for a petition for temporary separation shall be credited towards the filing fee for a divorce.

### Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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