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H. B. 2322

(By Delegate J. Miller)
[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

10 A BILL to amend of the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §48-5B-1, §48-5B-2,
12 §48-5B-3, §48-5B-4, §48-5B-5, §48-5B-6 and §48-5B-7, all
13 relating to creating and issuing certificates recognizing the
14 termination of marriage.

15 *Be it enacted by the Legislature of West Virginia:*

16 That the Code of West Virginia, 1931, as amended, be amended
17 by adding thereto a new article, designated §48-5B-1, §48-5B-2,
18 §48-5B-3, §48-5B-4, §48-5B-5, §48-5B-6 and §48-5B-7, all to read as
19 follows:

20 **ARTICLE 5B. CERTIFICATE OF MARRIAGE TERMINATION.**

21 **§48-5B-1. Purpose.**

22 The purpose of this article is to create a document proving
23 the termination of a marriage licensed in this state.

1 **§48-5B-2. Issuance of certificate.**

2 The clerk of the county commission shall issue a certificate
3 of marriage termination within thirty days upon receiving an
4 application meeting the requirements set forth in this article.

5 The clerk shall only grant a certificate of marriage termination
6 for marriage terminated by divorce, annulment or death of a spouse.

7 **§48-5B-3. Availability of certificate.**

8 (a) The clerk of the county commission for each county in the
9 state shall make available, and record on file if approved, an
10 application for a certificate recognizing the termination of a
11 marriage that was licensed by the clerk.

12 (b) Any person may apply for a certificate of marriage
13 termination to the clerk of the county commission where the license
14 was granted. The clerk may not deny any application meeting the
15 requirements of this article.

16 (c) Upon submission of a complete application, the clerk shall
17 issue a certificate to any resident of the United States:
18 Provided, That any application by a resident of another state, and
19 any information required as part of a complete application, shall
20 be notarized by a notary of the public in the state of the
21 applicant's residence.

22 **§48-5B-4. Contents of application.**

23 (a) All applications for a certificate of marriage termination

1 must include the full names of both female and male parties, their
2 social security account numbers, dates of birth, places of birth
3 and residence addresses. The applicant's signature shall be a
4 testament that all information is accurate to the best of the
5 applicant's knowledge.

6 (b) Except for the full names of both parties, the
7 unavailability of information required under subsection (a) for any
8 reason does not invalidate the application. Also, the applicant's
9 signature shall be a testament that the applicant made a good faith
10 effort to obtain the information.

11 (c) Each application shall specify the nature of the marriage
12 termination and also include the following information:

13 (1) An application by divorce shall include a certified copy
14 of the final order of divorce;

15 (2) An application by annulment shall include a certified copy
16 of the final annulment order; and

17 (3) An application by death of spouse shall include a
18 certified copy of the spouses death certificate.

19 (d) Nothing in this article prevents both parties on a
20 marriage license from submitting a single application.

21 **§48-5B-5. Validity of certificate; use of certificate; fee.**

22 (a) A certificate of marriage termination shall serve as an
23 official document issued by the state and does not expire.

24 (b) If the clerk where the certificate is filed subsequently

1 determines the certificate to be inaccurate or obtained by fraud,
2 the clerk shall revoke the certificate and file a copy of the
3 revocation with the certificate.

4 (c) A certificate of marriage termination may not be
5 substituted for a final order of divorce, final annulment order or
6 death certificate where such document is specifically required in
7 this code. Any subdivision or agency of this state may promulgate
8 rules allowing the acceptance of the certificate for official
9 purposes.

10 (d) The clerk may charge an application fee up to, but not
11 exceeding, the fee for issuing a marriage license.

12 **§48-5B-6. Fraudulent obtainment; use.**

13 Any person who fraudulently obtains or uses a certificate of
14 marriage termination may be held criminally or civilly liable, or
15 both, under the laws of this state.

16 **§48-5B-7. Severability provision.**

17 If any provision of this article or the application thereof to
18 any person or circumstance is held invalid, the invalidity does not
19 affect other provisions or applications of this article which can
20 be given effect without the invalid provision or application and to
21 that end the provisions of this article are severable.

NOTE: The purpose of this bill is to allow for creation and issuance of a certificate of marriage termination.

This article is new; therefore, it has been completely underscored.