

MARRIAGES:
RECORDER OF DEEDS:

The marriage license form provided in Section 451.080, RSMo 1969, is not mandatory but may be revised in order to accommodate the provisions of Section 451.100, RSMo 1969, which authorizes religious organizations of this state to solemnize marriages. When a marriage is solemnized by a religious organization and not by a minister or other authorized individual such organization must designate some person to certify that the marriage was performed by the religious body according to its regulations and customs and that at least one of the parties thereto is a member of such organization.

OPINION NO. 329

September 30, 1970

Honorable Maurice Schechter
State Senator
District No. Thirteen
41 Country Fair Lane
Creve Coeur, Missouri 63141



Dear Senator Schechter:

This letter is in response to your request for an opinion from this office in which you ask the following question:

"The regular session of the 75th General Assembly passed House Bill No. 357 which was approved by the Governor and pertained to Section 451.100 relating to marriages.

"Section 451.080 which was not changed, still has the wording of the old law which requires the person solemnizing the marriage to execute the license application and return to the recorder of deeds.

"Does House Bill No. 357 change the procedure and the forms in the recorder of deeds office to comply with the provisions of House Bill No. 357 or will it require

Honorable Maurice Schechter

a change in Section 451.080 to coincide with the provisions of new Section 451.100."

Section 451.080, RSMo 1969, to which you refer states as follows:

"1. The recorders of the several counties of this state, and the recorder of the city of St. Louis, shall, when applied to by any person legally entitled to a marriage license, issue the same which may be in the following form:

State of Missouri,)
County of _____) ss

This license authorizes any judge, magistrate, licensed or ordained preacher of the gospel, or other person authorized under the laws of this state, to solemnize marriage between A B of _____, county of _____ and state of _____, who is _____ the age of twenty-one years, and C D of _____, in the county of _____, state of _____, who is _____ the age of eighteen years.

"2. If the man is under twenty-one or the woman under eighteen, add the following:

The father or mother or guardian, as the case may be, of the said A B or C D (A B or C D, as the case may require), has given his or her assent to the said marriage.

Witness my hand as recorder, with the seal of office hereto affixed, at my office, in _____, the ___ day of ___, 19___, recorder.

"3. On which said license the person solemnizing the marriage shall, within ninety days after the issuing thereof, make as near as may be the following return, and

Honorable Maurice Schechter

return such license to the officer issuing the same:

State of Missouri,)
) ss
County of _____)

This is to certify that the undersigned _____ did at _____ in said county, on the _____ day of _____, A.D. 19____, unite in marriage the above-named persons."

The repealed Section 451.100 stated:

"Marriages may be solemnized by any licensed or ordained preacher of the gospel, who is a citizen of the United States, or who is a resident of this state and a pastor of any church in this state, or by any judge of a court of record, except judges of the probate court."

As you indicated, House Bill No. 357 of the Seventy-fifth General Assembly enacted what is now designated as Section 451.100, which states:

"Marriages may be solemnized by any clergyman, either active or retired, who is a citizen of the United States, and who is in good standing with any church or synagogue in this state, or by any judge of a court of record. Marriages may also be solemnized by a religious society, religious institution, or religious organization of this state, according to the regulations and customs of the society, institution or organization, when either party to the marriage to be solemnized is a member of such society, institution or organization."

We note that Section 451.080 provides that the marriage license "may be" in the form stated therein. We view this language as being directory only and not mandatory and accordingly it is our view that such recorders may utilize a license form which in substance complies with the legislative intent.

Honorable Maurice Schechter

The provisions of these sections indicate that such religious societies, organizations and institutions would have a regular membership body, organization and regulations or customs governing such organization and in accordance with such regulations or customs of such organization, or its by-laws, will have designated some person in an official capacity, as an officer of such organization, to act in behalf of such organization with authority to certify that the parties to the marriage ceremony were duly united in marriage.

It is also our view that the persons so designated should certify that the marriage was performed by the religious organization according to its regulations and customs and that at least one of the parties thereto is a member of such organization.

In as much as Section 451.100, RSMo 1969, was enacted later than Section 451.080, and since we view the form prescribed by Section 451.080 as only directory, we conclude that such recorders have the authority to revise the license form to recognize the authority given religious societies, institutions and organizations under Section 451.100, RSMo 1969. Although an amendment to Section 451.080 would be advisable, such an amendment is not required in order to give effect to the legislative intent.

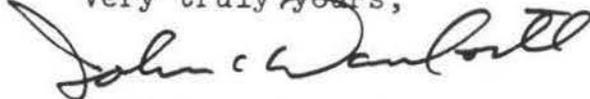
CONCLUSION

It is therefore the opinion of this office that the marriage license form provided in Section 451.080, RSMo 1969, is not mandatory but may be revised in order to accommodate the provisions of Section 451.100, RSMo 1969, which authorizes religious organizations of this state to solemnize marriages.

When a marriage is solemnized by a religious organization and not by a minister or other authorized individual such organization must designate some person to certify that the marriage was performed by the religious body according to its regulations and customs and that at least one of the parties thereto is a member of such organization.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH
Attorney General