

Representative Neil A. Hansen proposes the following substitute bill:

AUTHORIZATION TO PERFORM MARRIAGES

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill authorizes county clerks to deputize other persons to solemnize a marriage and allows legislators and elected county executives to solemnize a marriage.

Highlighted Provisions:

This bill:

- ▶ adds elected county executives, members of the House of Representatives, and members of the Senate to the list of who can solemnize a marriage; and
- ▶ authorizes county clerks to deputize other persons to solemnize marriages.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-16-7, as last amended by Chapter 241, Laws of Utah 2001

30-1-6, as last amended by Chapter 2, Laws of Utah 1997

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

Section 1. Section **17-16-7** is amended to read:



26 **17-16-7. Deputies and employees -- Appointments -- County legislative body**
27 **consent power -- Liability of principal -- Deputy may serve despite vacancy in office of**
28 **appointing officer.**

29 (1) (a) A county or precinct officer, including an elected county executive, except a
30 county commissioner or county council member, may, with the consent of the county
31 legislative body, appoint deputies and employees as necessary for the discharge of the duties of
32 the officer's office.

33 (b) County clerks may deputize other persons to solemnize a marriage.

34 ~~(b)~~ (c) The county legislative body's consent power under Subsection (1)(a) shall be
35 defined in county ordinance and may include consent by:

- 36 (i) the budget approval process;
- 37 (ii) approval of an allocation of a certain number of positions; or
- 38 (iii) approval or disapproval of the hiring of individual applicants.

39 ~~(c)~~ (d) A county legislative body may by ordinance delegate to the county executive
40 the authority to consent to the appointment of deputies and employees under this Subsection
41 (1).

42 (2) If the county clerk performs district court clerk functions, the legislative body of that
43 county shall provide the clerk with deputies and employees for the business of the district
44 courts as considered necessary and advisable by the judge or judges of the district court,
45 consistent with the level of funding for clerk services from the court administrator's office.

46 (3) (a) Each officer appointing a deputy shall, for each deputy appointed, file a signed
47 writing with the county clerk that memorializes the appointment.

48 (b) The officer appointing the deputy is liable for all official acts of the deputy.

49 (c) If the office of the officer who appointed the deputy becomes vacant, the deputy
50 may continue to serve despite the vacancy.

51 Section 2. Section **30-1-6** is amended to read:

52 **30-1-6. Who may solemnize marriages -- Certificate.**

53 (1) Marriages may be solemnized by the following persons only:

54 (a) ministers, rabbis, or priests of any religious denomination who are:

- 55 (i) in regular communion with any religious society; and
- 56 (ii) 18 years of age or older;

- 57 (b) Native American spiritual advisors;
- 58 (c) the governor;
- 59 (d) mayors of municipalities;
- 60 (e) elected county executives;
- 61 [~~(e)~~] (f) a justice, judge, or commissioner of a court of record;
- 62 [~~(f)~~] (g) a judge of a court not of record of the state;
- 63 [~~(g)~~] (h) judges or magistrates of the United States;
- 64 [~~(h)~~] (i) the county clerk of any county in the state, if the clerk chooses to solemnize
- 65 marriages;
- 66 [~~(i) the president~~] (j) all members of the Senate;
- 67 [~~(j) the speaker~~] (k) all members of the House of Representatives; or
- 68 [~~(k)~~] (l) a judge or magistrate who holds office in Utah when retired, under rules set by
- 69 the Supreme Court.
- 70 (2) A person authorized under Subsection (1) who solemnizes a marriage shall give to
- 71 the couple married a certificate of marriage that shows the:
- 72 (a) name of the county from which the license is issued; and
- 73 (b) date of the license's issuance.
- 74 (3) As used in this section:
- 75 (a) "Judge or magistrate of the United States" means:
- 76 (i) a justice of the United States Supreme Court;
- 77 (ii) a judge of a court of appeals;
- 78 (iii) a judge of a district court;
- 79 (iv) a judge of any court created by an act of Congress the judges of which are entitled
- 80 to hold office during good behavior;
- 81 (v) a judge of a bankruptcy court;
- 82 (vi) a judge of a tax court; or
- 83 (vii) a United States magistrate.
- 84 (b) (i) "Native American spiritual advisor" means a person who:
- 85 (A) (I) leads, instructs, or facilitates a Native American religious ceremony or service;
- 86 or
- 87 (II) provides religious counseling; and

88 (B) is recognized as a spiritual advisor by a federally recognized Native American
89 tribe.

90 (ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine
91 person, traditional religious practitioner, or holy man or woman.